Webster University Geneva



Military and Political Incidents

Security Forum 2009

Alexandre Vautravers
Nicholas Burtscher (eds.)

Webster UNIVERSITY

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Cover: Test firing of an AM39 *Exocet* air-to-surface missile by an Iraqi *Mirage* F1EQ, during an Aerospatiale development test.

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Security Forum 2009

The third edition of the Security Forum, organized by Webster University and partner organizations on 24 April 2009, brought together experts, scholars and an interested public. This diverse audience reflected and discussed a common theme: political and military incidents.

What creates these incidents and are there common characteristics? Do military incidents invariably lead to confrontation and war? Or are incidents the catharsis and pretext for wars? Are there mechanisms to isolate them, in order to prevent conflict?

Geneva and Switzerland have long been recognized as a global center for international relations and conflict resolution. The First Geneva Convention and the Alabama Resolution were both signed in the same room of the Geneva Town Hall – in 1864 and 1872, respectively. The city has since hosted the International Committee of the Red Cross (1864) and the League of Nations (1919), nurtured Robert de Traz's *Spirit of Geneva*[1] (1929), welcomed the United Nations (1946) and its essential humanitarian, protection and disarmament efforts. The City has applied and been closely associated with the Good Offices policy of the neutral Swiss Confederation, both during the Cold War and more recently through civil society efforts to ban and clear antipersonnel landmines as well as remnants of war.
This long tradition, its cosmopolite nature and fragile balance, its connectedness with the world and its carefully preserved peace make it an ideal place to study world affairs, diplomacy, international crises, complex emergencies and conflicts. The project of hosting an annual Security Forum, originating in 2007, has proved successful and has become a landmark of Webster University's calendar of events. The organization of the conference and the publication of its proceedings have allowed students from Webster and other universities, as well as several research centers, to deepen their knowledge in the area of conflict studies, develop their networks and address current priority themes.

During the conference, 16 speakers addressed the following themes:

1. ***Grey Zones: The Use of War in Peace***
2. ***Military Tools and Political Objectives***
3. ***Terrorism between Peace and War***
4. ***Military Incidents, Crisis, and their Political Consequences***

1 Traz, Robert de, *L'Esprit de Genève*, L'Age d'Homme, Lausanne, 1995.

While it was not possible to include all of the presentations in the proceedings, we have tried, with the help of a dedicated team of students, to include as many issues addressed in the conference as possible. Additional topics prepared by seven graduate and undergraduate students, whose work we deem of a publishable quality, have been included in this publication. We present them as a demonstration of Webster's commitment to encourage research and publication – both from its faculty and student body.

Since 2008, these conference proceedings are regularly used as reference books in two courses, the first being War and Diplomacy and the second Peacekeeping and Conflict Resolution, both offered in the spring semester of the International Relations graduate program.

The first section of the conference and its proceedings deals with the links between political objectives and military tools. It offers insight into strategic issues of military diplomacy, International Humanitarian Law (IHL) and the influence of population and military institutions on strategy and political leadership.

The second section provides a chronological account of 11 military and political incidents in the second half of the 20th Century. Each of these sea, air or land incidents is described in its own context and with its own specificities. This collection of events demonstrates, however, that links can be made between these individual cases. These patterns warrant further study.

The final section takes a closer look at the different facets of terrorism in the 20th and 21st Centuries. The US-led Global War on Terror makes it all too clear that modern terrorism is indeed at the crux of political and military issues, and must be addressed, simultaneously, as a governance and a security issue.

Incidents and conventional war at sea

For many reasons, the history of the 20th Century is rich with naval incidents. On 7 May 1915, the 44'060-ton *RMS Lusitania* was sunk by a German U-boat, U-20, killing 1'198 of the 1'959 passengers on board. Firstly, this incident raised the question of the neutrality of the USA, as the UK-borne shipment was carrying a substantial amount of ammunition not listed as such in the ship's registers. Secondly, the ship was developed with the intention of being easily transformed into an armed merchant cruiser. Thirdly, her sailing despite German warnings can be interpreted either as a defiant provocation, or as an attempt to find a pretext to drag the United States into the war.
The question of unrestricted submarine warfare- the object of the 2nd Geneva Convention of 1906- is also raised in these pages with the 11 January 1945

sinking of the *MV Wilhelm Gustloff,* a merchantman carrying German refugees, by a Soviet submarine.

A substantial incident that thankfully had limited consequence on the Second World War was the sinking of the cruiser *USS Indianapolis* (CA-35), which had sailed secretly to carry nuclear devices to the American island airbase of Tinian. On 30 July 1945, the cruiser was sunk by the Japanese submarine I-58 while on her way home, after delivering the top-secret cargo. Only 317 of her 1'196 crew were rescued from a shark-infested sea four days later, due to the secrecy surrounding the mission.
On 2 and 4 August 1964, the alleged engagements between North Vietnamese forces and two American destroyers probing the Gulf of Tonkin, *USS Maddox* (DD-731) and *Turner Joy* (DD-971) are a good example of a an unclear incident, involving provocation and error in the "fog of war" - promptly used by the US Government as a pretext to launch full-scale military operations against North Vietnam. Similar cases can be made for engagements in the Persian Gulf during the Iran-Iraq war (1981-1988) as well as immediately preceding the 1991 and 2003 Gulf wars.

Such incidents can be made to have a strong political meaning in so far as they can provide a strategy of pretext. On the other hand, they can lead to cover-ups, when information regarding the incident may prove counterproductive. Two good examples are the *USS Liberty* incident of 8 June 1967 and the 17 May 1987 accidental strike of *USS Stark* (FFG-31) by an Iraqi aircraft.

Air incidents

In the air, incidents have varied in nature. The Cold War was marked by many pilot defections, on occasion orchestrated by secret services. These were often highly publicized.
Several civilian aircraft crashed in uncertain conditions: some involving accidental shootings by military aircraft or surface-to-air missiles, as was the case of the 1 September 1983 downing of Korean Air Lines 007 by Soviet fighter aircraft. The 3 July 1988 shooting of Iran Air Flight 655 demonstrates how political interests have induced military action in the Persian Gulf.

One noticeable aerial incident was the shooting down and the capture, on 1 May 1960, of Gary Powers' U-2 spy plane over the Soviet Union. Another incident involved an EP-3E *Aries II* US signals surveillance aircraft, which was involved in a collision incident with a Chinese J-8II fighter over Hainan Island on 1 April 2001.
These raise the issues of provocation and sovereignty, and demonstrate the extent of military preparedness and intelligence gathering efforts during peacetime stand-offs and the run-up to conflict.

Down to Earth

In sum, incidents have mostly taken place at sea and in the air, as boundaries and geographic locations can be disputed. Research efforts for this conference have focused on these examples.
On land, incidents in conventional confrontations have usually led directly to war. Many historical examples attest to this. One is the Ems Dispatch, leading to the Franco-Prussian War in July 1870, which was sparked by miscommunication as well as errors of translation and interpretation. Another famous example is the 31 August 1939 Gleiwitz incident: a staged pretext for the planned 1 September German invasion of Poland.

Hostage situations and terrorist attacks, on land, have become more and more common in the last decades. It can be argued that they have replaced war crimes in the headlines, as most of these situations take place during peacetime, or in situations where the line between peace and war is hard to define.
More recently, a NATO air strike in early September on two hijacked oil tankers near Kunduz in northern Afghanistan killed up to 142 people, including scores of civilians.[2] The F-15E strike fighters and pilots were American, but German Colonel Georg Klein called in the airstrike, with reconnaissance organized and largely carried out by German Special Forces.[3]
While this publication is going in to print, the US Army faces strong criticism from the media, for having covered up an incident involving two AH-64 *Apache* Helicopters killing a group of civilian non-combatants and two journalists in the Western suburbs of Baghdad. The significance and impact of such incidents during hostilities, in peacetime and, even more so, during the reconstruction phase, will most probably continue to grow.

2 Gebauer, Matthias, "Inquiry into Kunduz Bombing: German Defense Minister Blasted for 'Slanderous' Statements," *Der Spiegel* [Online], 19 March 2010. Available: http://www.spiegel.de/international/germany/0,1518,druck-684541,00.html (all websites last visited: 30 March 2010)
3 Gathmann, Florian, "Kunduz-Untersuchungsausschuss: Zehn Fragen an das Kriegskabinett," *Der Spiegel* [Online], 16 December 2009. Available: http://www.spiegel.de/politik/deutschland/0,1518,667010-9,00.html

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The 2010 edition of the Security Forum, on 16 April 2010 in the wake of the Disarmament Conference and renewed START negotiations, will address the theme of "Disarmament and Arms Limitation."

Geneva, 7 April 2010

Alexandre J. Vautravers
Head, International Relations Department,
Webster University Geneva

Nicholas Burtscher
Graduate Assistant

GREY ZONES: MILITARY TOOLS AND POLITICAL OBJECTIVES

Polar Opposites: States and Non-state Actors in Current Conflicts

John H. King

Adjunct Professor of International Relations, Webster University Geneva; Former US Ambassador.

As one looks at today's conflicts, which are almost entirely intra-state and involve non-state actors, a striking observation is that the military organization employed by states to fight these conflicts is often out of synchronization with the political nature and objectives of the conflicts themselves. The one often has nothing to do with the other. We see that state budgets are more oriented to equipping military organizations to fight conventional inter-state wars rather than virtually any of the current conflicts that are of an unconventional nature. Military doctrines follow the same fault line, and it is only after long periods of time that doctrines begin to be adapted to new conflict situations, usually after painful defeats force such changes.

Another question worth examining is whether military organization follows after changes in doctrine and strategy. To answer this question requires an examination of state strategies in existence now and whether they are appropriate to fighting the kinds of conflicts that their military organizations are faced with. Related to this issue is the question of whether military organizations themselves can have a life of their own outside of the political and strategic considerations of the state. An answer to this question requires an examination of military organizations and the reasons they take the shape they do. Are they bureaucratic in nature? Are they self-perpetuating and essentially out of the control of civilian overseers? Why does this happen and what can be done about it?

This paper will attempt to explore the relationship between military organization and how it adapts to (if it does) the military requirements placed upon it by political leadership attempting to respond to the political nature of the conflicts in which they are involved. The topic is necessarily large, so the paper will not be able to touch in detail upon all the related elements that need to be explored. Nevertheless, even a partial examination

will reveal enough detail on which to base some essential conclusions and to make relevant suggestions for addressing the problems that exist.

The nature and characteristics of historical war and current conflict

As Clausewitz noted, war is a monopoly of the state.[1] According to this definition, military forces are a part of the order that states bring to the control of violence. Such forces are organized in a way to meet the political objectives of the state. In the Westphalian sovereign state period that ensued following the end of Europe's religious wars –a period we are still in– interstate warfare was the rule. These wars were fought to achieve political objectives defined by the warring states. The military objective of each state was to achieve overwhelming force with the objective of disarming the enemy.[2] The wars were fought according to rules either generally accepted or even codified, such as the Geneva and Hague Conventions. A few of these kinds of interstate conflicts still exist, but they have been very limited and quickly ended (e.g., Ecuador-Colombia, Sudan-Chad, Georgia-Russia). It appears that the massive violence of wars in the 20th Century, compounded by the appearance of nuclear weapons that threatened possible annihilation, has virtually ended the desire of states to resolve their problems through this kind of warfare. At this point, there are virtually no interstate wars on the political horizon.

But conflict, of course, has not ceased. It has simply changed its form. Virtually all the current conflicts taking place in the world are not wars in the classic Clauswitzian sense but are subsets of classical war in that they are not between or among states, but within them. In fact, these violent activities are not even referred to as wars but as internal conflicts, rebellions or even sectarian strife – a lesser form of warfare as indicated by these more restrictive names.[3] The way in which such conflicts are conducted has also vastly changed from the way that interstate wars were waged.

When examining the characteristics of such intra-state and limited conflicts, a number of very distinct differences are noted that clearly separate these conflict formats from the larger template of inter-state warfare. The confrontation in intra-state warfare scenarios is almost always that of some sort of indigenous non-state irregular force arrayed against the formal forces of the state.[4] The indigenous force makes no attempt to equal the force level of the state's forces, but organizes its resistance on the basis of always being

1 Von Clausewitz, Carl and Rapoport, Anatol (ed.), *On War*, Penguin Books, Baltimore, 1968, p. 101. Clausewitz adds that "there is no moral force without the conception of States and Law," meaning that to him, the use of force can only be meaningful within the context of the State.

2 *Ibid*., p. 104.

3 Strachan, Hew, "The Changing Character of War," Essay, The Europaeum Oxford-Geneva Link Programme, November 9, 2006, p.13. Strachan said that the majority of wars being waged today are caused by ethnicity, religion and statehood.

4 Smith, Rupert, *The Utility of Force*, Alfred A. Knopf, New York, 2007, p. 4. Smith comments extensively on the paradigm shift from "industrial war" to "war amongst the people," noting that inter-state wars have given way to less formal means of combat.

in opposition to a superior force.

Given that non-state forces are almost by definition less powerful than those of the state, the doctrinal mindset of the leaders of such forces is very different. These leaders develop tactics suited to combating superior forces and do not allow themselves to think preponderantly in terms of troop numbers or equipment available to each side.

Numerically weaker non-state forces do not conduct battle as do states in inter-state warfare. They do not attack frontally or attempt to overwhelm their opponent's strengths. Instead they attack their opponent's weaknesses guerilla-style, going after perceived shortcomings in the state's military deployment and structure.

Neither do non-state forces obey the strictures and rules of conventional warfare that state combat forces observe, no matter what kind of conflict they are conducting. Non-state forces are far more flexible in the tactics and tools they can employ in combat, using them to maximum psychological and physical effect to offset the numerical/equipment superiorities of the state forces to which they are opposed.

There are a number of other characteristics to examine, but the above list should be sufficient to indicate that in almost all cases of intra-state conflict, there are two very different forces and two very different mindsets in play, unlike the situation in inter-state warfare. These differences can be defined as asymmetric in nature. But to whom are these differences asymmetrical? A major point this paper tries to make is that intra-state conflict is asymmetrical to the state's forces, not to the non-state forces in the conflict. This may seem like hair-splitting, but it is not. This thesis is central to the larger purpose of the paper – a description of the reasons that state forces find it so difficult to adapt to the nature of conflict as carried out by non-state forces.

Non-state forces are, because of their numerical and equipment inferiority, constrained to fight in such a way that they maximize their effect by non-conventional means. When one force is weaker than an opposing force, it is not only natural but essential that the weaker force avoid attacking its opponent's strengths. This is not an asymmetry: it is the only rational tactic permitted to the weaker force under the circumstances. The conflict becomes asymmetric when the stronger force uses conventional approaches to fight the non-state forces, using tactics and doctrines that are different from if not irrelevant to the conflict.[5] In this regard, only the state, which is superior in numbers and equipment has the option of using a variety of tactics and doctrines to deal with the non-state forces opposing it. It is the failure of the state's forces to fight the conflict in the same way as the non-state force that makes the conflict asymmetric. In other words, asymmetry is caused by the improper response of the state to the nature of the conflict challenge posed

5 Rupert Smith's definition of current conflict applies in that it seems states are continuing to fight intra-state wars as if they were conducting traditional inter-state "industrial war," when they should be fighting in a manner appropriate to a "war amongst the people."

by the non-state force.

This definition of asymmetrical warfare is central to understanding the difficulties that modern states have in current conflicts with non-state actors/forces. These difficulties are legion: most states misunderstand the goals of non-state actors and conduct their campaigns against them without taking into account the motivating factors driving them. There is also a major disparity in the way that state forces are required to conduct combat within the restraints of "civilized" rules and treaties, whereas non-state actors do not observe such limitations. And there are pressures the state faces to maintain the political and economic status quo, a status that non-state actors are constantly trying to overturn by any means available to them.

There is another important limitation that states have in fighting non-state actors. Although a variety of tactics may be available to states within the spectrum of conventional combat activities, non-state actors have more flexibility in adapting the forms of combat to the political circumstances facing them. In this regard, current conflicts can be conducted at different levels of violence, depending on the pressure felt by non-state actors.[6] The lowest level of conflict is terrorist activity, which is conducted when non-state actors have no capacity to directly oppose the forces of the state. The next higher level is insurgency or partisan activity, which implies a limited degree of force organization. A still higher level is small unit action, which non-state actors can use as their resources increase proportionally. Non-state actors can move between these different levels as their situations dictate since the capacity for flexibility and innovativeness are much higher for them than for the regular military forces of the state. For example, now that the Tamil Tigers of Sri Lanka have been defeated in conventional small unit combat activities, it is reasonable to assume that they will continue their opposition to the state at one of the lower levels of violence described just above. This situation emphasizes the point that in intra-state conflicts, there is rarely such thing as military defeat. Only a political solution amenable to the sides in a conflict can bring a halt to the violence.[7]

Nature and characteristics of state military organizations

In order to better understand the reasons for the asymmetric approach of states to conflicts with non-state actors, it is necessary to first examine the characteristics of state military organizations. These are both historical and

6 Boot, Max, *War Made New*, Gotham Books, New York, 2006, p. 472. Boot notes that that the boundaries between "conventional and unconventional, regular and irregular warfare are blurring." He adds that as non-state actors gain access to weapons that were the exclusive preserve of the state, the state itself may begin to resort to unconventional warfare.

7 Von Clausewitz, Carl, *Op.Cit.*, p. 108. Clausewitz noted that "the result of war is never absolute" and that the "conquered state often sees in it only a passing evil, which may be repaired in after times by means of political combinations." Although he was speaking of inter-state warfare, the observation obviously applies to the parties in all forms of conflict.

generic in that the characteristics apply across the board to all states and have since well before the Westphalian state system was put in place, and they continue to the present day. These characteristics, which follow in abbreviated but encompassing form, reflect the state's need above all to control its military organization.

Hierarchy: All state military forces have a well-defined, even rigid, hierarchy of command and control. This format is necessary for the state to retain control over its military forces even when military personnel are in charge of the state. The habit of hierarchy is ingrained in the minds of the officer and non-commissioned officer corps, so much so that it is difficult for those within hierarchies to think outside of them.

Bureaucracy: Hierarchy cannot act without a bureaucratic structure by which higher levels control and guide lower levels. This bureaucracy creates an additional layer of rigidity in the mindset of the force structure since the key objectives of any bureaucracy are certainty and order. No one ever confused bureaucracy with flexibility. On the other hand, such a mindset is an essential method of controlling an armed force, so the leaders of the state are willing to accept the tradeoff between creative reactivity and stolidity.

Budgets: States allocate financial resources to their armed forces through a usually complicated system of budgetary planning, force planning and a contentious process of goal determination. The process is time-consuming and usually controversial. It is rare that a budgetary process can be made reactive in a fast-changing situation. Again, it is a measure of control for state leaders to use in assuring their monopoly of force.

Armament: The process of acquiring armament, either by purchase or manufacture, is key to the state's ability to control its armed forces. The state decides the goals the armed forces are to achieve and provides the armament to achieve it. The process by which this is done is sometimes affected by non-military pressures that have little to do with the state's goals but which represent other factors that state leaders have to take into account. Relevant to this process is the entire logistical structure supporting the armed forces of a state - a structure that is usually hyper-bureaucratic, cumbersome and constrained by political as well as other factors not directly related to force missions.

The above characteristics need to be placed in the context of the rationale used by the state for having the armed forces in the first place. There are a number of reasons that apply, all of which serve state-based objectives that seek to maintain the viability of the state.

State security (both internal and external): the quintessential goal of military forces is to insure the continuity and stability of the state.

Security of the population: Perhaps the next most important objective is to insure the population is safe from physical danger. This is needed to enable

economic activity and to encourage domestic political tranquility.
Employment of youth: an essential factor to keep a restless portion of the population, usually minimally employed, incorporated into a disciplined organization where they can be monitored and controlled.
Indoctrination of youth: Armed forces are one of the most effective means to train and indoctrinate the state's youth in the political ideals of the state and its government. Military training has long been recognized to be more effective than formal schooling in achieving these objectives, which are important in creating a political barrier to different ideologies as well as to recruiting blandishments from forces opposing the state.

Nature and characteristics of non-state (irregular) forces

As might be easily imagined, the force structures organized by non-state actors differ greatly from those of state-based forces. Given that the forces of non-state actors invariably are much smaller than those of the state, the organizers of the force structure have to be far more flexible, creative and nimble if they are to survive in the face of far stronger military opponents. The organizational arrangements of non-state actors are therefore qualitatively and quantifiably different from those of the state, and it takes little imagination to understand why.
The organizational structure is dictated by leaders who are not bureaucratic and who have no interest in preserving the existence or stability of the state. Their organizations thus revolve around short-term tactical needs and are not structured to support goals beyond the immediate achievement well-defined tactical objectives. The forces are thus non-bureaucratic, opportunistic and highly motivated since the goals are so clearly set. In addition, irregular forces are not constrained by fixed doctrines and will use whatever works to achieve the immediate tactical goals set by the force's leadership.
Irregular forces are also able to benefit from flexible, decentralized command arrangements that, while hierarchical, are also informal. Such a command hierarchy lends itself to innovation and rapid, flexible change to meet the needs of any developing tactical situation. The personnel in irregular forces are usually highly motivated, long-term recruits whereas the state's forces are more often composed of less motivated short-term personnel who create high-turnover in state forces that debilitates efficiency.
The goals of irregular forces are usually defined simply and clearly to be a single political objective, which is easily grasped by the combatants. This intense and singular focus means that tactics are developed, which are highly effective in achieving the goal since other political abstractions do not intrude. Furthermore, in view of the relative weakness of irregular forces compared to state forces, tactics are oriented to finding and attacking weak spots rather

than confronting directly the strengths of state forces.

In many ways, the irregular forces employed by non-state actors in intra-state conflicts are the polar opposite of the state forces against which they are arrayed. Although many analysts and observers have noted these very characteristics, the state has been relatively ineffective in adapting itself to the challenge of irregular forces. In effect, the response of the state to internal forces engaged in intra-state warfare has been asymmetric and thus inappropriate to the requirements of achieving its goals. This response has been in most cases poorly planned and executed, giving untoward and unexpected advantages to the irregular forces that they have, in most cases, been quick to pick up on. In fact, because of this poor response, the state has had to confront the fact that in most intra-state conflicts, it is the irregular forces that hold the upper hand in terms of choosing the battleground, in determining the nature of the tactics to be used, and in maintaining the element of surprise.

These problems for the state are compounded when external forces are involved, such as the US and NATO in Afghanistan. External forces are usually operationally designed along the same lines as the state forces they are supplementing and therefore suffer from the same bureaucratic and tactical insufficiencies in meeting the needs of the conflict. Furthermore, external state forces usually bring external politics into the arena of conflict, alienating the state's population and diffusing the goals of the local state's forces. This problem is exacerbated by the external state's ignorance of local customs, languages, tribal structures, grievances and interpersonal politics of local leaders. In many ways, the involvement of external forces complicates the ability of the state to manage intra-state warfare situations and gives the local irregular force a major tactical and political advantage in furthering its goals. Again, it is the irregular forces that appear more nimble in taking advantage of the situation to their own benefit, while the state and its forces are caught up in ever more complicated and ambiguous situations that undermine effectiveness and impede the change necessary for the state's success.

Nature and characteristics of political objectives in current conflicts

Compounding the problem of asymmetry for the state is the differing nature of political goals in managing intra-state conflict. Unlike inter-state warfare, intra-state conflict is far more local in nature and revolves far less around the high-level and even existential nature of inter-state war. The goals of the state and those of the non-state actors in conflict with it are often diametrically different, making it difficult for the state to conform its force structure to the real needs of the problem. A quick comparison of these objectives reveals these differences.

For states, there are many possible objectives depending on the type of

governing system in effect and the personalities of the leaders involved. Nevertheless, there are a few general goals that are common to states in intra-state conflict situations.

Maintain the unity of the state: Avoiding the division of the state into politically independent and autonomous units is the central goal of the state in any conflict, especially intra-state conflicts. A loss of unity usually results in major power shifts in state leadership, causing instability and the rise of untested and usually undemocratic new leadership dedicated to restoring unity with concomitant economic dislocations.

Provide security for the population: Irregular forces almost always seek to encourage domestic insecurity as a way of demonstrating their own invulnerability and staying power. Insecurity also leads to economic distress and discomfort for the population, turning them away from supporting the state leadership. Security is essential for a normal life and for keeping the population under control.

Avoid economic deterioration: The state must maintain economic life and living standards despite the challenges posed by an intra-state conflict. Allowing deterioration to occur alienates the population and strengthens the irregular forces of non-state actors by reducing the capacity of the state to provide the wherewithal to its forces in conducting military operations.

Delegitimize the motives of internal opponent forces: The state must keep the general population on its side and prevent non-state actors from recruiting for its irregular forces. Delegitimization also helps maintain foreign support for the efforts of the state to combat irregular forces as well as to bring in necessary materiel from external sources. It also helps in demoralizing the non-state combatant forces and to weaken their motivation for achieving their conflict goals.

Provide political support for the state's forces and combat operations: It is just as important for the state to keep its own morale at levels sufficient to sustain a possibly long-term military operation. This requires constant attention to the needs of the population and effective action to counter the effects of propaganda and appeals to the population by the non-state actors in the conflict to provide support and recruits.

For the irregular forces and non-state actors in intra-state conflicts, the political objectives are quite different or completely opposed to those of the state. These differences illustrate the asymmetry at play in the conflict and highlight the problems of the state in adapting its forces to oppose them effectively. These objectives follow.

Delegitimize the political objectives of the state: This goal is exactly the opposite of what the state is trying to do. The respective delegitimization efforts sometimes neutralize each other in the eyes of the population, but more often they spell out the stark differences between the combatant parties. The

goal of non-state actors in the process is to counter the very objectives of the delegitimization efforts of the state.

Promote the specific political objectives of the group: This goal is complementary to the above and is the pro-active attempt of the non-state actors to explain the rational for the conflict.

Obtain economic and political support for the cause: Non-state actors have to be at their most creative in achieving this objective since the state usually has a monopoly on the means of production, the economy as a whole, and the media structure for disseminating its own goals. Nevertheless, if non-state actors fail in doing this, their movement and the conflict will fail as well.

Weaken the morale of state military forces: This is achieved by demonstrating sustainability in conflict and by maintaining a steady supply of recruits as well as by directly attacking state force weaknesses with impunity. The immediate objective is basically to extend state military force vulnerabilities and weaknesses that can be attacked at will, creating a vicious circle of debilitation for the state.

Keep the population off balance and insecure: By showing that general security is impossible, non-state actors can erode the population's support for the state and increase support for their own objectives. The nature of the irregular forces' tactics is far more suited to this objective than are the tactics of the state forces in preventing this outcome. It is usually very difficult for the state to provide general security for the population and thus represents a political weakness that the state is hard pressed to reinforce.

Conclusions and Recommendations

This abbreviated review of current internal security situations, especially those where non-state actors have mounted major military operations against the state, leads us to a number of conclusions about the nature of state responses to such conflicts. First, it is readily apparent that in most cases of intra-state conflict, the current military organization of the state is largely unresponsive to effectively meeting the political objectives of current conflicts.[8] Second, the conflicts themselves are not asymmetrical – the state's political and military thinking as well as its response to the conflict constitutes the asymmetry and makes it very difficult for the state to take effective action. Third, the military response of the state in current conflicts is largely a factor of bureaucratic thinking and inter-state war views of the conflict. Also, the state's response is limited by rules and norms pertaining to international conflict, whereas the military effort of non-state actors is not so constrained. Fourth, financial considerations, especially by legislatures/parliaments in democratic countries

8 Strachan, Hew, *Op.Cit.*, p. 14. Strachan says that today's wars can seem new because in part we have not been addressing them properly. He called for the renewal of courses on strategic studies as a way to correct an insufficient understanding of war itself, its nature and its character.

that are politically constrained to support large defense industries enhance the asymmetry of the conflict by causing inappropriate armaments to be procured and deployed. In effect, the political clout of defense industries and their desire to maintain the status quo is a contributing factor to the conflict's asymmetry. Fifth, there are obviously within the state's military bureaucratic structure small sectors that understand the nature of the intra-state conflicts in which the state is engaged, but have little ability to make their views heard, much less acted on. And sixth, if there is to be a more effective response to the challenge of intra-state conflict, it is the state that must change, not the non-state actors in the conflict.

From these conclusions it is possible to draw some lessons and recommendations for improving the capacity of states to deal with intra-state conflicts within their borders and to deal with the security challenges they pose. In general these recommendations require a rather major effort by the state to shake off the pressures mitigating for the status quo, which are usually well entrenched. There are indications that some states have been able to do this, but they are still in the minority. These measures follow:

1. Exercising strong leadership from the top: Political risks need to be taken by state leaders to shake up the status quo by reducing the influence of the military-industrial complexes within their states, by redirecting budget resources to those military entities best equipped to deal with irregular warfare, and by overcoming static views of the international situation that tend to perpetuate a focus on inter-state warfare as the objective of a state's military establishment.
2. State leadership should also seek out and promote new thinkers in the military establishment who understand the nature of intra-state conflict. These new thinkers should be given senior posts in the bureaucracy and with troops in order to promote more appropriate tactics and responses to the challenged posed by non-state actors.
3. The media and public commentators in a state should be encouraged to play a major role in changing public attitudes and thinking about intra-state conflict. This is most important with regard to a state's political class.
4. State leaders must give a much higher priority to providing the financial resources to create the proper force structure to counter irregular forces.
5. Many more resources must be provided to build and expand local security for the general population as well as development organizations to provide economic improvement as an incentive to resist the alternative political incentives offered by the non-state actors opposing the state.

Current intra-state conflicts are qualitatively and quantitatively different from

the inter-state warfare that characterized relations among states until fairly recently. The nature of states is such that a refocusing of effort on internal conflicts is thus relatively new and difficult to achieve. But it is essential that the effort be made if the objective of reducing the role of military conflict is to be realized. It is not enough that current conditions have vastly reduced the casualties that are characterized by inter-state conflict. Although this is obviously a major improvement, the hopes of mankind for a more pacific future depend on taking the next steps to reorient state practices to properly confront and eliminate the internal conflicts that are today's physical iteration of the failure to resolve political confrontation peacefully.

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Military Diplomacy: The Role of Defense Attaché Networks

Major General (ret.) Dominique Juilland

President, Association de la Revue militaire suisse *(RMS); President, Association suisse d'histoire et de sciences militaries (ASHSM)*

In this session devoted to "Military tools and political objectives," I will try to give an overall view of a mostly unknown and discreet, but very efficient tool: the defense attaché network, or what we could describe in other words as "military diplomacy."
For different reasons, it is a very difficult task. The topic of such a presentation is very tricky: for a diplomat, "yes" means "maybe" and "maybe" means "no." "No" does not exist. For a general "yes" means "yes," and "no" means "no." "Maybe" does not exist...
So, our central question will be: how does military diplomacy work?

My purpose is to present a policy instrument little known because discreet, but whose effectiveness is well established. I will articulate my point, as we learned at the war academy, in three parts. Before entering the heart of the matter and describing the mode of operation and the added value of military diplomacy, I will situate the context of the action of a defense attaché and clarify terminology. In the last part, I will sketch some ideas for the future development of military diplomacy in a world increasingly changing and unstable- and therefore less safe.

The framework for action

The idea is not to present a course in international relations or political science, but for the sake of understanding the instrument of military diplomacy, it seems useful to recall some basic elements. In the classical system of international relations, the main actors are states that have various national instruments for the implementation of comprehensive strategies, including the major component of security policy. The instrument of power and security, which is most important for external security, is the military.

Internally, this is the police force.
In the past, the army was both the state's most powerful and preferred instrument for defense or imposition of its interests against outside forces. War was a means widely accepted in the trade of nations. Trade was also practiced as a way to resolve conflict, which was the preferred instrument of diplomacy. There are obviously a range of other options, including economic ones, as recently demonstrated by Russia in the blockade of gas and oil supplies to promote or impose its national interests and policies.
States which enjoy normal relations with each other exchange embassies and diplomatic missions, the ambassador serving as the highest-ranking official in the mission. These diplomatic relations were codified in an international treaty known as the "Vienna Convention on Diplomatic Relations." This agreement, which was reached in Vienna in 1961, sets rights and duties for states in terms of recognizing diplomats and defines the rules of behavior to which signatory states submit themselves in their diplomatic relations. A key element of this agreement is diplomatic immunity.
The relations between two countries are global, complex, and multidisciplinary. The ambassador must have, depending on the importance of the two countries' relationship, a number of specialists and advisers who provide the expertise needed to fulfill the overall mission of the embassy. Thus, we find economic, cultural, legal, and of course defense attachés in embassies. Moreover, as the military is usually the largest state organization both in terms of sheer numbers and with regards to its mission, the need arose to have an officer representing the head of the army of the country of origin with the head of the army from the country of residence. Hence, the creation of a specific category of diplomats that are attached to defense matters.
The institution of the military attaché, as it is referred to by the country it represents abroad, has a long history, which I obviously am unable to completely retrace in this brief presentation. However, for those interested in the historical dimension of the question, I refer you to the excellent work of militia officer and historian Dimitry Queloz, entitled *Les attachés militaires français à Berne et les grandes manœuvres de l'armée suisse 1874-1911*.

As the name suggests, military diplomacy is at the intersection of military and diplomacy. It forges links between the two instruments and ensures the coherence of both. As illustrated by the small anecdote presented in the introduction, the military and diplomatic worlds have two different cultures, two modes of reasoning, and two different ways of acting, embodied in the defense attaché. What I mean to convey with my comments in the introduction is that what first appears to be a singular, uniform institution is actually very diverse in its application. The task and the layout of the attaché corps differ, according to historical periods and countries.

First, let us consider the historical aspect. It is evident that during the Cold War, which was marked by great suspicion between the blocs and among states, strict military secrecy and virtually sealed borders, the role of attachés could not be the same as today, where cooperation between states is generally much more open.
Now, let us briefly consider the differences by country. Although the role of an attaché is that of a diplomat strictly defined by the Vienna Conventions, every country has its specificities. It may be subordination: Department of Defense, Ministry of Foreign Affairs, ministerial security force, intelligence services, Deputy Chief of Staff of international relations. Or it may be the assigned tasks i.e. whether information or cooperation is prioritized. It may be accreditation: accreditation with just armies or armed forces or internal security as well, such as the police, the *Guardia civil* or the *Carabinieri*.
This allows me to digress and make a precision of terminology. While originally, the most widely used term was "military attaché," today, there is talk instead of "defense attachés," which sounds less aggressive and is more politically correct - at least to Swiss ears. In general, the designation of defense attaché is used for the officer who represents the three military branches of a country, or who is accredited with four branches: ground, air, sea, and police. The term military attaché is generally used for representing the army. By analogy, we speak of air and naval attachés.
How to serve as an attaché also varies depending on the country of accreditation. Depending on the degree of democratization (to use a general term), freedom of movement of the attaché will be broad or limited. Where the political system is very strict, the attaché may only have direct contact with the military authorities designated by the host country. Information will always be in very official "*langue de bois*." Conversely, in countries such as those surrounding Switzerland, a variety of contacts are possible, provided that the habits and customs of diplomatic decorum are respected. These are generally no different from that of common courtesy: if you want visit a private park, you first ask permission from the owner; so when you want to visit barracks, you ask permission to the appropriate military authorities. Tradition or cultural protocol also has influence. Many countries (I tend to give the example of Latin cultures) attach great importance to the respect of the chain of command and the ceremonial traditions. Others, for example the Nordic countries, are much more pragmatic and direct.

The difference between the following should also be noted: a defense attaché (including military, air force or naval attaché), a liaison officer, a military expert, and a member of the intelligence services.
The Defense attaché is normally the only one to enjoy diplomatic status with all the privileges this represents. Privilege doesn't only mean buy liquor

and gas duty-free; privilege rather refers to being able to the function as a representative and exclusive military official of a country and its army.
The liaison officer does not enjoy a similar status. These fulfill the same tasks as liaison officers in a national headquarter. The difference is that they are assigned by their country in the headquarter of another state, or in a multinational headquarter. The mission and functions of the liaison officer are either defined on a case-by-case basis by the mission, or by standard operating procedure.
The military expert is, as its name implies, an expert in military matters delegated to a national or international organization in order to offer specific expertise. I will cite two examples close to us here in Geneva: the officers who work for the Red Cross and the military personnel supporting the Conference on Disarmament. The work of these officers sometimes resembles that of an attaché, but their status is not diplomatic, with the exception of some international conferences.

The military attaché is obviously not a spy, of course. The military attaché bases his work exclusively on open sources, as prescribed in the Vienna Convention. The trick is to create bonds of respect, trust, and esteem with the authorities of the host country to foster the exchange of meaningful information, while remaining within the strict legality and propriety. The temptation to abuse immunity privileges under the Vienna Convention is obviously great for diplomats, i.e. accessing classified information or using the diplomatic veil for the acquisition and transfer of technology, which may be classified or under embargo. This mélange sooner or later turns against he who would cave to temptation and has adverse long-term effects. Maintaining the bonds of trust will get you far more information than could be accessed through illegal behavior.

The tasks of military diplomacy

What, concretely, does the job consist of? Arriving in Paris, a friend greeted me by saying: "You see, the job can be summarized in three words: protocol, alcohol, cholesterol." This was perhaps true during the Cold War, but I can assure you that since then, things have changed. Military activities have taken precedence over the protocol, and alcohol has been replaced by fruit juice and mineral water.
Before turning to the job description, I must reiterate that the conditions for exercising the duties of defense attachés vary from one country to another, depending on the state considered, the quality and the extent of military relations or collaboration between the two countries, and the politico-military situation of the moment. First, the attaché is an ambassador of the

armed forces. That is to say, he must seek to know the political defense of his country, its main options and its principles, organization, capabilities, and resources, including those of the armies. The attaché is also and above all the representative of the commander in chief of his army to the head of the host army.
In some crises, the defense attaché may be the first representative of a direct operational command of his country with military or political authorities in their country of accreditation. When troops are already on site, in the case of defense agreements for example, he may even need to be the operational chief until the arrival of the designated Force or National Contingent Commander.
The defense attaché is an advisor and expert. He advises the head of mission in defense and security matters. This can range from simple monitoring of the situation in the country to supporting the negotiation of agreements on defense cooperation.
This component also involves the organization of presidential visits or other high military and political authorities. It might include organizing a meeting of the Defense Minister of Switzerland with his French counterpart in Paris. In contrast, planning the arrival of Air Force One with the President of the United States of America and the entire fleet that accompanies the framework of the G8 in Evian will lead to some gray hairs for the US air attaché. This applies even to set the stationing of an aircraft carrier in a foreign port: permission, anchor up, re-fueling, and other logistical problems, not to mention bar fights between sailors and locals.

The defense attaché is a sponsor and facilitator of bilateral military relations. We expect him to identify opportunities for cooperation. He keeps the leaders of the respective armies in contact, so that a solution to a specific issue may be provided. Imagine the complexity of an operation like maneuvering a full-fledged French armored brigade to a training field in Ukraine, or negotiating flight clearances and landing rights in Uzbekistan and Tajikistan to facilitate intervention in Afghanistan.

The final task the defense attaché is charged with, is that of providing continuous updates to the Department of Defense and headquarters of his army in the country of accreditation. He follows the political-military situation in the host country and the positions taken vis-à-vis its neighbors and the international community. This role is particularly important in detecting early signs of crisis.

In some countries with an arms industry, the defense attaché may be called upon to assist in promoting the industry and sales, including development

and facilitation of cooperation in armaments and dissemination. The defense attaché has, according to the size of the country he represents or the host country, a deputy as well as administrative and technical staff. If there is intense cooperation in armaments between two countries, an attaché will be assigned a deputy giving him such expertise. In summary, we expect a defense attaché to be a sponsor, facilitator, advisor, military leader, and informant.

I would like to include one last word on the origin and formation of the defense attaché. For my part, I think as long as the role of the attaché is that of the one I have described, it is important that the attaché be a regular officer. This provides legitimacy and respect in the eyes of the highest military authorities in the country of residence, which come with being a professional soldier. Because he has practiced the profession of soldier, he brings expertise and credibility. This knowledge must of course be supplemented by training in the field of political science and international relations. And if one truly wants be a committed and effective attaché, this requires knowledge of the language and culture of the country of accreditation. A good attaché to Pakistan will speak Urdu or Pashto and have an excellent knowledge of the manners and customs of the tribal areas. A good attaché is not trained in a few months; it takes years.

Looking ahead

What is the future of this security policy instrument, attached to Defense? This question is not rhetorical, because international relations are undergoing radical transformations. The world is increasingly complex. This applies to all dimensions of international relations, but is particularly true in the security field.

The role and importance of the nation state is changing. Although it remains the major component, it is no longer alone on the world stage. New players are emerging. The supra-national organizations take precedence over the state, particularly in the field of security (Security Council, NATO, OSCE). It is obvious that these changes call into question the usefulness of diplomacy in general and military diplomacy in particular, as these instruments are closely related to the existence of the nation state.

To illustrate this, I refer you to the debate that just ended in Switzerland on the usefulness of defense attachés. Voices were raised, including in Parliament, which strongly challenged the necessity of maintaining defense attachés. These same voices favor the discontinuation of these positions in favor of increasing the number of diplomats specializing in economics. The premise, while certainly erroneous, is that the economy is more important in

Switzerland's relations with countries than security.
I would like to approach this issue from three views. The first revolves around the question of how diplomatic missions should be used. The second is taken in terms of the changing concept of security. The third and final aspect is taken from the perspective of the evolution of international relations.

It is obvious that an instrument only delivers the services expected if we use it wisely. A diplomatic mission with a military mission is admittedly expensive. This is due to personnel and infrastructure costs. But properly used, it is able to provide significant added value to enable a government to make the right international policy decisions. Switzerland knows this. If it had listened to its then-ambassador to the United States of America in the case of unclaimed assets, it would have saved a lot of money and disappointment.
This observation leads to my first reflection on future military missions, a reflection which is on a broader level than a single embassy. It would be beneficial if the central government (in this case the head of the army, ministry of defense, and foreign affairs) better utilize and take advantage of the expertise and specialized knowledge present in foreign missions and better coordinate the activities of different bodies involved in the management of intergovernmental relations. Indeed, it is not certain that we get the best performance, in a bi-lateral negotiation, when a minister or the head of an army llistents only to his immediate advisers back in the capital, rather than from the ambassador and experts on site.

Since the end of the Cold War, the security situation has become far more complicated. The risks and threats are becoming more and more global. The boundary between internal security (primary task of the police) and external security (primary mission of the army) is becoming increasingly blurred. The fight against terrorism, organized crime and mass migration are certainly important and multidisciplinary security components. The defense attaché is now first and foremost a military expert. It begs the question whether- in light of the changing concept of security as briefly presented, the role of the defense attaché should not be expanded and whether we should not create a security policy attaché. This raises the question whether it is still necessary that the attaché is a professional soldier, or whether this task could not be assumed by a diplomat or an expert in the field of disarmament, non-proliferation of weapons of mass destruction, etc.
France, for its part, has introduced the position of internal security attaché. This is a diplomatic post in the general officer corps of the Gendarmerie or Police force, who is able to advise the head of the mission on legal matters in the fight against terrorism, drugs, or illegal immigration. In addition, this attaché knows the specific aspects of acquisition of intelligence in a field

which is more related to the police than to the military.

The third aspect that deserves to be explored is that of the changing system of international relations and its impact on diplomatic relations. This is the question: should we maintain embassies between countries of the European Union? You can imagine the complexity of the answer, because it is implies a fundamental reappraisal of how relations should be conducted between sovereign states.
Simply put, there are two schools of thought. For some, the diplomatic missions within the EU are obsolete, because the inter-state relations must pass through the organs and institutions of the Union, which have been designed for this purpose. For others, the maintenance of embassies is justified at least for two reasons. Even if we are friends, there are matters which we would like to discuss between ourselves and not before of the entire European Union. Furthermore, if the head of the mission is doing his job, he has the best overall knowledge of relations between his country and the country to which he is assigned. At the EU level on the other hand, experts often follow a very segmented vision of the problem. The essence of good diplomacy is a broader negotiation, which interconnects different aspects of the relationship. This is often done by making concessions in one area, so that you may succeed in another. This is why it is necessary to maintain the network of embassies within the European Union.
This fundamental question arises naturally in the same way for military diplomacy and defense attachés networks. There are now a number of agencies within the EU, such as the Political and Security Committee, in which high-ranking military officials of EU countries regularly meet. Moreover, the armed forces of EU countries cooperate in many military operations, either under NATO or EU command. The exchanges are so common that we can justifiably question the desirability of maintaining a network of defense attachés in the Union.
It is obviously premature to make a prognosis. Personally, I think that global diplomacy, interconnected and multidisciplinary, still has fruitful days ahead. I think that for a country like Switzerland, the role of diplomacy is expected to grow, particularly in Eastern Europe, the Middle East, and North Africa. Recent examples, such as the fights against illegal immigration and piracy, illustrate this combination of a diplomatic component, consisting of meetings and negotiations, with a military component, which implements the means (i.e. warships or commandos).

Conclusion

Peace researchers argue that it is when we no longer speak -when we no

longer have a dialogue- that a dispute or conflicting interests transform into open conflict and violence. This sociological finding is valid both for couples and for relations between states and other actors in the international arena.
The role of the defense attaché, as we have seen, is mainly to bridge the gap between a country's military and the military of the country to which it sends an attaché. The defense attaché is essentially a go-between, a facilitator. It is he who helps oil the wheels, which sometimes become jammed due to the complex relationships that form between two states.
From this almost philosophical point of view, the position of defense attaché has a bright future. For more than ever, we need people charged with the task of bringing leaders whose countries are in open conflict or have conflicting interests to the negotiating table, in order to find peaceful solutions to crises and wars.

Challenges and Opportunities in Applying International Humanitarian Law in Urban Warfare

Michel Veuthey

Vice-President, International Institute for International Law

The increasing urbanization of war, though not entirely a new phenomenon, raises humanitarian issues that deserve consideration. The following examination will first offer a brief review of urban warfare from a humanitarian perspective, before presenting the principles of international humanitarian law (IHL), which are challenged by today's increasingly urban conflicts.

The humanitarian face of urban warfare

The Siege and Commune of Paris (1871). In 1871, Henry Dunant, co-founder of the International Committee of the Red Cross (ICRC, 1863) and initiator of the French Red Cross (1864), witnessed urban warfare in Paris during both the Prussian siege of the city and the later uprising in the commune.[1] As in Solferino, Dunant strove to care for the casualties in Paris. Prior to the siege, Dunant had been in contact with Empress Eugénie, hoping to propose to the Prussians the establishment of a number of neutral cities to which the wounded could be taken. Following the defeat of Sedan and the siege of the capital, he founded an association, which spearheaded an appeal to the Prussians for the instruction, moralization and humanization of "the young citizen obliged to arms." During the winter of 1870, he worked tirelessly towards the creation of a "committee on warm clothes" and requested permission to visit German prisoners of war interned in Paris (the request was rejected). Following the uprising in the Commune of Paris, he met with the Prince of Saxony, President Thiers, and several generals to reach agreement on humanitarian

1 Gagnebin, Bernard, "Le rôle d'Henry Dunant pendant la guerre de 1870 et le siège de Paris," *Revue internationale de la Croix-Rouge*, April 1953, 35 (412), p. 262-273.

Dunant, Henry, *Mémoires*. Text established and presented by Gagnebin, Bernard, Institut Henry-Dunant, Éditions L'Age d'Homme, Lausanne, 1971, p. 257-276, chapters XXVIII and XXIX.

principles. Like his efforts in Solferino in 1859, Dunant's engagement in Paris was pioneering.

Spanish Civil War: Guernica (1937). Aerial bombardment was a significant development in urban warfare. The Luftwaffe's air raids of Guernica, which were, according to Göring, a "test in real conditions," would prelude new military and humanitarian dimensions of war. This was the offensive use of aircraft, with which the Italian General Giulio Douhet had already experimented in Tripoli.[2] Guernica comes just after the ICRC's 1934 proposal of a convention in Tokyo to protect civilians in the case of air attack.[3]

The Second World War: Coventry to Nagasaki (1939-1945). The next progressions come during the Second World War. These start with German aerial bombardment of both British and Dutch cities (Coventry, London, and Rotterdam), not to mention Japanese attacks on urban areas in China, and end with the aerial assaults on both German and Japanese cities (Dresden, Hiroshima and Nagasaki). These developments frustrated the efforts of the ICRC to offer protection of civilians under international law, which had been proposed in Tokyo. In 1949, four new conventions were introduced, which were to carefully regulate the attack on civilian populations of all warring parties, victorious as well as vanquished.[4] It was not until 1977, following the end of the Vietnam War and the African wars of independence that the Additional Protocols to the Geneva Convention finally regulated the protection of civilians in written law. After the Second World War, Germans and Americans, retrospectively studied the effects of these military air strikes. Albert Speer, Minister of War for the Third Reich, wrote in his memoirs that had the Germans concentrated their attacks on the airports from which the Spitfires of the Royal Air Force took off, and the ports through which the Americans were supplying England with arms, Germany might have won the Battle of Britain.[5] Similarly, the Americans learned from a study on their aerial attacks in Europe that by concentrating their bombardments on roads, railways, and ball bearing factories (which allowed the Germans to produce tanks until last day of the war), they might have shortened the war by six months.[6]

2 Douhet, Giulio, *Il Dominio dell'aria*, (La maîtrise de l'air), First edition, Rome, 1921. First complete translation and annotation into French by Lietenant-Colonel Benoît Smith. Economica, 2007. Douhet, Giulio. *La guerre dans les airs*, Journal Les Ailes, Paris, 1932.

3 International Committee of the Red Cross (ICRC), "Projet de Convention internationale concernant la condition et la protection des civils de nationalités ennemie qui se trouvent sur le territoire d'un belligérant ou sur un territoire occupé par lui," Tokyo, 1934. Available: http://www.icrc.org/dih.nsf/FULL/320?OpenDocument.

4 Maier, Charles S., "Targeting the city: Debates and silences about the aerial bombing of World War II." *International Review of the Red Cross*. 87 (859) (September 2005), p. 429-444.

5 Speer, Albert, *Au cœur du Troisième Reich*, Fayard, Paris, 1971.

6 *The United States Strategic Bombing Survey, Overall Report (European War).* Available: http://www.anesi.com/ussbs02.htm (accessed December 2009). *The United States Strategic Bombing Survey, Summary Report (Pacific War).* Available: http://www.anesi.com/ussbs01.htm (accessed December 2009).

Humanitarian practices enshrined in law: neutral zones in cities

Jerusalem (1948). In 1948 in Jerusalem through an agreement between the Va'ad Leumi, the Jewish army, and the Arab League, the ICRC was able to create a secure area in which to shelter civilians. With this experience, the ICRC was able, in 1949, to propose conventions to establish secure areas to protect civilians, the wounded and sick, as well as humanitarian personnel. Hence, in the Geneva Conventions of 1949, the possibility of establishing hospital zones (I, 23), safety zones (IV, 14) and neutral zones (IV, 15).[7] These areas were then created in a number of locations: Dhaka, Bangladesh in 1971, Nicosia, Cyprus in 1974, Osijek, Croatia (former Yugoslavia), and Jaffna, Sri Lanka.[8]

Srebrenica (1995). In contrast, a humanitarian and political tragedy can result from the refusal to create such a zone. This was the case in Srebrenica in 1995.[9] The ICRC had proposed at that time to establish a special secure area under the Geneva Conventions, which the Security Council of the United Nations rejected, refusing to negotiate with the Republika Srpska. The Council preferred to establish "safe area" through military (and political) means, which proved insufficient. This resulted in the well-known humanitarian and political tragedy there.[10]

Major presence of humanitarian actors in urban conflicts

Battle of Algiers (1956-57). The twin evils of torture and terror (which still plague the world today) were present at the Battle of Algiers. This dreadful duo is well described in Germaine Tillion's *Les Ennemis Complémentaires*.[11] Recounted in the work are the attempts made to convince the Algerian FLN to stop the terror and the French authorities to renounce torture. Also interesting in this regard is Gillo Pontecorvo's film, *The Battle of Algiers*, which demonstrates how a battle may simultaneously be a military victory and a

7 Pictet, Jean, *Les Conventions de Genève du 12 août 1949. Commentaire publié sous la direction de Jean S. Pictet. I. La Convention de Genève pour l'amélioration du sort des blessés et des malades dans les forces armées en campagne*. Geneva: ICRC, 1952, Chapter III, Art. 23 - Zones et localités sanitaires, p. 228-238. Such zones were also established in Madrid in 1936 and in Shanghai (Jacquinot zone) in 1937.

8 Sandoz, Yves, "Localités et zones sous protection spéciale." *Quatre études du droit international humanitaire.* Geneva, 1985, p. 35. Study presented at the 10th roundtable of the Institut International de Droit Humanitaire, San Remo, 1984.

9 *Cf.* Megevand-Roggo, Béatrice. "Srebrenica – se souvenir des disparus." Available: http://www.icrc.org/Web/fre/sitefre0.nsf/html/srebrenica-editorial-050705.

10 See most notably the report by MM. René André and François Lamy, "Les Balkans," No. 3413 (available: www.assemblée-nationale.fr/dossiers/srebrenica.asp) and also the European Parliament resolutions of July 7, 2005 and January 15, 2009 at Srebrenica (available: www.europarl.europa.eu).

11 Tillion, Germaine. *Les ennemis complémentaires*. Paris: Editions de Minuit, 1960.

political failure.[12] The torture methods of French paratroopers resulted in the loss of support not only in Algeria but also in international public opinion. If the Battle of Algiers was won militarily, the war was lost politically.[13]

Santo Domingo (1965). An interesting situation was that of Santo Domingo in 1965. In the midst of conflict, the ICRC managed to negotiate a humanitarian truce that finally allowed the Organization of American States (OAS) to negotiate the end of the conflict.[14] Here, we clearly see the usefulness of a humanitarian actor, namely the ICRC, which, although limiting itself to its humanitarian tasks and remaining neutral was able to facilitate a peaceful resolution to an urban conflict.[15]

Beirut (1982). Another confusing situation is the interaction between state and non-state militias, as seen in Lebanon in 1982. The film *Waltz with Bashir* is very enlightening in this regard. It shows the dramatic effects of such interaction. The massacres of Sabra and Chatila can still be felt among survivors of all parties: Lebanese, Palestinian and Israeli.[16]

Mogadishu (1993). The case of Mogadishu showed once again the benefit of having a neutral humanitarian actor working to respect humanity.[17] Indeed, as has been told in the book and subsequent movie *Black Hawk Down*, the mediation work of the ICRC allowed the opportunity for an agreement to be reached. Thus, through the ICRC, an American soldier held prisoner by the militia of Somalia was released, and Somalis held prisoner by the U.S. military were released.

Challenges of urban warfare to the applicability of humanitarian law

Brazzaville (1997-98). The bloody conflict in Brazzaville, which burned and

12 Director Gillo Pontecorvo's *The Battle of Algiers* was banned in France in 1966, censored again in 1971, won the Lion d'Or at Venice in 1966 and was nominated for three Academy Awards.

13 Hoffmann, Bruce, "A Nasty Business," *The Atlantic Monthly*, January 2002, p. 51: "*The exculpatory philosophy embraced by the French Paras is best summed up by Massu's uncompromising belief that 'the innocent [that is, the next victims of terrorist attacks] deserve more protection than the guilty.' The approach, however, at least strategically, was counterproductive. Its sheer brutality alienated the native Algerian Muslim community. Hitherto mostly passive or apathetic, that community was now driven into the arms of the FLN, swelling the organization's ranks and increasing its popular support. Public opinion in France was similarly outraged, weakening support for the continuing struggle and creating profound fissures in French civil-military relations. The army's achievement in the city was therefore bought at the cost of eventual political defeat.*" Available: http://www.theatlantic.com/doc/200201/hoffman.

14 *Cf.* "The Red Cross as a Factor of World Peace," *International Review of the Red Cross*, No. 61, April 1966: 180. Available: www.loc.gov/rr/frd/Military_Law/pdf/RC_Apr-1966.pdf .

15 *See* Perret, Françoise and Bugnion, François, *De Budapest à Saigon. Histoire du Comité international de la Croix-Rouge 1956-1965,*: ICRC/Georg, Genève, 2009, p. 555-560.

16 *Cf.* ICRC. "Rapport d'activité 1982," p. 55-58. Included in "Cas n° 115, CICR, Liban, Sabra et Chatila," Sassoli, Marco Sassoli, Bouvier, Antoine A., *Un droit dans la guerre?* ICRC, Genève, 2003, Vol. 2, p. 1095.

17 Smith, Stephen, *Somalie, la guerre perdue de l'humanitaire*, Calmann-Lévy, Paris, 1993, p. 217-243.

bloodied the city in 1997 and 1998, deserves to be mentioned here.[18] This Congolese conflict was between two militias, which were armed and funded by foreign oil companies.[19] At the heart of the urban warfare that destroyed Brazzaville was the provision of the oilfields. The humanitarian question that arises here is the legal responsibility of the companies involved, notably in terms of international humanitarian law. This question is of course theoretical, since to this point nothing has happened at a judicial level.

Grozny (1996). A 1990's urban conflict in Chechnya, has also questioned the application of humanitarian law.[20] Alexandre Dumas had already described the wars in the Caucasus in 1859.[21] The question of the application of humanitarian law, however, did not arise until 1996 when the Russian Constitutional Court first invoked Protocol II.[22] In the end, it was Russian criminal law, which was declared applicable in this conflict in which aid workers were not been spared.[23] Many of the ICRC delegates were killed in the Novy Atagi hospital in 1996, and an employee of Doctors Without Borders Switzerland was taken hostage.[24] The war between Russian forces and Chechen rebels is an asymmetrical conflict with the typical problem of massive attacks against areas populated by both civilians and combatants.[25]

Gaza (2008-09). Finally, between 27 December 2008 and 20 January 2009, the Israeli military intervention in Gaza raises an entire series of questions relating to fundamental principles of humanitarian law.[26] How should the principle

18 *See* Nitcheu, Gervais, "Les séquelles de la guerre de 1997," *Radio France Internationale*, 31 July 2005. Available: http://www.rfi.fr/actufr/articles/067/article_37808.asp.

19 Yates, D. A. "Central Africa: Oil and the Franco-American Rivalry," *L'Afrique politique*, 1998, p. 205-226.

Verschavev, François-Xavier, *Noir Silence*. Éditions des Arènes, 2000 and *L'envers de la dette, Criminalité politique et économique au Congo-Brazza et en Angola*, Agone, 2001.

20 See *Tchétchénie : Renaître de ses cendres*. Eight-minute, Multilingual DVD (English, French, and Russian), ICRC, 2008. Available: www.cicr.org/Web/fre/sitefre0.nsf/html/f00967-V.

21 *Cf.* Dumas, Alexandre, *Voyage au Caucase*, Hermann, Paris, 1859. *Translation of author's (Veuthey) original French footnote follows:* The chapter titles speak of Russian officers, head-hunters, dragons and great walls. According to Patrick Jacquelot of La Société des Amis d'Alexandre Dumas, "The early chapters tell (of) the crossing regions near the Caspian, haunted by Tatar and Chechen bandits with many a story about the abuses of them and their clashes with Russian soldiers." Available: http://www.dumaspere.com/pages/dictionnaire/caucase.html.

Original footnote: "Les premiers chapitres racontent la traversée des régions proches de la Caspienne hantées par les bandits tatars et tchétchènes, avec moult anecdotes sur les exactions de ces derniers et leurs affrontements avec les soldats russes."

22 *See* www.venice.coe.int/docs/1996/CDL-INF(1996)001-f.asp.

23 Gaeta, Paola, "The Armed Conflict in Chechnya before the Russian Constitutional Court," *EJIL*. 7(4) (1996). Available: http://ejil.oxfordjournals.org/cgi/reprint/7/4/563.

24 Murder of six ICRC staff in Chechnya, the ICRC statement of December 19, 1996 (available: www.cicr.org/Web/fre/sitefre0.nsf/htmlall/5FZGVJ) and honor of President Sommaruga (available: http://www. cicr.org/Web/fre/sitefre0.nsf/html/5FZHEX).

25 See most notably Hills, Alice, *Future War in the Cities: Rethinking a Liberal Dilemma*, Frank Cass, London/New York, 2004, p. 151, ss. ("Grozny").

26 Falk, Richard, "Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk," Available in English through the High Commisioner for Human Rights: http://ap.ohchr.org/documents/dpage_e.aspx?m=91. Discussed in French- Available through AIDH: www.aidh.org/ONU_GE/conseilddh/09/10-

of distinction be applied in urban conflict? What precautions should soldiers take vis-à-vis civilians when urban areas are attacked? How can the principle of proportionality be kept and enforced in asymmetrical conflicts in urban areas?
After Beirut, Mogadishu, and Grozny, Gaza demonstrates the urgent need for a reminder of the fundamental principles of international humanitarian law, a clarification of the facts, an establishment of responsibilities and appropriate conduct on both sides, and prosecution of official violations.[27]

Necessary reminder of the principles of international humanitarian law

International humanitarian law consists of a set of rules and principles limiting violence in armed conflict. Security and military objectives converge with considerations for the protection of humanity in order to preserve the life and dignity of persons "hors de combat" and to avoid the unnecessary suffering of combatants.

Customary law's prohibition of total war

The fundamental principle of international humanitarian law is the prohibition of total war. Indeed, the Hague Convention of 1907 expressly prohibits the practice of total war in Article 22, stipulating that, "The right of belligerents to adopt means of injuring the enemy is not unlimited." The Law of The Hague provides the following additional principals of International Humanitarian Law, framing the use of armed force: the principle of distinction (duty to distinguish between combatants and noncombatants), the principle of proportionality, and the principle of confidence (prohibition of perfidy).

The Hague Conventions and international custom

The Hague Conventions are now part of customary law.[28] In 1946, the

pal_richard_falk.htm (both sites accessed 8 April 2009).

Another report has been submitted to the League of Arab States, April 30, 2009 at the United Nations and June 3, 2009 by John Dugard, South African President of the Independent Inquiry Committee into Gaza on behalf of the Arab League (Independent Fact Finding Committee on Gaza to the League of Arab States). It is found, also in English on the website of the Arab League: http://www.arableagueonline.org/las/index.jsp.

27 *Rapport Goldstone,* (Rapport de la Mission d'établissement des faits de l'Organisation des Nations Unies sur le conflit de Gaza) A/HRC/12/48). Para. 1913. French translation of the findings and recommendations online: http://daccess dds-ny.un.org/doc/UNDOC/GEN/G09/158/37/PDF/G0915837.pdf?OpenElement. Original English (Report of the United Nations Fact Finding Mission on the Gaza Conflict): http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf.

28 See the first volume of the work of the ICRC by Jean-Marie Henckaerts and Louise Doswald-Beck, *Droit international humanitaire coutumier*, published in French by the ICRC and Bruylant 2006. Original English: Henckaerts, Jean-Marie, & Doswald-Beck, Louise, *Customary International Humanitarian Law*, Vol. 1: Rules (2005). Available: http://www.icrc.org/Web/Eng/siteeng0.nsf/html/section_ihl_customary_humanitarian_law.

International Military Tribunal of Nuremberg recognized the The Hague Conventions as customary law, noting that the rules contained in the The Hague Conventions were "accepted by all civilized States and regarded by them as the codified expression of the laws and customs of war."[29] Furthermore, in 1948, the International Military Tribunal for the Far East reiterates the same opinion.[30] The International Court of Justice confirmed to turn the The Hague Conventions into customary law in the Advisory Opinion of July 9, 2004 in response to Israel's construction of a barrier in the case known as Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory.[31]

The principle of distinction

According to the principle of distinction, only military objectives may be attacked. Individuals and civilian objects must be protected. This principle is a rule of customary law, which was consecrated in 1868 in the St. Petersburg Declaration, which notes, "The only legitimate object which States should endeavor to accomplish during war is to weaken the military forces of the enemy."[32]

Article 25 of The Hague Convention complements this assertion in 1907, adding, "The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited." The basic rule is clearly restated in 1977 in Article 48 of Additional Protocol I: "In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military

29 *Translation of author's (Veuthey) original French footnote follows:* Minutes from the Nuremberg War Crimes Trial, Nuremberg, November 14, 1945 -1 October 1946. "In 1939, these Rules, contained in the Convention [The Hague], were recognized by all civilized nations and were regarded as the expression of the laws and customs of war." *Author's original footnote:* "Procès des Grands Criminels de Guerre devant le Tribunal Militaire International, Nuremberg, 14 novembre 1945 -1 octobre 1946. « *En 1939, ces Règles, contenues dans la Convention [de La Haye], furent admises par tous les Etats civilisés et regardées par eux comme l'expression codifiée des lois et coutumes de la guerre* »

30 The judgments rendered in 1948 by the International Military Tribunal for the Far East are available in English: www.ibiblio.org/ hyperwar / PTO / IMTFE / index.html (accessed 24 April 2009).

31 International Court of Justice Advisory Opinion of 9 July 2004 on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. Available: http://www.icj-cij.org/docket/index.php?p1=3&p2=4&k=5a&case =131&code=mwp& p3=4. The press release 2004/28 states: "As regards international humanitarian law, the Court refers to the provisions of the Hague Regulations of 1907, having acquired a customary character...."

Cour Internationale de Justice, Avis consultatif du 9 juillet 2004, sur les *Conséquences juridiques de l'édification d'un mur dans le territoire palestinien occupé*. Disponible sur le site : www.icj-cij.org, dans *Affaires*, au titre des *procédures consultatives*. Le communiqué de presse 2004/28 précise ainsi :« S'agissant du droit international humanitaire, la Cour mentionne les dispositions du règlement de La Haye de 1907, qui ont acquis un caractère coutumier … ».

32 The full text of the St. Petersburg Declaration to prohibit the use of certain projectiles in wartime (St. Petersburg, December 11, 1868) is available on the website of the ICRC: www.icrc.org/dih.nsf/FULL/130?OpenDocument.

objectives."
Civilians are persons who do not participate directly in the conflict. The principle of distinction inevitably raises the question of the definition of participation in the conflict. In addition, the fact that the use of certain weapons or methods does not allow for this distinction is problematic. It is thus essential in the use force to uphold the principle of precaution and the prohibition of unnecessary suffering.

Special rules: the principle of precaution and the prohibition of unnecessary suffering

All parties (attackers and defenders alike) must take precautions to avoid or at least minimize civilian casualties (Protocol I, 1977, Art. 57).[33] It is for example forbidden to carry out indiscriminate attacks, to use human shields or to cause unnecessary suffering.[34] The principle of proportionality and the principle of trust, which prohibits perfidy, are also relevant to contemporary urban warfare.

Proportionality and trust in international humanitarian law

Excessive "collateral damage" makes an attack disproportionate and therefore unlawful. The loss of life and/or civilian property must be in balance with the direct, anticipated military advantage of the attack. This rule has a subjective aspect in that the military commander on the ground must assess the situation. This can lead to a problem of interpretation. However, Article 51 of the Additional Protocol of 1977 provides guidelines for what may be considered disproportionate when it refers to "an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated." The principle of proportionality therefore requires military commanders to weigh damages and losses caused by an offensive against the strategic military outcome desired and necessary.

The principle of trust and the prohibition of perfidy

The principle of trust prohibits acts of treachery as defined in Article 37 of Protocol I: "Acts inviting the confidence of an adversary to lead him to believe that he is entitled to, or is obliged to accord, protection under the

33 See the related and remarkable work of Jean-François Queguiner, "The precautionary principle in the conduct of hostilities," University of Geneva, Graduate Institute of International Studies, PhD in International Law, 2006.
34 Queguiner, Jean-François, "Precautions under the law governing the conduct of hostilities," *IRRC*, December 2006. Available: http://www.icrc.org/Web/eng/siteeng0.nsf/html/review-864-p793.

rules of international law applicable in armed conflict, with intent to betray that confidence, shall constitute perfidy." Article 37 goes on to provide the following examples: "the feigning of an intent to negotiate under a flag of truce or of a surrender; the feigning of an incapacitation by wounds or sickness; the feigning of civilian, non-combatant status; and the feigning of protected status by the use of signs, emblems or uniforms of the United Nations or of neutral or other States not Parties to the conflict."

Actors and humanitarian initiatives in urban conflicts

Among the key players responsible and capable of enforcing humanitarian considerations in urban conflict are states, which are responsible to respect and uphold international humanitarian law under all circumstances and facilitate the capture and trial of criminals through the judicial system.
Another actor is also essential and unavoidable in regards to humanitarian law. This is the ICRC, which has received in the Geneva Conventions the mandate to assist and protect victims of armed conflicts. In order to fulfill this role, it is essential that it be allowed access to areas of urban conflict, movement from one area to another, and the ability to provide relief.
It is also worth noting that the United Nations High Commissioner for Refugees (UNHCR) has also issued reports on the problem of refugees in urban areas.[35]
The ICRC and other humanitarian actors, such as the International Institute of Humanitarian Law in Sanremo, are essential in the training and education of both military and security personnel on the rules of humanitarian law as well as civilian personnel policy and protocol.

Conclusion

To enforce and facilitate the implementation of international humanitarian law, it is first necessary to learn from both the best applications of the law as well as its most notable violations through analysis of past conflicts, thereby reaffirming the individual and collective responsibility under humanitarian law of state parties to the Geneva Conventions (before the International Criminal Court).
Additionally, it is important to reaffirm its rules and principles, notably the prohibition of torture along with all human rights and fundamental guaranties. It is also appropriate to highlight the economic consequences of carrying out attacks in violation of international humanitarian law. Indeed, every violation requires repair.
Furthermore, the force of public opinion and public awareness must not be

35 Available: http://www.unhcr.org/pages/4a12a4a26.html. Also see "Concept Paper High Commissioner's Dialogue on Protection Challenges for persons of concern to UNHCR in urban settings Geneva," 9 -10 December 2009: http://www.unhcr.org/4a2393776.pdf.

forgotten in so far as it may be used to promote compliance with international humanitarian law. Mediums through which this message may be transmitted include the media, teachers, artists, and other personalities, including spiritual and religious ones.[36] Nongovernmental organizations such as Doctors Without Borders, Human Rights Watch, and Amnesty International can denounce violations, while other international NGOs, national associations, and local initiatives can disseminate information, allowing the power of consciousness to take hold.

Finally, the creation of conditions conducive to a return to peace following conflict is essential to the stability of any country or region. Preventing degradation in situations of excessive violence as well as promoting nonviolent settlements and the establishment of peace processes in the form of open dialogue and mediation are necessities for the maintenance of peace.

In urban warfare, there are not only issues of legality; there are also questions of legitimacy. To conclude, let us remember the words of Albert Camus, the great Algerian-born French writer: "Fight for truth without destroying it by the very means used to defend it."[37]

Reaffirming the fundamental principal of IHL, the distinction between combattants and civilians, military objectives and civil objects, only the first able to be targeted, is essential today. This is important if one does not want what has been practiced and tolerated in Gaza to render obsolete the rules and principles of the protection of civilian populations and propriety. So that Gaza does not become, as Guernica 70 years ago, a prelude to massive violations of humanitarian norms.

36 On this subject, see Millet-DeVall, Anne-Sophie (Ed.), *Religion and International Humanitarian Law - Symposium Nice, 18-19 June 2007*, Pedone, Paris, 2008, especially Veuthey, Michel, "Religions and international humanitarian law: history and actuality of a necessary dialogue," p. 9-45.

37 Camus, Albert, *Chroniques algériennes, Actuelles III, 1939-1958*, Gallimard, Paris, 1958, p. 24. Reissued in 2002 by Gallimard through Folio Essais.

Demography and Politics in the Middle East

Raymond Sayegh

Prof. Dr. d'Etat français en sciences politiques, Université Liban, France

History demonstrates there is an overlap between demographic data and political decision-making. In fact, the destiny of a community or a nation depends on demographic change and the statistics relevant to immigration. The latter constitutes a very sensitive area of current policy-making. Concepts of demography and politics are intertwined. Certain regimes, such as fascist ones, adopted population control to meet political ends. Their objectives were primarily belligerent and they targeted birthrate to enable territorial conquest.

The study of demography and politics examines the relationship between issues that concern a population and states.[1] There are many references to the relationship between demography and the study of war. The phenomenon of war is considered a "manifestation of the balance between demography and the economy…Through which processes do people become enticed to go to war when it stems from demographic structure?" This is a type of question that is posed in the context of the sociology of conflict.[2]

Several examples bear witness to the importance of demography in the history of a community. In Gandhi's time, the population of India amounted to 360 million inhabitants. Assuming a smaller population, could the Mahatma have carried out the theory of non-violence through the boycott of the English textile industry that eventually led to their bankruptcy? Could he have triggered the long salt march towards the Indian Ocean? Would India have become independent? Could Mao Zedong have threatened the American "paper tiger" through a declaration that he was prepared to sacrifice a million people? Everyone recalls that King Hassan II ordered 350,000 Moroccans to march towards the Sahara. The unification of Germany led to the integration of seventeen million people from the Democratic Republic of Germany, a process that contributed to render Germany the most inhabited country in

1 Dumont, Gérard-François, *Démographie politique. Les lois de la géopolitique des populations.* Ellipses, Paris, 2007, p. 498.
2 Bouthoul, Gaston, *Traité de polémologie. Sociologie des guerres,* Payot, Paris, 1991, p. 252.

the European Union (EU) with 80 million inhabitants.
The Arab Israeli conflict is subject to similar issues. In addition to territorial, hydraulic, national, religious, economic and strategic issues, the history and evolution of the conflict reveal that demography and migration constitute critical dimensions that are necessary to understand this tremendous dispute. A neglect of these dimensions can lead to an omission of the political history of this region.

Political strategies as a function of demographic data

Would international relations be configured in the current setup if industrialized countries, such as the United States, Russia, Great Britain, France, and Germany, were sparsely inhabited? Isn't the economic and military power of these nations a function of their demographic distribution? The same goes for emerging countries such as China, India, and Brazil.

The Populations of Selected Countries (descending order) [3]

Rank	Country	Population
1	China	1'321'290'000
2	India	1'095'351'995
3	USA	303'350'706
4	Indonesia	245'452'739
5	Brazil	188'078'227
6	Pakistan	165'803'560
7	Bangladesh	150'448'339
8	Russia	141'377'752
9	Nigeria	131'859'731
10	Japan	127'463'611
14	Germany	82'422'299
20	France	61'875'000
	European Union (27 members)	460'226'675

Sketches of the historical contours

For several decades – through the Sykes-Picot Accords in 1915 (date of the division of the Middle East into zones of influence between London and Paris), the Balfour Declaration of 1917, the Conference of San Remo in 1920 (division

3 *CIA World Factbook.* Available: https://www.cia.gov/.

of the Middle East into British and French protectorates), the United Nations Resolution to divide Palestine in 1947, the "Declaration of Independence" that was proclaimed by the Zionist movement in May 1948, the political and economic struggle of influence between the proxy Powers, the political reversal of Britain that at times sided with the Arabs for their strategic assets (Suez Canal, petrol) and at times sided with Zionist organizations – Great Power politics shaped the geopolitical environment. They still do to today.
Waves of immigrants from a hundred countries contributed to the Israeli "melting pot," parallel to popular demonstrations and uprisings (1921, 1929, 1936), multiple "White Books" (1922, 1930, 1937, and 1939),[4] various Zionist gatherings,[5] and the evolution of Arab Nationalism. The assassinations of Lord Moyne and the Count Bernadotte caused huge repercussions around the world.

The Balfour Declaration of 2 November 2007

> The government of her Majesty contemplates with favor the establishment in Palestine of a National Home for the Jews and will use all means to facilitate the attainment of this objective, bearing in mind that no measure will be taken that is harmful either to the civil and religious rights of the non-Jewish communities that live in Palestine or to their political status that Jews are entitled in other nations.

The British used the expression "National Home" rather than "State." Why does the first proposal (establishment) depend on the second proposal (the Rights of the non-Jewish communities)? The subtlety or the duplicity of the passage lays down the squaring of the circle and the conflicts to come. The colonial policy rendered it possible for the English to promise territories, which do not belong to it, to people who are not its own.
Palestine was formerly comprised of an Arab majority and Jewish minority, but as time went by, under the drive of Zionism and with the support of the West, the composition was reversed. The population of Palestine, writes Jean Gottmann, "Offers a striking contrast between the Arabs that have lived there for centuries to the Jews who colonized it for almost fifty years." The demographic data that follows is meant to cast light on the social reality in which there is a sharp contrast before and after the Yishuv (the Jewish community at the time of the British Mandate).

4 Regulation of Jewish Immigration in Palestine, according to absorption capacity of the host country.
5 Notably the one of 1929.

The melting pot or Jewish immigration up to the creation of Israel in 1948

Given the scope of this article, there is no need to excessively expand upon the history of Zionism and Arab nationalism. In a nutshell, the creed of the movements is as follows: a land without a population to a population without a land (although people lived in Palestine for centuries) to foresee the consequences of the massive immigration of Ashkenazim (Western Jews) to Palestine, who transformed the British protectorate of Palestine into a Jewish state in 1948.

According to Judah Matras, the population of Palestine was estimated in the nineteenth century at the following figures:[6] 270'000 Muslims, 25'000 Christians (Greek-orthodox, Greek-Catholic, etc.) and 5'000 Jews (mostly Spanish).

The Alyoth ("Aliyah" in the singular form) started from the beginning of the twentieth century.[7] Between 20'000 and 30'000 Jewish immigrants landed in Palestine in the course of the first Aliyah, which took place between 1882 and 1903. The second Aliyah occurred between 1903 and 1914, and it consisted of 35'000 to 40'000 immigrants. At the dawn of the First World War, the Jewish population totaled 85'000, but at the end of the war, it would be reduced to just 56'000. The following table shows the demographic and migratory evolution of the Jewish population between 1918 and 1948:

The Jewish Population of Palestine: 1919-1948[8]

Period	Population at the beginning	Total increase	Natural increase	Net migration
Total : 1919-48	56'000	593'633	167'088	426'545
3rd Aliyah 1919-23	5'600	36'000	6'500	29'500
4th Aliyah 1924-31	92'000	83'138	26'013	57'125
5th Aliyah 1932-38	175'138	237'584	42'413	195'175
Second World War 1939-45	412'722	151'107	61'667	89'440
Post-War 1946-48	563'829	85'804	30'495	55'309
Israeli Independence 1948	649,'33			

In less than thirty years (1919-1948), the Jewish population of Israel increased more than tenfold. In eight years, (1924-1932) the population almost doubled. The examination of the geographic origin of immigrants is also worthwhile across each successive Aliyah.

6 Matras, Judah. *Social Change in Israel*. Chicago: Aldine Publishing Company, 1965.
7 The term signifies the "rising," which refers to the influx of immigrants into Palestine.
8 Sicron, Moshe, *Immigration to Israel, 1948-53*, Vol. 2. Jerusalem, 1957. Statistical Supplement, Table A2, A3. Matras, Judah. *Social Change in Israel*, Aldine Publishing Company, Chicago, 1965, p. 27.

The third Aliyah (1919-23) was comprised of Russian Jews who were tinged with idealism and who entered Palestine at a rate of 7,000 per year.
The fourth Aliyah (1924-31) was provoked by the economic depression. It enabled the Jewish population of Palestine to increase with the presence of 2,000 American Jews and about 10'000 Oriental Jews who essentially consisted of Iraqis and Yemenites. The Oriental and Asian Jews represented twelve percent of the total Jewish population versus five percent in the course of the previous Aliyah.
Moreover due to the economic depression in Palestine, the pace of immigration slowed between 1926 and 1927. 82'000 immigrants came to Palestine, but around 23'000 Jews emigrated from the country. Towards the end of 1931, the population consisted of 175'000 Jews and 860'000 Arabs: in other words, one Jew for every five Arabs.[9]
The fifth Aliyah (1932-38) essentially featured Jews from Central Europe: 91,000 Poles, 40'000 Austrians and Germans, 16'000 Russians, 11'000 Romanians, but also 7'000 Oriental Jews (Yemenites). 20'000 people left Palestine to return to their country of origin. During this period, one third of the newcomers belonged to the commercial and liberal practice sector of the economy versus 14 and 17% respectively during the fourth and third Alyoth. Moreover, between 1936 and 1938, immigration decreased due to the Arab rebellion against the British mandate that carried out maneuvers to alter the population distribution of Arabs and Jews. At that point in time, the "White Book" appeared in 1939 to cut down the influx of Jewish immigration and to subject it rather late to the approval of the Arabs: the Jewish population had already grown over 410'000.
During the war (1939-1945), 30'000 immigrants illegally entered Palestine. Most of them were from Poland, Germany, Romania, and Czechoslovakia. Some of them came from Russia, Bulgaria, Yugoslavia, and Italy as well. Towards the end of the War, the Jewish population was estimated at 565'000. The day Israel was founded, 14 May 1948, the Jewish population consisted of 650'000 people.
Since the proclamation of the "Return Law" on 5 July 1950, the influx of immigrants significantly grew: the overall population reached 914,700 in January 1949, 1'629'500 towards the end of 1952, and 2'430'100 around the beginning of January 1964. The Israeli population more than doubled in ten years (1949-1959) and almost quadrupled in seventeen years (1947-1964).
Other statistics can confirm this trend. At the dawn of 1948, the Palestinian population consisted of 1'400'000 inhabitants of which one third were Jewish and owned no more than six to seven percent of the land. The idea of population transfer dates back to 1937 by means of the Peel Commission, which examined the possibilities of putting an end to terrorism through the

9 Gottmann, Jean, *Etudes sur l'Etat d'Israël et le Moyen-Orient,* Armand Colin, Paris, 1959, p. 18.

search of an accord with Jewish militia (Haganah, Stern, Irgoun) and other Arabs who sparked a grand rebellion the previous year.[10]

Double demographic swing and political and ideological divisions

In February 1968, the population of Israel amounted to 2,784,300 of which 2'390'000 were Jews, 223'000 were Muslims, 58'500 were Christians, and 31'000 were Druzes. The presence of a mixed population exposes Israel to the problem of integration. Recently, African refugees, originating from places such as Darfur, crossed the Egyptian border. The number of immigrants from Sub-Saharan Africa amounted to 100'000, which included Falashas (Ethiopian Jews).[11]

Historian Shlomo Sand formulates a hypothesis in regard to the origin of Ashkenazim and Sephardim. According to the author, the Jews of today, whether they live in Israel or elsewhere in the world, are not the descendants of the ancient community that lived in the Kingdom of Judea at the time of the first and second Temple. In actuality, their origins suggest that they converted in the course of history in various locations of the Mediterranean and neighboring regions. The Jews from North Africa are probably the descendants of pagans who converted as well as Yemeni Jews (the remnants of the Himyarite Kingdom, located in the Arabic peninsula that converted to Judaism in the fourth century) and Ashkenazi Jews from Eastern Europe (the refugees from the Khazar Kingdom who converted in the eighth century). The Khazar Jewish converts could constitute the main source of the Jewish communities in Eastern Europe. "At the beginning of the twentieth century, there was a strong concentration of Jews in Eastern Europe: three million Jews in Poland alone."[12] The Khazars are "a community that are related to the Turks who came from the Caucasus and founded in the seventh century a kingdom by the shores of the Caspian. The Russians and the Byzantines became allies in order to annihilate their kingdom in 1016."

The media notes the "rise of racism" in Israel through a reference to the study of an association called "ACRI" (the Association for Civil Rights in Israel), which suggests that "Fifty percent of Israelis consider that the Arabs do not deserve the same rights as other citizens."[13] The break-up with a person's origins started with an assimilation of patronymics into the Jewish tradition. "In order to be truly Israeli," wrote Georges Friedmann, "A person must

10 Mansour, Sandrine, "La question des réfugiés palestiniens," Association France-Palestine, 9 April 2003. Available: http://www.france-palestine.org/article17.html.
11 Ronen, Serge, "Toujours plus de réfugiés africains en Israël," *24 Heures* 14-15 July 2007, p. 8.
12 Sand, Shlomo, *Quand et comment le peuple juif a-t-il été inventé?* Resling (Hebrew)/Fayard (French), 2008.
13 Saint-Paul, Patrick, "Israël confronté à une montée du racisme," *Le Figaro*, 15-16 December 2007, p. 3.

forget his native country, draw a line on it, and on one's first language. Whoever remains tied to his homeland of exile, whatsoever it may be, can be considered suspicious." Assimilation into Jewish culture, according to the author "is the powerful yeast that builds the Israeli nation day by day." Friedmann also stated that the flip side to the coin is "a form of chauvinism that contradicts the notion of universal Judaism extracted from a religious, secular or even humanist meaning."[14]

Aside from internal conflicts that are inherent to any pluralist society (between different generations, classes, clans, political factions, etc.), Israel is subject to severe divisions. Given that the Alyoth preceding the creation of Israel essentially comprised of European Jews, but that the following Alyoth gathered mainly Asian (Turks, Iraqis, Yemenis, and Iranians) and African Jews (Moroccans, Tunisians and Libyans), how was the Israeli demography structured in 1948?

Ashkenazim amounted to 55% of the total population compared to 10% Sephardim. The Jewish population that was already in Palestine (Sabra) only represented one third of the population. Furthermore, figures suggest that the percentage of the Jewish population (from the United Sates and Europe) that immigrated to Israel gradually decreased between 1948 and 1960. At the time of the 1948 Aliyah, the Afro-Asian population constituted less than ten percent of the population, but it tripled by 1960. Between 1948 and 1968 the Ashkenazim population was six fold greater than the Sephardim population. In 1968, the difference had almost leveled. According to a general census of the population, between 1952 and 1954: 78 percent of immigrants came from Asia or Africa; between 1954 and 1961 the census indicated 57.7 percent for the same measure. Hence, the ethnic distribution of the Israeli population has undergone a gradual shift in favor of Afro-Asian peoples. This feature certainly interests political parties that are keen to broaden their electorate.

Another factor has altered the distribution of the population is the proliferation of Oriental Jews, which exceed the number of Western European Jews. Will Israel be able to accommodate such a variety of groups that appear rather ill-matched? According to Georges Friedmann "there are no commonalities between Ashkenazim and Sephardim, not even to the meaning that is attributed to religion and rituals."

The geographic and cultural divisions become apparent when one conducts a cultural analysis on the basis of gender, duration of residence, and ethnicity. The integration of Ashkenazim has not yet occurred. In regard to the Sephardim, authors such as Georges Friedmann, argue that Israel must "prevent leventinisation." They overlook the fact they promote a form of colonialism through a refusal to assimilate oriental culture. The sociologist, Jacques Berque, noted, that "The establishment of Jews in Palestine renders colonialism perennial…the existence of Israel causes a sentiment of opposition

14 *Ibid.*, p. 35.

and refusal in Arabs…"

A change in the ethnic distribution was initiated in 1948. The proportion of oriental Jews has constantly increased due to immigration and the demographic rate, whereas the Western Jewish population, which has waned, may not be offset by the dried up immigration of Western Jews over the years. Perhaps only a massive influx of Russian Jews could tip the balance of Ashkenazim over Sephardim. This state of affairs provides a reason for several states to prod Moscow to authorize the migration of Russian Jews.

The electoral formation is in the process of radical change, which underpins a shift in the center of gravity from Western Jews to Oriental Jews and which will have an impact on society and political parties. Indeed, certain religious parties rely on one ethnic group rather than another one. Given that the uncertainties of integration have not disrupted the Israeli political system and that Israel seems compact from outside, there is no doubt that the weakness of integration has been mitigated through powerful political control. The control operates within a judicial and constitutional framework that was shaped in a manner to favor the grip of the political parties over the institutions of the country.

The most renowned Ashkenazi leaders are Ben Gourion, Shamir, Begin, Peres, Golda Meir, Levy Eshkol, Moshe Sharett, and Dayan. In 1966, for the first time Abba Eban, a Sephardim, became a minister. Today, the Israeli Cabinet of ministers comprises of 23 Ashkenazim and eight Sephardim.

After several decades of existence, divisions remain between the religious and secular Jews and between Ashkenazim and Sephardim. Indeed, the extreme-orthodox group of the population constitutes only twelve percent of the total population. Two political parties are representative of these communities that are respectively known as the Party of the Torah (Ashkenazim) and the Shass Party (Sephardim) that sum up to eighteen deputies out of 120 seats in the Knesset.[15] The February 2009 elections led the far right and right-wing parties to take over 65 seats of the Knesset (Likoud - 27 seats, Shass - 11, Israel Beitenou – 15, and 12 seats to Parties with religious affiliations).

Indeed, one must bear in mind that since the creation of Israel, Ashkenazim have maintained a tight grip on political power. They constitute the old guard of political parties, the backbone of the labor front (Mapai), the Likoud bloc, and the managers of other political groups of lesser importance. The main trade union, Histadrouth, underwent the same process. Yet starting a couple of years ago, the Sephardim have increased their activities, owing essentially to the fact that they outnumber their European coreligionists. They claim to participate more in the affairs of the state. The number of Sephardim graduates is constantly increasing. Hence, there is process of transformation. Is a modus Vivendi conceivable between the people who consider themselves

15 Saint-Paul, Patrick, "La révolte des juives orthodoxes en Israël," *Le Figaro*, 20 August 2007, p. 2.

the true founding fathers of Israel and the people who regard themselves as the majority within the name of democracy?
The figures of the two tables show that the total Jewish population in the world amounts to 15'420'000 (19.6% of Arab Israelis and Jewish Diaspora). An examination of the demographic statistics will prove the acuteness of the dispute. As mentioned above, the actual Jewish population in Israel constitutes of 5.47 million inhabitants (the figure does not comprise the Arab Israelis and the Druze Israelis). What statistics pertain to the total Palestinian population and the Palestinian refugees?

The Four Largest Jewish Conglomerations in the World[16]

City	Country	Population
Tel Aviv	Israel	2'58'000
New York	USA	2'050'000
Los Angeles	USA	668'000
Haifa	Israel	597'000

The Main Jewish Communities in the World[17]

Country / Region	Population
Israel	5.47 million
United States	5.27 million
Latin America	Over 5 million
France	480'000
Great Britain	294'000

Israeli demographic swing to the benefit of the Palestinians?

First of all, one must examine the statistics concerning the Palestinian population, which is not an easy task since one must distinguish among the refugees who live in camps, live outside the camps, are Israeli citizens, live in the occupied territories, not to mention the Diaspora.

16 *Atlas des religions*. *Pays par pays. Les clés de la géopolitique.* La vie Le Monde, p. 38.
17 Guénois, Jean-Marie, "Les juifs redoutent leur extinction à terme," *Le Figaro*, 6 March 2009, p. 10.

Palestinian Refugees[18]

Country	Inside the camps	Outside the camps	Total
Jordan	298'562	1'409'945	1'708'507
Gaza	476'303	424'789	901'092
West Bank	174'842	473'077	647'919
Syria	119'239	288'503	407'742
Lebanon	220'052	170'446	390'498
Total	1'288'998	2'766'760	4'055'758

In the course of the last conference in Annapolis in November 2007, the obstacles related to the dispute soon became apparent. Indeed, the Palestinian delegation showed hostility towards the idea that Israel is referred as a "Jewish State" as such an act carries enormous consequences for the Palestinian refugees, who would no longer be able to recover their homes that they possessed before the war in 1948. In addition, Arab Israelis who represent twenty percent of the Israeli population would become marginalized; the same goes for the Druze Israelis. This issue became thorny when George Bush sided with Israel regarding the primary concern of "Israel's security" that he regards as "a Jewish Nation for Jewish people."[19]
Moreover, unlike the Israeli delegation, the Palestinians requested a timeline since a settlement of the conflict was set for the end of 2008, a date which suited the wish of President Bush who wanted to bring an end to the dispute before he left office. Given the fact that he did not address the matter during most of his tenure, there were difficulties for him to be decisive towards the end of his second term.

Palestinian Population in Other Countries

Country	Palestinians
Israel	1'213'000
Chile	310'000
Saudi Arabia	287'000
Gulf States	119'239
Egypt	58'000
Other Arab countries	113'000
American continent	316'000

18 *United Nations Relief and Works Agency* (UNRWA), 1999-2003. Publications, 31 March 2002.
19 Cypel, Sylvain, *Le Monde*, 29 November 2007, p. 4.

Other countries	275'000
Total	2'724'000[1]

(The worldwide Palestinian population is estimated at 6'779'458)

The matter was bound to be transferred to the mandate of the president's successor, Barack Obama. Very shortly after the international conference, a bid was launched for the construction of 300 homes in a neighborhood of East Jerusalem, the exact part of the city where the Palestinians intended to create their own capital of "Al-Qods!"

In my previous works, I indicated that the primary sources of dispute concern the issues of the return of Palestinian refugees and the hydraulic issue before any other matter of contention, including the issue of the status of Jerusalem, which I do not deny is of a passionate and religious nature. The relationship between the population growths of Palestinians and Israelis has haunted Israeli political parties for decades.

A second important division concerns a turn of events that will weigh heavily upon the nature of the Israel-Palestine conflict. Thirty years ago, the total Palestinian population amounted to 4'800'000 inhabitants that were concentrated in the bordering states of Israel (Lebanon - 490'000, Syria - 230'000, and Jordan – 1'150'000) with 1'870'000 in other countries. The Palestinian population within Israel amounted to 590,000 souls. In the West Bank and Gaza, the size of the population was 900'000 and 500,000 inhabitants respectively. In total, the Palestinian population within Israel and the occupied territories reached 1'990'000 inhabitants, whereas the Israeli population amounted to 4'200'000 inhabitants or expressed as a ratio, 47.3% of the total population. The Israeli Labour Party expressed views in this respect. Indeed, Abba Eban, who was Minister for Foreign Affairs, declared in 1972 that he opposed the idea that Israel stretch from the sea to the Jordan river; the proportion of Arabs would be too high. Golda Meir, who was Prime Minister of Israel, reckoned that she expressed herself in the name of everyone, saying "There is unanimity in the camp of the Labour Party as well as in the entire nation to be opposed to the integration of one million Arabs into the territory of the State of Israel."[20]

The Institute for Strategic Sciences released a demographic forecast: "The population of Israel, provided that we conclude the West Bank and Gaza, will amount to 8'175'000, but the Jews will only constitute 47%..."[21] In 1987, an international conference was held in Jerusalem to address the issue of the demography of the Jewish population. An aging population, decreasing fertility rates, increasing numbers of divorces, and mixed marriages were

20 AFP (Tel-Aviv), 22 June 1973.
21 AFP (Tel-Aviv) 2 March 1978.

on the agenda. The following statistics were brought forward without any contention, which proved the slow decline of the total population (including the Diaspora), which was estimated in 1930 to amount to seventeen million inhabitants. In 1970, the Jewish communities outside Israel represented 10.2 million people. In 1985, the Diaspora only comprised 9.4 million people. According to estimates, the Diaspora was supposed to decrease to 7.9 million people in the year 2000, and it will reduce to between five and six million people in 2025.[22]

These figures are comparable to more recent statistics conducted in 2005 and released in 2006. The population of Israel consisted of 6'990'000 people of which 5'313'800 were Jews (76%of the population) and 1'377'100 Arabs (19.7%) with "others" accounting for 4.3%of the population.[23]

In addition, an important event occurred on the Israeli political scene. Palestinians inside the country began to adopt democratic practices by means of elections. The power takeover would occur by legal means. What response could Israel muster in the face of this new issue of democratic challenge? This leads us to formulate a hypothesis that is a consequence of the state of affairs. Given that the democratic path fails, would not violence appear to be an act of last resort? Another statistic is revealing: the Palestinian birth rate is equivalent to 3.11% as opposed to 1.79% for Israel.[24]

All these figures offer the reason and motives behind why Israel wants to evacuate the Gaza Strip, which gathers 1.5 million inhabitants. Concomitantly, Ehud Olmert expressed the possibility of evacuating part of the West Bank. However, as previously mentioned, the presence of Arab Israelis renders maneuvers complex for the supporters of a Jewish state. In the course of the last legislative elections (2009), a significant indicator emerged; certain religious and conservative parties clearly stated that the presence of Arab Israelis (20% of the population in Israel) constituted a source of threat to the state of Israel. The powerful rise of the Israel Beitenou Party (Israel our home) of Avigdor Lieberman reaped 15 seats in the Knesset out of 120. Lieberman is of Russian origin and became the Israeli Minister of Foreign Affairs. This state of affairs coupled with the fact that the Israelis did not recognize the Annapolis Declaration of 2007 does not augur well for chances of appeasement in the event of future peace negotiations between Israel and Palestine. This explains the reason why Lieberman received a cool reception in Europe in May 2009.

There are signs that the idea of a transfer and rejection of Arab Israelis has gained momentum. In the event that such an act occurs, an Israeli Jewish state would become surrounded by a diverse set of ethnic and religious communities. Is this scenario truly in the interest of Israel when one bears in mind that the nation needs Palestinian labor, especially since immigration

22 Frachon, Alain. *Le Monde* (Paris) 24 October 1987.
23 Israeli Embassy in France.
24 Al-Manar 11 February 2008.

into Israel has decreased?
Is this the destiny of a range of communities that are colored in so many hues? To live in separate ethnic and religious compartments? Are we heading towards the creation of microstates in which each comprises a distinct denomination? In the American Senate, Joe Biden advocated the partition of Iraq into three states (Kurdish, Shiite, and Sunni), overlooking the fact that fifteen years of war in Lebanon did not lead to the break-up of the country and its structure of coexistence. Lebanon remains an Islamic-Christian nation, one and indivisible. In the event that these policies materialize, this would imply that the Middle East would rebuff human brazing that is rooted in a millenarian old tradition, which in my eyes represents true wealth much richer than the hydrocarbons found in the soil of the region.

The Myth of Sisyphus

More than thirty peace plans span the history of the Israel-Palestine conflict, marred by chaos, hope, and disillusion.

Chronology of the Peace Proposals

- Resolution 181 of the UN General Assembly, 29 November 1947
- Resolution 194 of the UN General Assembly, 11 December 1948
- Resolution 242 of the Security Council, 22 November 1967
- Plan of the Israeli Deputy Uri Avnery, March 1968
- Resolution 338 of the UN Security Council, 22 October 1973
- Resolution 3236 of the UN General Assembly 10 November 1975
- The Camp David Accords, 17 September 1978
- The Peace Treaty between Israel and Egypt, 26 March 1979
- The Tenth Arab Summit, 22 November 1979
- The Poncet Declaration in front of the National Assembly, 16 April 1980
- The Declaration of Venice, 13 June 1980
- The Declaration of Luxemburg, 2 December 1980
- The Islamic Conference, 28 January 1981
- The Declaration of the Ten (The Netherlands), 24 March 1981
- The Declaration of the Ten (Luxembourg), 30 June 1981
- The Fahd Plan, 7 August 1981
- The Press Conference of President Mitterrand, 24 September 1981
- The Chesson Declaration, 2 January 1982
- The Speech by President Mitterrand (Israeli Knesset), 4 March 1982
- The Resolution of the Arab League (Ministers of Foreign Affairs), 31 March 1982

- The Declaration of the EEC, 29 June 1982
- The Franco-Egyptian Resolution plan, 4 July 1982
- The Reagan Plan, (+ The Shultz Declaration), 1 September 1982
- The Twelfth Arab Summit, 9 September 1982
- The Declaration of the Ten, 22 March 1983
- The Communiqué of the Palestinian National Council, 29 November 1984
- The Declaration of the Ten (Dublin), 4 December 1984
- The Shultz Plan, 8 March 1988
- The First Oslo Accords, 13 September 1993
- The Second Oslo Accords, 28 September 1995
- Resolution 1397 of the UN Security Council, 3 March 2002
- The Road Map, Diplomatic Quartet (UN, EU, USA, Russia), 30 April 2003
- The Road Map, 30 April 2003 and Israeli Reservations, 25 May 2003
- The Geneva Initiative, 1 December 2003
- The Saudi Initiative, 28 March 2007
- The Annapolis Conference, 22 November 2007

Multi-denominational Lebanon and the burden of Palestinian refugees

According to forecasts, even in the event of a settlement of the Israel-Palestine conflict- that is to say in the situation of peace- Lebanon and its communities from different denominational backgrounds will still suffer due to the massive presence of Palestinian refugees in Lebanon. Some will be compensated, but the bulk of the refugees are destined to remain in Lebanon, which will have to bear the consequences of the war. The international community will be satisfied pushing a problem that runs backs to 1948 into the arms of the weakest link, Lebanon.

International authorities will push for Palestinian integration also known as "settlement" (in Arab "*tawtin*") of the Palestinian refugees into the Lebanese system omitting three fundamental dimensions. First, the Lebanese people refuse to acknowledge that the Israel-Palestine dispute should be settled at the expense of Lebanon, which is not responsible for the problem in the first place. Moreover, most of the refugees stem from a Muslim-Sunni background. Lebanon is an Islamic-Christian country in which Muslims are mostly Shiites and Christians would become a smaller minority. The Lebanese will reject the constant influx of Palestinian refugees into the Lebanese system since it results in imbalances. Furthermore, the Palestinian refugees will not accept a settlement of the dispute that does not recognize their right to return home.

One must not forget that Christians and Muslims in Lebanon will unite to defend the territorial integrity and national cohesion. The peace in Lebanon

overarches peace in the region, but the country remains hostage to its neighbors and the allies of the latter. I hope that international decision-makers will understand the "strength of the weak" is not a vain expression when one witnesses an outburst of a decade's worth of accumulated frustration.

Conclusion

In this region where turmoil is constant, demographic references weigh heavily in the dynamics of the Israel-Palestine dispute. The international community has certainly taken active part in the dispute in the last decades. The international community is involved by means of alliances, a turn of events, and the conjunction of diplomatic maneuvers.[25]

One cannot deny that the international community has actively attempted to bring reconciliation. Indeed, one needs only to look at the number of UN resolutions, high-level summits, and the number of high-level leaders, which have addressed the issue. One can argue that the heads of state change, but conflicts remain in place. Time is not the only indicator of the degree to which Israel and Palestine are entangled in a deadlock. A more significant figure is the number of presidents from nations, holding a seat at the UN Security Council, which have attempted to resolve the dispute to no avail.

Indeed, the United States has witnessed a range of presidents in the White House who have engaged themselves towards a solution to the Israel-Palestine dispute: Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, Reagan, Bush (Senior), Clinton, Bush (Junior), and Obama. Great Britain had Attlee, Churchill, Eden, Macmillan, Home, Wilson, Heath, Callaghan, Thatcher, Major, Blair, and Brown. Russia had Stalin, Khrushchev, Brejnev, Andropov, Gorbachev, Yeltsin, Putin, and Medvedev. France had Auriol, Coty, de Gaulle, Pompidou, Giscard d'Estaing, Mitterrand, Chirac, and Sarkozy. China had Mao Zedong, Hua Kouo-Feng, Deng Xiaoping, Jiang Zemin, and Hu Jintao.

These leaders have represented the main powers at the Security Council. They have worked together in some cases and individually in others. Within the regional or international scope, they have sometimes been partners and sometimes rivals. None of them were able to extricate Israel and Palestine from the dispute. One can ask the question: "Who else will do it?"[26]

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Why haven't Coups occurred in certain Countries?

An Inquiry into some structural Causes of the Military's Involvement in African Politics

Ted Bikin-Kita

Consultant. Adjunct Faculty, Webster University Geneva

African politics conjures up the image of a coup-ridden landscape. The recent military takeover in Niger (February 2010) reinforces that image. The military's involvement in politics can take many forms, although it is usually highlighted by, or reduced to, unconstitutional changes at the helm of the State, of which coups d'état are the epitomes. After a recess following the end of the Cold War, and the democratic spring that ensued, coups seem to have made a comeback on the continent, albeit in numerically less important proportions than in the period between the 1960s and the end of the 1980s. If the persistence of military intervention in politics lends credit to the aforementioned image, failing to mention certain statistics would not do justice to the African continent.[1]

According to Thomson, 60% of African countries have undergone a military coup since the 1960s, which is a massive figure by any standard. But if Thomson's account is accurate, it also means that 40% of them have not fallen prey to such military interventions. This is a significant figure, which warrants a close examination of the reasons why certain countries have escaped such a fate, so far. I statistically take a more conservative stance by stating that only eleven countries (21%) have never experienced successful nor attempted coups (I set aside plotted coups as they are difficult to appraise). The figure (21%) is not a negligible proportion either. At most, I could add two more countries to the list, i.e. Senegal and Zimbabwe. Senegal experienced a supposedly attempted coup in 1962 by the then Prime Minister, Mamadou

1 Wanstall, David, "When Might is Right: Coups D'Etat in Sub-Saharan Africa,"in Vautravers, Alexandre, *Identity and Conflict, Security Forum 2008 Proceedings*, Webster University Press, Geneva, 2010, p. 300-317.

Dia. But the military was not involved nor was it accused of any involvement. And there have been calls for a revision of Mamadou Dia's trial (who spent twelve years in prison despite not admitting to staging a coup), which accredit the hypothesis of political manipulation. Last but not least, Senegal has not experienced an attempted or successful coup since 1962. Despite authorities' report of a plotted coup in 2007, Zimbabwe has never undergone an attempted nor successful coup since its independence.

Why do coups occur, and why does the military get involved in politics? This double question bears a practical significance as well as a normative one vindicated by the number of theories elaborated to answer it. In search for explanations, some scholars such as Zolberg[2] and Decalo[3] insist on the unpredictability of coups while others, like Jackman for example, highlight structural determinants that render coups explicable and predictable.[4] Those structural determinants generally focus on macro-economic variables, socio-cultural factors or factors relating to party systems. While investigating conditions under which a coup is likely to take place is of the utmost importance, it is equally important to investigate the reasons why military takeovers have not happened in nearly a quarter of African countries. It is important to investigate the matter for normative purposes as well as for practical considerations, i.e. recommendations on, and elaboration of, coup-prevention strategies.

Building on the scholarship of Decalo[5] and Goldsworthy,[6] Ndiaye explores that path by investigating civilian control strategies implemented in three African countries.[7] But apart from Ndiaye's approach, none of the above theories can explain why countries that are more or less exposed to the same predicament would escape coup occurrence. Furthermore, those different theories, all in all, interpret the military's intervention in politics as a process of militarization of politics. This paper argues the other way round. Focusing on countries that have never experienced a military takeover and contrasting them with those countries, which have undergone such takeovers, this paper posits that among possible structural causes of the military's involvement in politics feature politicization and introversion. When and where they occur, politicization and introversion are, *volens nolens*, generally encouraged by the political leadership. At this stage, I summarily define an introverted military as a military that shies away from its traditional defense missions to focus on

2 Zolberg, Aristide R. "Military Intervention in the New States of Africa," in Bienen, Henry (ed.), *The Military Intervenes. Case Studies in Political Development*, Russel Sage, New York, 1968, p. 71.

3 Decalo, Samuel, *Coups and Army Rule in Africa*, Yale University Press, New Haven (CT), 1976.

4 Jackman, Robert W. "The Predictability of Coups d'Etat: A Model with African Data." *American Political Science Review,* No. 72, December 1978, p. 1262-1275.

5 Decalo, Samuel, *Op. Cit.*

6 Goldsworthy, David. "Civilian Control of the Military in Africa," *African Affairs*, No.80 (318), January 1981, p. 49-74.

7 Boubacar, Ndiaye, *The Challenge of institutionalizing civilian Control: Botswana, Ivory Coast and Kenya in Comparative perspective,* Lexington Books, Lanham (MD),2001.

policing missions (law and order, repression, etc.).
The combination of politicization and introversion is a potent ingredient of the military intervention, whereas the absence of introversion, even in a politicized military, considerably reduces the risk of a coup occurrence. Because coups are first and foremost political in nature, analyzing their occurrence or non-occurrence commands a double approach, i.e. an institutional analysis of the military and an analysis of civil-military relations. While no single explanation can account for the variety of coup situations, the 'politicization and introversion of the military' hypothesis can explain the absence of coups in countries that should have experienced them considering the conjunction of all or part of the above-mentioned economic, socio-cultural and political structural determinants.

Taking stock of theories of coups to examine the military's involvement in politics

Although a coup d'état is a narrower concept of the military intervention in politics (the military intervention could actually be multifaceted and coups are only one facet among others), I will nevertheless focus on theories of coup occurrences as a way to debate on military intervention in politics.
From a normative standpoint, theories of coup occurrences try to address the issue of predictability. There are basically two contending schools of thought. The first school of thought argues that coups are unpredictable, i.e. they occur at random. This view is represented by scholars like Decalo and Zolberg. Coups are therefore attributed to idiosyncratic factors hanging on the thread of soldiers' psyche and motivated by greed and grievances. The second school of thought argues, on the contrary, that coups are predictable. That view is supported by students of coups like Jackman, O'Kane or Wells. While admitting that greed and grievances play a role in triggering coups, the second school singles out three broad determinants: economic factors, socio-cultural factors and political factors.
Economic factors mainly relate to two variables, i.e. per capita income and growth rate. When the per capita income is the independent variable (in the statistical sense of the word) and coup occurrence, the dependent variable, the lower the per capita income, the greater the risk of a *coup d'état.* Conversely, the more the per capita income increases, the lesser the risk of a coup. The same applies, *mutatis mutandis,* to the growth rate as an independent variable in relation to coup occurrence. Greed ties into those economic variables as coup perpetrators are guided by the desire to capture the state apparatus (and get access to their 'share' of the national wealth) by climbing up the greasy pole. Among the proponents of economy-based structural determinants we can

mention O'Kane[8] and McGowan. Using world-systems analysis and rational-choice theory, McGowan combines macro structures and micro leadership behavior. He argues that underdevelopment combined with a weak state are the main structural causes of political instability and coups. There is therefore a correlation between socio-economic situations and high risks of political instability.[9]

Africa is a case in point. McGowan particularly focuses on West Africa and its dependency on exogenous factors as a consequence of the peripheral role it plays in world-economy. Using probabilistic methods to generate predictive models of coup occurrences, O'Kane[10] holds that the underlying structural causes of coups are economic rather than political. She even comes up with 'accurate' statistical measures. For example, it has been argued that if the per capita doubles, coup risks are reduced by 14.3%. Or, if the growth rate is raised by 4%, coup risks decrease by 7.3%. In keeping with the dependency theory, O'Kane argues that the national politics of African countries is influenced by world market trade because of their reliance on primary goods export as a result of world-economy specialization. In other words, variations or fluctuations on world commodities market may increase or decrease the likelihood of political instability or coups in Africa, irrespective of local governments' management efforts. However, O'Kane suggests that two principle obstacles may hinder coup occurrences despite the realization of the above-mentioned preconditions, i.e. the absence of a previous coup and the presence of foreign troops since independence.

The second determinant relates to socio-cultural factors. More specifically, socio-cultural factors come into two strands: social mobilization and cultural pluralism. Social mobilization, also known as modernization, encompasses factors like the share of the population involved in the non-agriculture sector, the size of the non-rural workforce, the size of the mass media audience and the level of literacy. According to the proponents of socio-cultural factors, n has an effect on the probability of coup occurrence. For Deutsch, Finer and Fossum, an increased social mobilization is likely to decrease the probability of coups. Why? - Because an increased social mobilization results in an expansion of "the politically relevant strata of the population."[11] Since coups are covert actions by small factions, it is supposed that it is more difficult for a small group to act if there is a massive participation of the population in the political process. The presuppositions of the n theory are clear: in order to move towards a 'democratic' polity, improving the socio-economic conditions of the people is a prerequisite.

8 O'Kane, Rosemary H.T, "Coups d'Etat in Africa: A Political Economy Approach," *Journal of Peace Research*, No. 30, 1993, p. 251-270.

9 McGowan, Patrick J., "Coups and Conflict in West Africa, 1955-2004: Part I, Theoretical Perspectives," *Armed Forces & Society*, No. 32 (1), 2005, p. 5-23.

10 O'Kane, Rosemary H.T., *Op. Cit.*

11 Deutsch, Karl W, "Social Mobilization and Political Development." *American Political Science Review*, No. 55, 1961, p. 493-514. Pages referred to p. 497-498.

Cultural pluralism is the second strand of socio-cultural factors. Ethnic units are at the centre of the construction. According to Morrison et al., an ethnic unit is defined as a unit consisting of persons who share patterns of marriage, descent (common ancestry, real or mythical), community organization, authority and economic structures. Sharing common linguistic patterns should probably be added to the list. In relation to the probability of coup occurrences, two concepts are relevant here: fragmentation and ethnic dominance. According to Coleman, fragmentation is a situation whereby no single ethnic group has dominance. Ethnic dominance is defined in terms of demographic majority. Ethnic dominance thus means a situation whereby the largest group represents between 45 and 90% of the population. That overwhelming numerical superiority leads to what Dahl called a tyrannical majority.

What are the supposed effects of cultural pluralism on coup occurrence? Two configurations are to be examined: cultural homogeneity vs. cultural heterogeneity. A completely homogeneous polity is a polity where there are less than two ethnic groups. That situation is supposed to be conducive to stability and reduce the likelihood of coups d'état. As for heterogeneous polities, Rabushka and Shepsle argue that cultural heterogeneity is destabilizing in and of itself. But the analysis needs to be a bit more finely grained. Heterogeneity seems to breed political competition among different ethnic groups trying to fight for political leadership. In the case of a heterogeneous polity with one dominant group (between 45 percent and 90 percent), it is anticipated that the polity will be destabilized. Risks of coups are increased, because smaller ethnic groups' chances to get access to power through normal electoral processes are limited. This is all the more true if people have followed the patterns of 'ethnic voting' in previous elections. However, in the case of heterogeneity with an atomized polity (i.e., a situation whereby no ethnic group is big enough to supplant the others without some sort of cooperation), it can be anticipated that this will bring about stability through coalition building. Risks of coups should therefore diminish.

The third broad determinant of coups relates to political factors. Political factors refer to party systems and political participation. Party systems range from a single-party system to multipartyism measured by the number and relative size of political parties. In a multi or bi-party system, what the analyst seeks is the determination of an indicator of party dominance. Political participation has to do with electoral politics. It focuses on assessing the number of voters participating in the elections as a percentage of the population. What are the effects of political factors on coup occurrences? Weiner and La Palombara argue that multipartyism is destabilizing, because it exacerbates pre-existing social cleavages. Conversely, a one-party system, or possibly a two-party system, can be stabilizing if the exclusive or dominant

party can aggregate competing political interests. Huntington concurs with that analysis. Regarding political participation, the question is whether or not mass participation is destabilizing. There seems to be no consensus among scholars as to the effects of mass participation.

In the midst of those different theories, Lunde's theory warrants special attention. Drawing on Jackman's[12] study, Lunde revisits the issue of whether coups can be explained by structural factors. He argues that Jackman's findings are better validated when using continuous-time hazard models of event history data. In other words, instead of using a panel regression model, Lunde holds that it is methodologically more productive to focus on the rate of coups over time rather than focusing on an index-based analysis of coups.[13] This rather technical discussion could be summed up the following way: while validating the moderinization theory, Lunde's theory argues that the likelihood of a coup depends on time and factors like social contagion.

What can we make of theories of the predictability of coups? Jackman provides an interesting overview of those theories by testing them against empirical data- with Africa as a case in point. Using quantitative methods (regressions) in a large N study (30 Sub-Saharan countries), Jackman examines coup occurrence over a period of 16 years (1960 to 1975). He focuses not only on successful coups but also on failed and plotted coups. The major result of Jackman's study is that coups d'état do not occur randomly. They are contingent on political and socio-cultural factors. More specifically, he comes up with a couple of conclusions based on the structural determinants examined earlier:

- Conclusion 1: social mobilization and the presence of a dominant ethnic group are destabilizing;
- Conclusion 2: multipartyism is destabilizing;
- Conclusion 3: electoral turnout in the last election before independence is stabilizing;
- Conclusion 4: multipartyism is destabilizing where a dominant ethnic group exists;
- Conclusion 5: the presence of such a group reduces but does not eliminate the stabilizing effect of turnout;
- Conclusion 7: multipartyism has no pronounced effect on elite instability (coup d'état) where turnout is high;
- Conclusion 8: taken together, these patterns account for 4/5 of the variance in coups during that period.[14]

The above conclusions, which will be examined in a more detailed manner and

12 Jackman, Robert W., *Op. Cit.*
13 Lunde, Tormond K., "Modernization and Political Instability: Coups d'Etat in Africa 1955-85," *Acta Sociologica*, No. 34 (1), 1991, p. 13-32.
14 Jackman, Robert W., *Op. Cit.*

confronted to past and more recent events on the continent, capture most of coup-related situations in Africa. Indeed, some, if not most of the 'ingredients' contained in those conclusions are found in countries where coups have occurred. But it should also be pointed out that the same economic, socio-cultural and political characteristics that have triggered coups elsewhere are present in most African countries that have not experienced a coup. So, why have coups not occurred in 21% of African countries, given that most of which share the same characteristics as coup-prone countries? If the above structural causes cannot account nor explain the situation, should the absence of coups be attributed to luck and alias randomness, thus lending credence to the idiosyncratic school of thought? Has chance spared those countries, at least for now, or should we look for other structural explanations? Confronting coup theory with coup-exempt countries may help answer the question.

An empirical assessment of theories of coup on the African countries that have not experienced a coup

I distinguish four categories of countries: a) countries that have never experienced a coup since their independence, not even a plotted or failed coup; b) countries that have experienced no more than one known or alleged plotted coup since their independence; c) countries that have experienced reported and documented failed coups since their independence; d) countries that have experienced successful *coups d'état*. Since the military was not involved in the allegedly attempted coup in Senegal, doubts are cast on the reality of the attempt in general, and Senegal has never experienced nor reported a military, I create a Category 1bis for that country.

The second category is difficult to ascertain as many serious or not serious coup attempts may not be reported. Only those countries that have reported, documented or corroborated coup attempts are mentioned, thus putting aside whimsical and unfounded accusations of coup attempts namely from dictatorial regimes. In the third category, I include cases where coup perpetrators have been prevented from seizing power as well as cases where, after an initial success, coup perpetrators have been eventually defeated (e.g. the 1982 coup attempt in Kenya). The difference between Category 2 and Category 3 lies in the fact that Category 3 presupposes the passage from the organization of a coup to its implementation. Category 3 implies action and not just conception. Category 4 is self-evident. Samples of Category 4 countries will be used to illustrate the ambivalence of some structural explanations. In the listings below, the *de jure* independence date is indicated in parentheses. The dates of plotted coups or coup attempts are also mentioned in parentheses (the second date highlighted).

In the first category we find the following countries: Angola (1975), Botswana

(1966), Cape Verde (1975), Eritrea (1993), Malawi (1964), Mauritius (1968), Mozambique (1975), Namibia (1990), Tanzania (1961, Tanganyika; 1964, Zanzibar), South Africa (1910) and Swaziland (1968). Senegal (1960) is added to the list as the lone Category 1bis country.

Countries that have never experienced a coup from independence to 2010 (Category 1)

Country	Independence date
Angola	1975
Eritrea	1993
Malawi	1964
Mauritius	1968
Mozambique	1975
Namibia	1990
Tanzania	1961 (Tanganyika) + 1964 (Zanzibar)
South Africa	1910
Swaziland	1968

Category 1bis

Country	Independence date	Date of alleged coup not involving the military
Senegal	1960	1962

In the second category we find the following country: Zimbabwe (1980; **2007**).

Experienced no more than one known and reported plotted coup since their independence (Category 2)

Country	Independence date	Date of alleged plotted coup
Zimbabwe	1980	2007

In the third category we have the following countries: Kenya (1963; **1982**), Cameroon (1960; **1984**), Gabon (1960; **1964**), Morocco (1956; **1971** and **1972**), Lesotho (1966; **1998** and **2009**), Saõ Tomé and Principe (1975; **1988** and **2003**) and Zambia (1964; **1997**).

Experienced reported and documented failed coups since their independence (Category 3)

Country	Independence date	Date(s) of failed coup
Cameroon	1960	1984

Gabon	1960	1964
Kenya	1963	1982
Morocco	1956	1971; 1972
Lesotho	1966	1998; 2009
Saõ Tomé and Principe	1975	1988; 2003
Zambia	1964	1997

The rest of African countries fall into Category 4. I focus my analysis primarily on categories 1 and 1bis to try and answer the following question: why have none of the Category 1 countries undergone a coup? Do those countries have something in common? What do the different theories of coup d'état have to say about them?

Concerning the 11 + 1 countries belonging to categories 1 and 1bis, the first observation is that they cover a diverse spectrum from an economic, socio-cultural and political point of view, which is a good way to test structural determinants of coups theories. As far as economic determinants are concerned, theory holds that the lower the GDP and GDP per capita, the higher the probability of coups, and conversely, the higher the GDP and GDP per capita, the lower the probability of coups.[15] As far as economic factors are concerned, an examination of the 11 + 1 countries shows a real diversity of predicaments ranging from countries with high GDP per capita to countries with middle and low GDP per capita as illustrated in the table below. I focus on GDP per capita rather than GDP. More specifically, I focus on GDP at Purchasing Power Parity per capita (PPP). According to theory, countries like Eritrea ($739 GDP per capita in 2009), Malawi ($881 GDP per capita in 2009), Mozambique ($938 GDP per capita in 2009), and Tanzania ($1,414 GDP per capita in 2009) are at risk of political instability and probably, at risk of a coup. They are more at risk now if we consider the fact that due to the recent world financial crisis and economic recession, those countries' GDPs are not expected to improve in 2010, regardless of whether or not their economies depend on primary goods export (they actually all do rely on primary goods export).

Those countries are also at risk with regard to the fact that 'statistically' African countries that have recently experienced a coup have GDP per capita in the same regions as the five above-mentioned countries. With a per capita GDP of 981 USD,[16] Madagascar has approximately the same level of GDP per capita as Mozambique. Madagascar has experienced a coup d'état in 2009. Guinea (GDP per capita of 998 USD)[17] experienced a coup d'état in 2008. Actually, even Cape Verde (3'548 USD) may not be spared since Mauritania experienced two coups in a four-year interval (2005 and 2009), despite its

15 O'Kane, Rosemary H.T.,"Explaining African Coups d'Etat," *American Political Science Review* No. 80, 1986. p. 232-247.

16 International Monetary Fund (IMF), "World Economic Outlook Database, October 2009." Available: http://imf.org/external/pubs.

17 *Ibid.*

2'086 USD GDP per capita.[18]
The discussion should probably be taken a bit further: are Category 1 countries with very high GDP per capita (by both African and world standards) prevented from coup occurrence simply by virtue of their GDP? The answer is negative, considering the fact that in the past African countries with relatively high GDP and GDP per capita by African standards have nevertheless experienced coups. This includes such examples as Algeria in 1965, Côte d'Ivoire in 1999 or the Seychelles in 1976. Secondly, we need to look at the historical evolution of GDP per capita in those 11 + 1 countries. The historical evolution would show that some of those countries, which had never experienced a coup since their independence, started off with low GDP per capita- sometimes GDP even lower than countries, which experienced a coup shortly after their independence. It is beyond the scope of this study, in the current format, to review the evolution of all of those countries' GDP per capita since their independence. We will, however, pick up two countries for argument sake: Angola and Senegal. According

GDP at Purchasing Power Parity (PPP) in 2009[19]

Country	**International Monetary Fund (IMF) data (2009), in USD**
Angola	6'179
Botswana	13'417
Cape Verde	3'580
Eritrea	739
Malawi	881
Mauritius	12'356
Mozambique	938
Namibia	6'610
Tanzania	1'414
Senegal	1'752
South Africa	9'961
Swaziland	5'839

to a World Bank study, Angola's real GDP per capita at 1996 international prices grew steadily from 1960 to 1973 (from 500 million USD in 1960 to 1'300 in 1973). This enviable situation owed to Angola's strong agriculture production. After independence, Angola saw its GDP and GDP per capita impaired by its protracted civil war until recently. The GDP per capita collapsed by 39% before rising again around 2004 thanks to oil revenues. Although in 2004 Angola's real GDP per capita was in the region of 1'783 USD, in real terms, this GDP per capita was half of what it was before 1973. Yet, Angola never experienced a coup. Senegal is another example. Its GDP

18 *Ibid.*
19 *Ibid.*

per capita in constant 1995 US dollars went from 670.37 USD in 1960 to 620.97 in 1970, 551.93 in 1980, 566.19 in 1990 and 609.23 in 2000. Despite its modest and actually decreasing GDP per capita over time, it never experienced more than one alleged plotted coup.[20]
Zimbabwe could be another case in point. With a GDP per capita of $9, the country should be set up for a coup, considering that the GDP per capita in a country, which used to be the breadbasket of the region to use a euphemism has been dramatically reduced.

GDP at Purchasing Power Parity (PPP) in 2009[21]

Country	International Monetary Fund (IMF) data, in USD
Zimbabwe	9

We can anticipate the defense system from proponents of economic-related structural factors. First, they may argue that the theory holds water for most African countries (4/5 of cases according to Jackman).[22] This is true, although one should go beyond correlation to address the issue of causation or causality, which takes more than just statistics. Secondly, what do we make of low GDP per capita countries that escaped coups? Based on their theoretical explanations, proponents of economic-related structural determinants will probably argue that those countries with low GDP per capita have never experienced a coup despite low GDP per capita, because they never experienced a coup before.[23] This is circular reasoning, which in common language, is akin to the 'chicken and egg' situation. It looks more like an axiom than a demonstration. The question is as follows: why did the other countries with low (and sometimes high) GDP per capita experience a coup (their first) in the first place? The other explanation put forward by proponents of economic-related determinants has to do with the presence of foreign troops. The presence of foreign troops is supposed to prevent a coup from occurring. This is probably true. But we can take at least one example that proves the opposite: the 1999 coup in Côte d'Ivoire- the first ever in the country after nineteen years of independence. The coup occurred despite the presence of French troops garrisoned in the Port-Bouët French military base located in the outskirts of the capital city, Abidjan. What really matters here is not the fact that France did not intervene to reinstate the overthrown president, as it did in Gabon when President Léon Mba was deposed by the military in 1964. What matters is the very fact that plotters went ahead with perpetrating the coup despite the presence of foreign troops.

20 University of California, Santa Cruz. Available: http://ucatlas.ucsc.edu/gnp/gnp.html.
21 International Monetary Fund (IMF), "World Economic Outlook Database, October 2009." Available: http://imf.org/external/pubs.
22 Jackman, Robert W., *Op.Cit.*
23 O'Kane, Rosemary H.T., *Op.Cit.*

The examination of structural determinants leads us to turn to the two other sets of structural causes, i.e. socio-cultural and political factors. Let us start with socio-cultural factors, i.e. factors relating to social mobilization on one hand and cultural pluralism on the other hand. If socio-cultural determinants can account for political instability, can the absence of those same determinants explain the absence of political instability? The main conclusion relating to socio-cultural factors is twofold: a) increased social mobilization is likely to decrease the probability of coups; b) the presence of a dominant ethnic group is destabilizing, even in the context of multipartyism. Do these conclusions apply to the 11 + 1 countries? The table below seems to confirm that increased social mobilization (i.e. the share of the population involved in the non-agricultural sector, the non-rural workforce and the level of literacy) decreases the likelihood of a coup.

Most of the countries in this table corroborate the above assumption, particularly with regard to the level of literacy. The elements are more contrasted when it comes to the level of urbanization. Some of the 11 + 1 countries have low level of urbanization (Malawi, Eritrea, Tanzania and Swaziland). Senegal, one of the beacons of political stability in Africa, combines a relatively large rural population with a relatively low level of literacy.

Indicators of social mobilization related to the group of 12: 2001-2009[24]

Country	**Urban population (as a % of the total population)**	**Literacy (as a % of the total population)**
Angola	57%	67.4%
Botswana	60%	81.2%
Cape Verde	60%	76.6%
Eritrea	21%	58.6%
Malawi	19%	62%
Mauritius	42%	84.4%
Mozambique	37%	47.8%
Namibia	37%	85%
Tanzania	25%	69.4%
Senegal	42%	39%
South Africa	61%	86.4%
Swaziland	25%	81.6%

A look at the Category 2 country below is equally informative. Zimbabwe features a large rural population and a high level of literacy (90%).

24 *The CIA World Factbook.* Available: https://www.cia.gov/library/publications/the-world-factbook.

Indicators of social mobilization: 2001-2009[25]

Country	Urban population (as a % of the total population)	Literacy (as a % of the total population)
Zimbabwe	37%	90%

Some of the countries from categories 1 and 2 combine low GDP per capita and low level of urbanization (Eritrea, Malawi, Mozambique and Zimbabwe). With regard to political instability, theory does not clearly tell us if there is any additive effect relating to low GDP per capita combined with low level of literacy and/or low level of urbanization. If there is any additive effect, then the above-mentioned four countries should be at risk of political instability (which Zimbabwe clearly is), and consequently, at risk of a coup d'état (which remains to be seen). But the most interesting point is that the social mobilization profile of these 12 + 1 countries may not fundamentally differ from countries that have recently experienced coups d'état (Comparative table below).

Indicators of social mobilization: a comparison between the group of 12 + 1 countries and countries having experienced a coup[26]

Group of 12 + 1 countries	Urban population (as a % of the total population)	Literacy (as a % of the total population)	Literacy (as a % of the total population)	Urban population (as a % of the total population)	**Countries having recently experienced a coup (reverse chronological order)**
Angola	57%	67.4%	68.9%	29%	**Madagascar** (experienced a successful civilian military-backed coup in 2009 against a democratically elected president)
Botswana	60%	81.2%	29.5%	34%	**Guinea** (experienced a successful military coup in 2008)
Niger			28.7%	16%	**Niger** (experience a successful coup in 2010)
Cape Verde	60%	76.6%	51.2%	41%	**Mauritania** (experienced a successful military coup in 2008 against a democratically elected president)

25 *Ibid.*
26 *Ibid.*

Eritrea	21%	58.6%	42.4%	30%	**Guinea-Bissau** (before the recent assassination of the incumbent democratically elected president by a group of soldiers in 2008, Guinea-Bissau experienced a military successful coup against a democratically elected president in 2003)
Central African Republic			48.6%	39%	**Central African Republic** (experienced a successful coup in 2003 against a democratically elected president)
Malawi	19%	62%			
Mauritius	42%	84.4%			
	37%	47.8%			
Namibia	37%	85%			
Tanzania	25%	69.4%			
South Africa	61%	86.4%			
Swaziland	25%	81.6%			
Senegal	42%	39%			
Zimbabwe	37%	90%			

Comparative GDP per capita between the group of 12 + 1 countries and countries having recently experienced a coup[27]

Group of 12 + 1 countries	International Monetary Fund (IMF) data (2009), in USD	International Monetary Fund (IMF) data (2009), in USD	**Countries having recently experienced a coup (reverse chronological order)**
Angola	6,179	981	Madagascar
Botswana	13'417	998	Guinea
Cape Verde	3,580	2'086	Mauritania
Eritrea	739	489	Guinea-Bissau
		754	Central African Republic
		736	Niger
Malawi	881		
Mauritius	12'356		
Mozambique	938		
Namibia	6'610		
Tanzania	1'414		
South Africa	9'961		
Swaziland	5'839		
Senegal	1'752		
Zimbabwe	9		

27 International Monetary Fund (IMF), "World Economic Outlook Database, October 2009," Available: http://imf.org/external/pubs.

The profiles of the some of the 12 + 1 group of countries are very close to countries that have experienced a coup recently. For example, Guinea-Bissau (which has recently experienced coups) and Senegal's social mobilization indicators are quite close. This is not to mention the geographical proximity of both countries, sharing a common border and some ethnic groups. Some of the countries that have experienced coups even have better indicators (Madagascar has relatively better social mobilization indicators than Malawi, for example). The closeness is even reinforced by a comparison of GDP per capita. I would therefore argue that social mobilization is probably only part of the story.

Let us now turn to cultural pluralism. Factors relating to cultural pluralism are said to be very stable. The most discussed cultural factor relates to ethnic units.[28] According to theory, complete cultural homogeneity (where there is less than two ethnic groups) and relative heterogeneity (heterogeneity made up of ethnic groups of relatively the same size, what I call atomized heterogeneity) are supposed to be conducive to stability, thus reducing the risk of coup occurrence. As far as heterogeneity is concerned, theory indicates that it is destabilizing in and of itself. Heterogeneity is even more destabilizing when it is combined with the presence of a numerically dominant group, i.e. a group which represents between 45 percent and 90 percent of the population.[29] That further increases the risk of coup occurrence. Does the ethnic configuration of the 12 + 1 countries agree with the above theories? The table below depicts the following situations:

Ethnic fabric of categories 1 and 1bis countries[30]

Country	Major ethnic groups (major groups)	Percentage of the largest groups relative to the population	Heterogeneous/ Homogeneous	Ethnic dominance
Angola	Ovimbundu 37%, Kimbundu 25%, Bakongo 13%, Mestiço (mixed European and native African) 2%, European 1%, Other 22%	37%	**Heterogeneous** (more than 1 ethnic group)	**No** (the largest group weights less than 45%)
Botswana	Tswana (or Setswana) 79%, Kalanga 11%, Basarwa 3%, Other, including Kgalagadi and white 7%	79%	**Heterogeneous** (more than 1 ethnic group)	**Yes** (the largest group weights between 45% and 90%)

28 Morrison, Donald G., R.C. Mitchell, J. N. Paden and H.M. Stevenson, *Black Africa: A Comparative Handbook,* Free Press, New York, 1972.
29 Rabushka, Alvin and Kenneth A. Shepsle, *Politics in Plural Societies: A Theory of Democratic Instability*, Charles Merill, Columbus (OH),1972.
30 *The CIA World Factbook.* Available: *https://www.cia.gov/.../the-world-factbook/.*

Cape Verde[1]	Cape Verdean Mestico 69.6%, Fulani 12.2%, Balanta 10%, Mandyako 4.6, Portuguese white 2%, Other 1.6%	69.6%	**Heterogeneous** (more than 1 ethnic group)	**Yes** (the largest group weights between 45% and 90%)
Eritrea	Tigrinya 50%, Tigre and Kunama 40%, Afar 4%, Saho (Red Sea coast dwellers) 3%, Other 3%	50%	**Heterogeneous** (more than 1 ethnic group)	**Yes** (the largest group weights between 45% and 90%)
Malawi	Chewa 57.2%, Nyanja 12.8%, Yao 10.1%, Tumbuka 9.5%, Sena 2.7%, Lomwe 2.4%, Tonga 1.7%, Other (Ngoni Ngonde, Asian, European) 3.6%	57.2%	**Heterogeneous** (more than 1 ethnic group)	**Yes** (the largest group weights between 45% and 90%)
Mauritius	Indo-Mauritian 68%, Creole 27%, Sino-Mauritian 3%, Franco-Mauritian 2%	68%	**Heterogeneous** (more than 1 ethnic group)	**Yes** (the largest group weights between 45% and 90%)
	Makuana 15.3%, Sena 8%, Makua 14.5%, Tswa 5.7%, Tsonga 8.6%, Lomwe 7.1%, Chwabo 8.6%, Europeans 0.06%, Euro-Africans 0.2%, Indians 0.08%, Other 31.8%	31.8% (Others)	**Heterogeneous** (more than 1 ethnic group)	**No** (the largest group weights less than 45%)
Namibia[3]	Ovambo 34.4%, Mixed black/ white 14.5%, Kavangos 9.1%, Damara 7%, San [Bushmen] and Bergdama 7%, White 6%, Herero 5.5%, Nama 4.4%, Caprivian 4%, Kwambi 3.7%, Baster 2%, Other 1.5%, Tswana 0.5%	34.4%	**Heterogeneous** (more than 1 ethnic group)	**No** (the largest group weights less than 45%)
Tanzania	Sukuma 13%, Nyamwezi 6%, Hehet and Bena 4.5%, Haya 4.2%, Makonde 3.3%, Gogo 4.4%, Nyakyusa 5.4%, Chagga 3%, Ha 2.9%, Other (Asian, European and Arab) 5%...120 ethnic groups all accounting for less than 5% except Sukuma and Nyamwezi	13%	**Heterogeneous** (more than 1 ethnic group)	**No** (the largest group weights less than 45%)
Senegal	Wolof 43.3%, Pular 23.8%, Serer 14.7%, Jola 3.7%, Mandinka 3%, Soninke 1.1%, European and Lebanese 1%, Other 9.4%	43.3%	**Heterogeneous** (more than 1 ethnic group)	**No** (the largest group weights less than 45%)
South Africa	IsiZulu 23.8%, IsiXhosa 17.6%, Afrikaans 13.3%, Sepedi 9.4%, English 8.2%, Setswana 8.2%, Sesotho 7.9%, Xitsonga 4.4%, other 7.2%	23.8%	**Heterogeneous** (more than 1 ethnic group)	**No** (the largest group weights less than 45%)

	Swazi 82.3%, Zulu 9.6%, Tsonga 2.3%, Afrikaner 1.4%, Mixed (white-black) 1%, Other 3.4%	82.3%	**Heterogeneous** (more than 1 ethnic group)	**Yes** (the largest group weights between 45% and 90%)

Ethnic fabric of Zimbabwe (Category 2)[31]

Country	Number of ethnic groups (major groups)	Percentage of the largest groups relative to the population	Heterogeneous/ Homogeneous	Ethnic dominance
	Shona 82%, Ndebele 14%, Mixed and Asian, 1% White < 1%, Other 2%	82%	**Heterogeneous** (more than 1 ethnic group)	**Yes** (the largest group weights between 45% and 90%)

CIA sources could be criticized for some of their conceptual limitations. Two categorizations are problematic: 'Other' and 'African.' The category 'Other' seems to refer to either unspecified groups or statistically insignificant ones. Either way, we may take issue with that categorization. Angola is a case in point. The group 'Other' is significant in Angola (22% of the population). It therefore warrants a more detailed presentation. In the same vein, one may raise questions regarding the meaning of 'African' as in the case of the description of the Cape Verdean demographic fabric. All populations established in Africa should be regarded as 'Africans,' and if necessary, 'hyphenated Africans,' unless 'African' is a euphemism for 'Black,' which is technically debatable (For example, Dravidians or Papuans are Black but not Africans). But despite the above caveats, the CIA sources from its Factbook are relatively operational. More generally, we could have refined the ethnic analysis by factoring in languages. The latter do not necessarily coincide with ethnic groups as Posner's study on Zambia illustrates it. In Senegal, for instance, the Wolof language is used as a vehicular language by the majority of the population, even non-native speakers of Wolof.

31 *Ibid.*

Ethnic fabric of countries that have recently experienced a coup[32]

Country	Number of ethnic groups (major groups)	Percentage of the largest groups relative to the population	Heterogeneous/ Homogeneous	Ethnic dominance
Niger	Haoussa 55.4%, Djerma Sonrai 21%, Tuareg 9.3%, Peuhl 8.5%, Kanouri Manga 4.7%, Other 1.2%	55.4%	**Heterogeneous** (more than 1 ethnic group)	**Yes** (the largest group weights between 45% and 90%)
Madagascar[6]	Merina 25%, Betsimisaraka 18%, Betsileo 12%, Tsimihety 7%, Sakalava 5%, Antaisaka 4% Antandroy 3%, Antainoro 3%, Antansoy 2%, Bara 2%, Tanala 2%, Other groups 17%	25%	**Heterogeneous** (more than 1 ethnic group)	**No** (the largest group weights less than 45%)
Guinea	Peuhl 40%, Malinke 30%, Soussou 20%, Smaller ethnic groups 10%	40%	**Heterogeneous** (more than 1 ethnic group)	**No** (the largest group weights less than 45%)
Mauritania	Black Moors 40%, White Moors 30%, Wolof 10%, Fulani 7.5%, Soninke 4.5%, Toucouleur 4.5%, Mande 3% Bambara 3%, Lamtuna 0.6%, Imraguen 0.4%	40%	**Heterogeneous** (more than 1 ethnic group)	**No** (the largest group weights less than 45%)
Guinea-Bissau	Balanta 30%, Fula 20%, Manjaca 14%, Mandinga 13%, Papel 7%, European and Mulatto less than 1%	30%	**Heterogeneous** (more than 1 ethnic group)	**No** (the largest group weights less than 45%)
Central African Republic	Baya 33%, Banda 27%, Mandjia 13%, Sara 10%, Mboum 7%, M'Baka 4%, Yakoma 4%, Other 2%	33%	**Heterogeneous** (more than 1 ethnic group)	**No** (the largest group weights less than 45%)

According to theory, the following countries should be prone to instability and have an increased risk of coup occurrence because they combine heterogeneity with the presence of a dominant ethnic group: Botswana, Cape Verde, Eritrea, Malawi, Mauritius, Swaziland and Zimbabwe. But this is not the case, as can be seen in the subsequent table. Senegal could be added to this list since the dominant group accounts for 43.5%of the population, which is 1.5 short of the 45% threshold.

32 *Ibid.*

Except for Niger, which is heterogeneous with a dominant group, all the other countries in the above table ("Ethnic fabric of countries that have recently experienced a coup") are heterogeneous with no dominant ethnic group, although the largest ethnic groups in Guinea (40%) and Mauritania (40%) are close to the definition of 'dominant ethnic group.' According to theory, heterogeneity with no dominant ethnic group should reduce the risk of instability and the risk of coups. This is not exactly what we have in our sample, unless one factors in the nuance stemming from the fact that the theory talks about 'reducing' and not 'eliminating' the risk. Nevertheless, the subsequent table features coup-free heterogeneous polities with no dominant ethnic groups, thus confirming the theory. But coup-free countries belong to Category 1, not to Category 4, the latter being contrasted with the former in the same table on purpose. In a nutshell, the results are ambivalent with regard to that theory.

Heterogeneity with no dominant ethnic group

Category 1	**Coup occurrence from independence to 2010**
Angola	No
Mozambique	No
Tanzania	No
South Africa	No
Category 4	**Coup occurrence from independence to 2010**
Madagascar	Yes
Guinea	Yes
Mauritania	Yes
Guinea Bissau	Yes
Central African Republic	Yes

Theory also posits that heterogeneous countries with a dominant ethnic group are at risk of political instability, which may result in a coup. While this may be true (an examination based on a larger statistical sample is necessary, ideally involving all the 53 African countries), the theory is not validated *a contrario.* In our sample from the following table, "Heterogeneity with a dominant ethnic group," 55% of countries, which have not experienced a coup since independence, are characterized by heterogeneity with a dominant ethnic group. Based on our sample, the results are not absolutely unequivocal with regard to that theory either.

As there is no case of an ethnically homogeneous country on the African continent, it is therefore impossible to test the theory on the absence of proneness to political instability and coup as far as cultural homogeneity is concerned.

Heterogeneity with a dominant ethnic group

Country	Coup occurrence from independence to 2010
Botswana	No
Cape Verde	No
Eritrea	No
Malawi	No
Mauritius	No
Swaziland	No
Zimbabwe	No

Let us now examine political factors. The theories examined earlier focus on two parameters: party system and political participation. According to theory, multipartyism is destabilizing. Multipartyism is even more destabilizing where a dominant ethnic group exists. Conversely, a one-party system or a two-party system is supposed to be conducive to stability, particularly when the dominant party aggregates diverse political interests. As far as political participation is concerned, there is no consensus on whether or not mass participation is destabilizing.

For both parameters, we use the Polity IV Index despite a few minor problems; most notably, the geographical classifications concerning Mali, Niger and Chad (classified under the 'North African and Middle East' group) are debatable, and the fact that Cape Verde and Saõ Tomé and Principe are not included in the index because of the size their populations.[33] Polity IV Index measures autocratic and democratic regimes from -10 (hereditary monarchy) to +10 (consolidated democracy). More specifically, the categories are broken down into autocracies (-10 to -6), anocracies (-5 to +5) and democracies (+6 to +10). Anocracies are countries that lie between democracy and authoritarianism.

As far as party systems are concerned, the table "Party systems relating to the 11 + 1 countries" summarizes this group.

33 Polity IV does not include countries that have a population of less than 500'000 people.

Party systems relating to the 11 + 1 countries (parties with seats in the Parliament)[34]/[35]

Country	One-party system	Two-party system	Multipartyism	Multipartyism with a dominant party	Multipartyism with a dominant ethnic group
Angola	No	No	Yes MPLA 81.6%, UNITA 10.4%, PRS 3.2%, ND 1.2%, FNLA 1.1%, Other 2.5% Seats by party - MPLA 191, UNITA 16, PRS 8, FNLA 3 ND 2	Yes (MPLA)	No
Botswana	No	No	Yes BDP 53.3%, BNF 21.9%, BCP 19.2%, Other 6.6% Seats by party - BDP 45, BNF 6, BCP 4, BAM 1, Other 1	Yes (BDP)	Yes
Cape Verde[7]	No	No	PAICV 52.3%, MPD 44%, UCID, 2.7% Seats by party - PAICV 41, MPD 29, UCID 2	Yes	Yes
Eritrea	Yes (PFDJ)	No	No	No	No
Malawi	No	No	Seats by party - DPP 114, MCP 26, UDF 17, Independents 32, Other 4	Yes (DPP)	Yes
Mauritius	No	No	Seats by party - AS 38, MSM/MMM 22, OPR 2; appointed seats - AS 4, MSM/ MMM 2, OPR 2	No	Yes
Mozambique	No	Yes, *de facto*	FRELIMO 74.7%, RENAMO 17.7%, MDM 3.9%, other 3.7%; seats by party - FRELIMO 191, RENAMO 51, MDM 8	Yes (FRELIMO)	No

34 Polity IV. Available: *www.systemicpeace.org/polity/polity4.htm.*
35 *The CIA World Factbook*. Available: *https://www.cia.gov/.../the-world-factbook/.*

Namibia	No	No	National Assembly - percent of vote by party - SWAPO 75.3%, RDP 11.3%, DTA 3.1%, NUDO 3.0%, UDF 2.4%, APP 1.4%, RP 0.8%, COD 0.7%, SWANU 0.6%, other 1.3%; seats by party - SWAPO 54, RDP 8, DTA 2, NUDO 2, UDF 2, APP 1, RP 1, COD 1, SWANU 1	Yes (SWAPO)	No
Tanzania	No	No	Seats by party - CCM 206, CUF 19, CHADEMA 5, Other 2 Women appointed by the president - Zanzibar representatives 37, Zanzibar House of Representatives 5 - percent of vote by party - NA; seats by party - CCM 30 CUF 19 (1 seat was nullified with a rerun to take place soon)	Yes (CCM)	No
Senegal	No	No	Coalition for Change 2007 (SOPI 2007) 131, Other parties 19, Senate (100 seats; 35 indirectly elected, 65 appointed by president - most recent elections, 19 August 2007) Senegalese Democratic Party (PDS) 34, And-Jef/African Party for Democracy and Socialism (AJ/ PADS) 1, Appointed 65	Yes (SOPI, PDS)	Nearly

South Africa	No	No	National Assembly - percent of vote by party - ANC 65.9%, DA 16.7%, COPE 7.4%, IFP 4.6%, Other 5.4% Seats by party - ANC 264, DA 67, COPE 30, IFP 18, Other 21	Yes (ANC)	No
Swaziland	No (Absolute	N/A	N/A	N/A	N/A

Party system in Zimbabwe (Category 2)

Country	One-party system	Two-party system	Multipartyism	Multipartyism with a dominant party	Multipartyism with a dominant ethnic group
Zimbabwe	No	Yes, *de facto*	Senate - percent of vote by party - MDC 51.6%, ZANU-PF 45.8%, other 2.6% Seats by party - MDC 30, ZANU-PF 30; House of Assembly - percent of vote by party - MDC 51.3% ZANU-PF 45.8%, Other 2.9% Seats by party - MDC 109, ZANU-PF 97, Other 4	No	Yes

Party systems in Category 4 countries (Sample)

Country	One-party system	Two-party system	Multipartyism	Multipartyism with a dominant party	Multipartyism with a dominant ethnic group
Niger	No	No	Seats by party - MNSD 76, RSD 15 RDP 7, PNA-Alouma 1, Alkalami 1, Nigerien Party of the Masses for Labor 1, Independents 12	Yes (MNSD)	Yes
Madagascar	No	No	NA; Seats by party - TIM 106, LEADER/ Fanilo 1, Independents 20	Yes (TIM)	No

Guinea	No	No	PUP 61.6%, UPR 26.6%, Other 11.8%; Seats by party - PUP 85, UPR 20, Other 9	Yes (PUP)	
Mauritania	No	No	Senate - percent of vote by party - NA; seats by party - Mithaq (coalition of independents and parties associated with the former regime) 37, CFCD (coalition of political parties) 15, representatives of the Diaspora 3, Undecided 1, National Assembly - percent of vote by party - NA; seats by party - Mithaq 51, Independents 37, PRDR 7, UDP 3, RDU 3, Alternative (El-Badil) 1, CFCD 41, (RFD 16, UFP 9, APP 6, Centrist Reformists 4, HATEM-PMUC 3, RD 2, PUDS 1), RNDLE 1, UCD 1, FP 1	No	No
Guinea-Bissau	No	Yes, *de facto*	PAIGC 49.8%, PRS 25.3%, PRID 7.5%, PND 2.4%, AD 1.4%, Other parties 13.6% Seats by party - PAIGC 67, PRS 28, PRID 3, PND 1, AD 1	Yes (PAIGC)	No
Central African Republic	No	No	NA; Seats by party – KNK 42, MLPC 11 RDC 8, PSD 4, FPP 2, ADP 2, LONDO 1, Independents 34, Other 1	Yes (KNK)	No

Among the twelve Category 1 countries and the two Category 2 countries, one is officially a single-party system (Eritrea) and one has an undetermined status with regard to political parties (Swaziland, a non-party system). The rest of those countries have a multiparty system, occasionally with a dominant

party (Namibia and Tanzania) or a *de facto* two-party system (Mozambique). It should also be noted that some of those countries are long-standing multiparty countries. In other words, the theory on party system with regard to the likelihood of a coup occurrence does not yield convincing results in relation to Category 1 countries.

We can broaden the scope of our discussion by referring to the following categories: democratic, authoritarian, and semi-authoritarian.

Polity IV (2008 data) Categories 1 and 1bis[36]/[37]

Country	Polity score	Democracy score	Autocracy score	Tentative	Frag-mentation	Overall historical trend since independence
Angola	-2	2	4	Yes	No	Single party system up to 1992, followed by a brief political opening. Reversed back to authoritarianism in 1999. A mixture of anocracy and dominant party system since 2004
Botswana	9	9	0	No	No	Continuously functioned as a liberal democracy
Eritrea	-7	0	7	Yes	No	Continuously authoritarian
Malawi	6	6	0	Yes	No	Single-party system up to 1992. Multiparty system since 1992.
Mauritius	10	10	0	No	No	Continuously functioned as a liberal democracy
	6	6	0	No	No	Single-party system up to 1994. Multiparty system since 1994, but *de facto* two-party system dominated by FRELIMO (ruling party).
Namibia	6	6	0	No	No	Continuously functioned as a liberal democracy with a dominant party (SWAPO)
Tanzania	1	3	2	No	No	Single-party system up to 1992. Multiparty system since 1992 with a dominant party (CCM)

36 Polity IV. Available: http://www.systemicpeace.org/polity/polity4.htm.
37 Polity IV did not factor in Cape Verde, because the population is less than 500'000. In a nutshell, Cape Verde was a single-party system from its independence (1975) to 1991 and a multiparty system since 1991 with alternation to power.

Senegal	8	8	0	No	No	*De facto* single-party system up to 1974 but with substantive participatory rights granted to citizens. Multiparty system since 1974.
South Africa	9	9	0	N	No	Functioning liberal democracy up to 1948. Restricted liberal democracy from 1948 to 1994. Functioning liberal democracy since 1994.
Swazi-lland	-9	0	9	No	No	Parliamentary, constitutional monarchy up to 1973. Authoritarian traditional monarchy from 1973 to 1993. Limited electoral representation since 1993. But, non-party system.

Polity IV (2008) in Zimbabwe (Category 2)[38]

	Polity score	Democracy score	Autocracy score	Tentative	Frag-mentation	Overall historical trend since independence
Zimbabwe	-4	1	5	No	No	Multiparty system but *de facto* single-party system up to 1999. A *de facto* two-party system dominated by ZANU-PF up to 2008.

38 Polity IV. Available: *www.systemicpeace.org/polity/polity4.htm.*

Polity IV (2008) a sample of Category 4 countries[39]

Country	Polity score	Democracy score	Autocracy score	Tentative	Frag-mentation	Overall historical trend since independence
Niger	6	7	1	Yes	No	Authoritarian regime up to 1992. Democracy from 1993 to 1996. Authoritarian regime from 1996 to 1999. A transition period in 1999. Democracy from 1999 to 2009. Semi-authoritarian regime from 2009 to 2010. Transition period from 2010.
Mada-gascar	7	7	0	No	No	Authoritarian regime up to 1992. Multiparty system from 1990 to 2009. Transition period since 2009.
Guinea	-1	1	2	No	No	Continuously authoritarian.
Mauritania	-3	0	3	Yes	No	Semi-authoritarian and authoritarian regimes up to 2007. Alternation of democracy and authoritarianism since 2007.
Guinea-Bissau	6	6	0	Yes	No	Single-party system up to 1991. Alternation of democracy, authoritarianism, and semi-authoritarianism since 1994.
Central African Republic	-1	1	2	Yes	No	Single-party system up and civilian power up to 1965. Authoritarian regime up to 1991. Multiparty system from 1991 and 2003. Semi-authoritarian regime since 2003.

The scope of this paper does not allow a finely grained analysis of each polity. But a cursive reading of those different tables shows that the distribution of coup occurrences based on the political categories presented (democratic,

39 *Ibid.*

semi-authoritarian and authoritarian) is not pertinent with regard to Category 1 and Category 2 countries. Furthermore, some Category 4 countries have a better profile. For example, Angola has an overall rating, which is worse than Madagascar and Niger's. Swaziland has probably the worst rating. But neither Angola nor Swaziland has ever experienced a coup, whereas Madagascar and Niger have each undergone more than one coup. Categories 1, 1bis and 2 countries do not form a homogeneous group. Let us now turn to political participation. It should be reminded that as far as political participation is concerned, there is no consensus on whether or not mass participation is destabilizing. Indeed, the table, "A comparative table of political participation in Categories 1, 1bis, 2 and 4 countries," shows mixed results.

Comparative political participation in Categories 1, 1bis, 2 and 4 countries[40]

Country	Category	Political participation score
Angola	1	8
Botswana	1	9
Cape Verde[8]	1	6
Central African Republic	4	6
Guinea	4	6
Guinea-Bissau	4	7
Eritrea	1	2
Madagascar	4	9
Malawi	1	7
Mauritania	4	5
Mauritius	1	10
Mozambique	1	9
Namibia	1	9
Niger	4	8
Senegal	2	9
Tanzania	1	6
South Africa	1	9
Swaziland	1	1
Zimbabwe	2	6

Political participation is measured on a scale from 1 to 10, ten reflecting the highest level of participation possible. One country has the highest political participation score, i.e. Mauritius. It is a Category 1 country (never experienced a coup). Mauritius is closely followed by four other Category 1 countries (Botswana, Mozambique, Namibia and South Africa) and the category 1bis country (Senegal). One may tempted to infer that a high political participation does not have a destabilizing effect, even in the long run, since Botswana, Mauritius, and South Africa have been liberal democracies since their independence (albeit with a restricted liberal democratic period in the case of 1948 to 1994 South Africa). However, that conclusion is mitigated by the fact that two Category 4 countries have very high political participation scores (Madagascar and Niger). Conversely, two Category 1 countries have very low

40 *Ibid*

political participation scores (Swaziland and Eritrea). All in all, and as far as our samples are concerned, political participation, as measured by Polity IV, does not yield significant result in support of either hypothesis (destabilizing or not destabilizing), confirming the theoretical inconclusiveness of that aspect of the political determinants theory.

While theories on political factors may explain coup occurrences, they do not validly explain why coups may not occur. What about the idiosyncratic theory? Its anticipated conclusion is that no objective circumstances offered potential plotters to conspire against the incumbent government, because they had no motives (i.e. jealousy, greed or frustation). While the predictive force of the idiosyncratic theory is limited in statistical terms, that theory has at least the merit of taking into account the agency or human factor. More importantly, it bridges the gap between the economic, socio-cultural and political factors, on one hand, and the military, on the other hand.

The empirical examination of the different theories has not been conclusive in explaining why certain countries, sharing all or part of the features that have led to a coup in other countries have escaped coup occurrences. Both competing schools of thought – predictive and non-predictive- would reach differing conclusions on the matter. For Jackman (predictive school), the latter countries belong to the irreducible category of the one-fifth that does not (cor)respond to the predictive model. As he puts it himself, "Assuming that I have excluded no important variables and (even) that my measures are perfectly reliable, this study shows that the idiosyncratic (i.e., random) factors to which Zolberg, Decalo, and others have alluded cannot account for more than one-fifth of the variance in *coups d'état*."[41] Besides admitting that randomness plays a certain role in coup occurrence, Jackman states a fact without explaining it. Could it be that randomness can only be observed or at best, predicted, but not explained? This could have epistemological implications that proponents of the non-predictive school would turn to their advantage. All the more so considering Zolberg's assertion, "It is impossible to specify as a class countries where coups have occurred from others which have so far been spared."[42] In that context, the admission that idiosyncrasy plays a role in coup occurrence, albeit limited, could set the limits of the predictive school's project. While empirical evidence may lend credence to that view, it would be exaggerated to nullify the predictive project altogether, as the wording of the above quotation may suggest ('*impossible*'). In fact, it should be possible to structurally explain why coups have not occurred and therefore, hold a predictive stance in that regard, even if the predictability does not rest on determinants hitherto examined. If all the countries in Categories 1, 1bis and 2 do not necessarily share the same economic, socio-cultural and political determinants, they all have militaries.

41 Jackman, Robert W., *Op.Cit.*, p. 1270.
42 Zolberg, Aristide R., *Op. Cit.*, p. 71.

One possible, missing link in the analysis chain is the institutional dimension of the military's non-involvement in politics. I deliberately choose the word 'involvement' as opposed to 'intervention' for reasons, which I will develop in the next section. The aim is twofold: first, to find out if militaries in those countries share common characteristics and second, to see if civil-military relations obey similar discernable patterns in those countries.

Broadening the scope of the discussion: an institutional analysis of the military and civil-military relations

There are a host of studies and analyses on the structure and role of militaries in general, and on African militaries in particular, which are elaborated by scholars such as Welch, Jenkins and Kposowa, Finer, and Bangoura. With regard to African militaries, the first question raised by scholars is teleological: what is the purpose of the military in the postcolonial context? While in the colonial context African troops were used either to supplement metropolitan troops or help police the colonies, the role of national armed forces in the postcolonial context was to be redefined. In theory, and based on the supposedly inherited European traditions (British or French for example), the military was primarily meant to defend the national territory. But defend the national territory against whom? Dominique Bangoura poses an even more disquieting question, i.e. was there any nation to defend in the first place?[43] In effect, for armed forces to be national there needs to be a nation. When independence occurred, most countries were nations in the making. In many cases, primordial links tended to take precedence over the so-called national sentiment. The question of 'against whom was the territory to be defended' had a different resonance for countries that had to militarily fight for their independence (Algeria, Angola, Guinea-Bissau, Mozambique, etc.). But in countries that were peacefully granted independence, the notion of defending the integrity of the national territory might have remained theoretical or abstract. Anyhow, the issue of loyalty to the 'nation' became quickly problematic as the political leadership, for reasons examined later on, began instrumentalizing the military for political purposes. This instrumentalization, where it occurred, would determine the structures and real missions of the military, which in turn would have an impact on the military's tendency to get involved in politics.

It is argued that in terms of economic development, socio-cultural fabric and political regimes, countries that escaped the fate of military intervention in politics do not *necessarily* differ from those countries that experienced military intervention. Nor do they *necessarily* share the same economic, socio-cultural and political features among themselves. But they *all* have insulated the military from politicization in a consistent way. The military insulation

43 Bangoura, Dominique, *Les armées africaines: 1960-1990,* CHEAM, Paris, 1992.

from politicization is probably the common structural denominator among countries belonging to categories 1 and 1bis. A couple of cases, examples and counter-examples, are examined in support of the argumentation. Four elements are investigated: Introversion + Politicization, on one hand, and Insulation + Professionalism, on the other hand. Except for the concept of insulation, which I use as defined in scholarship by Welch and Ndiaye, the concepts of politicization and professionalism are requalified. As for the concept of introversion, its more detailed definition is attempted. The definitional process gives me the opportunity to expand a bit more on the notion of involvement as opposed to intervention.

Before discussing the notions of 'military involvement' and 'military intervention,' defining the military is of essence. A *stricto sensu* definition of the military refers to combat forces embodied by the air force, navy and the army (artillery, cavalry, infantry, paratroopers, commandos and engineers corps). A larger definition may encompass administrative, logistical and medical services. The latter are meant to support combat forces. A strict definition of the military normally excludes the police forces and to some extent, security and intelligence services, except for those services involved in gathering intelligence on foreign militaries. Generally, the military as defined above is under the authority of the Minister of Defense, whereas police and security forces are under the authority of the Minister of the Interior and/or Security. But reality may be far from offering such a 'chemically pure' distinction between the military, police and security forces.

Intricate relations between the police, security services and the armed forces are not the preserve of revolutionary or institutionally weak countries. They may also occur in countries with well-established institutions like France. The French *Gendarmerie* is a case in point. A military unit entrusted with combat missions (mainly territorial defense), the *Gendarmerie* also fulfills policing functions, both civilian, in rural areas, and military (military police functions). From a hierarchical point of view, up to the recent reform, the *Gendarmerie* was under the authority of the Minister of Defense, while operationally answerable to the Minister of the Interior for its policing functions. The *Gendarmerie* is also at the disposal of judges (Justice Ministry), particularly investigating judges. A recent reform (January 2009) has definitely put the *Gendarmerie* under the direct authority of the Minister of the Interior, even though Gendarmes still keep their military status. In revolutionary countries or countries with different institutional traditions, we may witness greater integration or confusion between the military, police and security services. The possible configurations range from the outright militarization of police and security forces to the setting up of joint police/security and military general staff or command structure. The situation can even be complicated with the existence of paramilitary forces like militias. In this paper, the military refers

primarily to the strict definition given above. It will exceptionally encompass security forces.

Regarding the distinction between 'military intervention' and 'military involvement,' although both terms can be used, and are used, interchangeably, some nuances and differentiations should be made about them. These nuances are not just casuistical. Etymologically, to intervene means 'coming between' or 'coming in the midst of.' It conveys the idea of a voluntary action in order to put an end to a conflictual or critical situation. This may involve, for instance, rescuing people in an emergency situation or separating warring parties (including warring political parties!). According to Finer, a military intervention can be defined as 'the armed forces *constrained* substitution of their own policies and/or their persons for those recognized civilian authorities' (emphasis added). The key element in this definition of military intervention is the fact that the substitution is neither wished nor welcome by civilian authorities but inflicted on them. The expression 'recognized civilian authorities' could be replaced by 'recognized military authorities' for at least two reasons. Firstly, certain 'military authorities' are recognized *de facto* or *de jure*, including internationally. Secondly, coups can also be staged against an incumbent military head of state. The most appropriate term would actually be 'recognized state authorities.' Involvement, on the other hand, has a different connotation. Etymologically, to involve means 'to roll in or up.' The verb conveys a couple of meanings such as 'to include,' 'to implicate' or 'to combine inextricably.' Involvement thus implies an inclusion that can be wished or called for. In which case, the military's implication does not necessarily happen against the incumbent political leadership's will. In some cases, the military may formally be integrated in the political structures of the country as a key component or actor. Or, alternatively, it can play a decisive informal role, behind the scenes, with the consent of the political leadership.

Two such examples are to be found in the role played by the military in Turkey and in Algeria. In both countries, the military can be dubbed the *de facto* fourth power, even though it exercises its influence behind the scenes (the Turkish military's influence has arguably decreased recently as a prelude to Turkey's negotiations for accession to the European Union). In Algeria, the armed forces (*Armée Populaire Nationale*, i.e. the People's National Army) are mentioned in the Constitution even before political parties (article 25 mentions the armed forces but one has to wait until the 42nd article to see political parties mentioned). In other words, if we take the case of Algeria, even when the military does not directly intervene in politics (it did directly intervene in 1965, 1979 and 1992), it is nevertheless involved in politics as a 'veto player' in the meaning ascribed to the concept by Tsebelis.

The military is involved in the decision-making process, not just in purely military matters. One must admit that there can be a tension between

'involvement' and 'intervention.' In some cases, the military conquers its right to get involved. In other cases, the military is invited to get involved. The factors leading to the military's involvement in the second hypothesis are examined in this section. With the second hypothesis in mind, it becomes obvious that focusing only on coup occurrences when assessing and discussing the military involvement in politics is tantamount to looking solely at the end-process. It can also give the impression that the political leadership always falls victim of an unexpected, unwarranted and sudden intrusion of soldiers into the political sphere. While this may be the case in many instances, it should be stressed that military coups do not just 'happen.' It can even be argued that they usually stem from commerce of some sort that the political leadership entertains with the military at one stage or another. Hence the use of the word 'involvement' in this paper rather than just 'intervention,' the former embracing a broader scope than the latter, and the former also implying an interplay between political leaders and the military. In essence, there is nothing wrong with politicians engaging with soldiers or *vice versa* as the armed forces are part of the government. The question lies in the nature of that relation, which if mishandled or perverted, could turn into some kind of *liaisons dangereuses*. This leads us to examine the concept of politicization of the military.

The concept of politicization of the military is generally seen as the action of the political leadership interfering with the so-called internal affairs of the military. It is generally paired with the issue of professionalism in a direct inverse relation, i.e. politicization being synonymous with lower professionalism.[44] I argue that politicization should be viewed as a two-way process, i.e. the instillation of politics into the military but also the involvement of the military into politics.

The first dimension of the politicization of the military is approached by Ndiaye through two concepts, i.e. what he calls the lack of professionalization and the lack of autonomy.[45] He links the lack of autonomy and the lack of professionalization together. According to that scholar, the lack of autonomy is illustrated, *inter alia*, by the presence of the head of state's close family and ethnic members at key positions in the armed forces. The lack of professionalization is signaled by indicators like ethnic background as a criterion for recruiting and promoting soldiers or the creation of paramilitary troops as a counterweight to the regular military. If the first of the above two indicators could be a result or a consequence of the politicization process (I think the argument is perfectly reversible), the link between the second indicator and the politicization process warrants further qualification. The necessity of a further qualification has not escaped the scholar's attention since he raises the interrogation as to whether the second indicator should be

44 e.g.: Ndiaye, Boubacar, *Op. Cit.*
45 *Ibid.*

interpreted as a signal of a low level of professionalization or a signal of the neglect of the military professionalization.

I would tend to agree with the second branch of the alternative and add a third possible explanation, i.e. the political leadership's lack of trust in the military. More accurately, the creation of paramilitary forces, which is oftentimes an initiative from the political leadership, may have at least two explanations: either the political elite feels it is not being properly obeyed by the armed forces or the political elite is ideologically at odds with the military (or *vice versa*), one possibly being inferred by the other. Either way, the motivations are not technical (no trust in the military's tactical or strategic ability to fulfill its mission of defending the nation against external threats- an observation which should require an upgrading of the military's professionalism). The motivations are purely political. The political leadership is not assured of the military's political loyalty or activism. The creation of paramilitary forces is a well known countervailing or 'balancing off' strategy. In institutionally weak countries, the setting up of those forces ultimately fulfills the political leadership's desire to have an activist armed arm at its disposal or at its whim. This brings home the institutional issue and touches on a key element of civil-military relations, taking us to the second dimension of the politicization of the military, *viz* the involvement of the military in politics.

There are two possible configurations, echoing what I said earlier concerning the tension between 'involvement' and 'intervention.' Either the military is invited in by the political leadership (civilian or military), or the military presses its way through the political stage or sphere. Either way, the military is then used as gatekeepers. But as the Roman poet Juvenal said in the sixth chapter of *Satires*: 'Quis custodiet ispos custodes'? ('Who will guard the guards themselves?' Juvenal was actually talking about domestic tyranny- the impossibility for men to guard women, as they are themselves corruptible- not about political tyranny). The political meaning of that interrogation is to be found in Plato's *Republic*. Plato's answer to the question put to Socrates is that the guards will guard themselves against themselves. Congo-Brazzaville, and many other African countries, proved Plato wrong.

Congo-Brazzaville is an interesting case in point that combines involvement and intervention. From 1960 (independence date), the nascent and small-sized Congolese Armed Forces were absent from the political scene. Following the so-called August 1963 uprising instigated by so-called Catholic trade-union leaders, the then president of the Republic (Fulbert Youlou, a Catholic priest) decided to resign. He handed in his resignation letter to the two highest ranking Congolese commissioned officers. The latter, unwilling or unable to run the country, immediately devolved power to Alphonse Massamba-Débat, a civilian and former Minister who became the second president of the Republic (1963-1968). This is the repeatedly told story. Bikinkita has a more sophisticated and yet pertinent analysis. He asserts that what happened in

August 1963, at least immediately after the resignation of the democratically elected president, was in fact a coup, albeit a civilian coup.

In effect, the president's resignation should have prompted an interim period led by the president of the National Assembly in accordance with the 1961 Constitution. Although the letter of resignation was handed to the two highest-ranking commissioned officers, they were not the addressees (the letter did not say so) and could not legally be the addressees, but at most, mere messengers or postmen. They were probably aware of that fact since they chose to neither rule the country nor take care of the government's current affairs. However, instead of conveying the letter to its constitutional addressee, i.e. the president of the Parliament, the idea was suggested by one of the two officers to devolve power to Alphonse Massamba-Débat who was not in the succession line, not even remotely. By accepting to be devolved power although he was not entitled to it, Alphonse Massamba-Débat performed a coup. The immediate abolition of the constitution and related institutions cannot be interpreted otherwise.[46]

Whatever interpretation is given as to what happened, the most important element is the initial invitation of the military into the political arena, which will be the prelude to an irreversible involvement of soldiers in politics. From 1963 to the suppression of the single-party rule in 1990, the military played a central role in Congolese politics. The involvement of the armed forces in politics was a progressive process, which illustrates the two possible aspects of involvement mentioned earlier. From 1963 to 1968, Congo-Brazzaville was a socialist ('Bantu socialism'), one-party system led by a civilian president. But the military was officially represented in the structures of the single-party (Mouvement National de la Révolution, MNR- National Revolutionary Movement), thus institutionalizing the military involvement in politics. Ironically, but maybe not surprisingly, Captain Ngouabi, the next president who performed a coup in 1968, was the Armed Forces representative to the MNR Central Committee. During the Marxist-Leninist period that ensued (1968-1990), not only was the leadership made up of soldiers, but the military institution was represented within the Central Committee of the single-party (Parti Congolais du Travail, PCT- the Congolese Workers Party) alongside the party's trade union and the party's youth organization, for example. Furthermore, until the end of the one-party system, all successive presidents were soldiers and founding or early members of the ruling party who succeeded one another through coups, whether bloody or bloodless.

The interpenetration between the military and the political sphere was such

46 Bikinkita, Philippe, *Armée nationale et violence politique : la république au Congo-Brazzaville,* Technosciences, Dieppe, 2008, p. 130.

Our translation: "A coup occurred resulting from the non-observance of constitutional provisions, as someone bypassed the incumbent president of the Parliament. The intrusion of AMD (Alphonse Massamba-Débat) is a civilian coup." *Original French:* "Il y eut putsch à la suite de l'inobservation de la Constitution, quelqu'un ayant court-circuité le président en titre du Parlement. L'intrusion d'AMD (Alphonse MD) est un coup d'État civil."

that all the ideological and ethnic cleavages reverberated on both arenas. A series of coups ensued from soldiers who did not embrace the new political orientation (1970 failed coup by Lieutenant Kinganga) but also by disgruntled soldiers from the ruling party (1972 failed coup by Lieutenant Diawara). The latter failed coup was staged by a leading figure of the 1968 coup who turned against his one-time allies, accusing them of hiding their tribalism and being a revolutionary *verbiage* and *façade* camaraderie. To depict the members of the single-party who really held and yielded power, Lieutenant Diawara coined the acronym OBUMITRI- nothing to do with metrics relating to shells- '*obus*' in French. OBUMITRI stands for *Oligarchie Bureaucratico-Militaro-Tribale*, i.e. Military-Tribal Bureaucratic Oligarchy. Coming from an insider fellow soldier, the words 'oligarchy' (government by the few in Greek), 'tribal' (which is antithetical with the *esprit de corps* that is supposed to be the hallmark of the military) and 'bureaucratic' beg the following question: was the military really at the helm of the country?

Bikinkita actually argues that the handful of soldiers that took power in 1968 were not representative of the best that the military institution could offer.[47] Generally not among the best trained or qualified, they used their career in the military to further political agendas, and later, their political position to climb high in the military hierarchy at a speed that would not have happened had they not been involved in politics. Furthermore, they used their political position to undermine the military by ostracizing, sidelining, sacking or humiliating professionally competent soldiers who were perceived as anti-revolutionary or simply too neutral. The undermining of professionalism even used traditional countervailing methods such as the creation of the party's militia. In other words, the 'military' weakened the professionalism of the military, which is a paradox! In a nutshell, the military political leaders were politicians in military uniform. As a matter of fact, the military heads of state that Congo-Brazzaville had were all founders or early members of the single-party, including the current president (2010), who was defeated during the 1992 democratic elections that ended a twelve-year dictatorial rule, but regained power in 1997 after a coup, the third successful coup in his 42 year political career (1977, 1979, 1997 and possibly to be counted among the perpetrators of the 1968 coup). In short, in the beginning, politicians used the military for internal politics. Eventually, some soldiers used the military for their own political and personal interests. The 'guards' did not guard themselves against themselves.

The politicization of the military led to the introversion of the armed forces in Congo-Brazzaville, a concept that can apply, *mutatis mutandis*, to other African countries that underwent the same process. What do I mean by 'introversion?' Introversion is neither a psychological attitude of transcendental meditation nor a soul-searching exercise. It is a functional and

47 Bikinkita, Philippe, *Op. Cit.*

operational posture. Introversion occurs when the armed forces' real missions do not aim at defending the country against external aggressions (traditional mission of defense forces) but are geared towards internal missions: policing, repression, and acting as gatekeepers of the regime. Internal missions are normally devoted to police and security forces. Introversion generally results in the weakening of the military's combat and strategic value; what matters is not military professionalism but the political acumen to survive in the system and loyalty to the leaders.

From a practical point of view, within the General Joint Staff, services like the surveillance of the military personnel (known in the French military tradition as *Deuxième Bureau* or B2) gain a particular importance. Even the Military Intelligence Service is more concerned with spying on military personnel in order to foil possible coups than gathering information on foreign countries' armed forces. Administrative and logistical services (bureaucracy) become more important than combat units, as the military is encouraged to get involved in lucrative activities ('managing' the military budget) to make them stakeholders of the system. Military instruction is neglected and could even be viewed with suspicion for fear of coups.

In an introverted context, the best weaponry may be the preserve of the presidential guard unit, whose main function is to defend the president, not the nation. In some extreme cases, the military is 'disarmed' for fear of coups (in Guinea, under Sekou Touré, 'non-essential troops,' i.e. troops not related to the protection of the president, were not allowed access to ammunitions). Technical branches like the air force and navy are neglected or not given priority, not just for budgetary reasons, but also because their usefulness in protecting the government in the event of a coup is not obvious. Conversely, elite troops like paratroopers, commandos and armored corps are perceived as extremely decisive in defeating a coup attempt. Their political control is capital, which involves a complex management system. This system allows them to be relatively active but under tight control, either by appointing commanders that are 100 percent politically 'sure' or by mainly recruiting into those units people from the same geographical or ethnic background as head of state.

Togo can be cited as an illustration of this 'management system.' A 1993 Amnesty International report on the Togolese Armed Forces' repression of political opponents and civilian populations highlights the fact that an overwhelming majority of soldiers and officers of the armed forces are Kabyé, although the latter only constitute 15 percent of the population. President Gnassinbgé Eyadéma belonged to the Kabyé ethnic group. On this specific aspect, the report reads as follows:

> The number of men in the Togolese Army has increased from 1'200

> in 1967 to about 13'500 or 14'000 in 1991, according to a document prepared for the sovereign National Conference by the Defence and Security Commission. In other words, there is one serviceman for every 300 Togolese citizens. The Commission noted that 10'127 of the official figure of 12'127 men come from regions in the North of the country. Moreover, of the 180 officers from the North, about 80 per cent are Kabyé of whom about three out of four come from the area around Pya.[48]

Pya is Eyadema's birthplace. Furthermore, non-Kabyé officers do not head or are not allowed to head combat units such as the Second Mechanized Battalion, the Airborne Troops and the Para-Commando Regiments. They are excluded from the Presidential Guard. Even if the absolute accuracy of those figures can be disputed, the facts established and proportions indicated by those figures are close to reality. Togo is not the only African country that displays this type of numerical imbalance in the armed forces. The key point here is the illustration of the concept of introversion: Togo, whose territorial integrity is in no way threatened, has dramatically increased the size of its armed forces. The government uses them to deter political opponents. It has no pangs of conscience using the armed forces for repression against civilian populations nor do soldiers seem to see a contradiction between their duty to protect their fellow citizens and the reality of massacring them.

The main conclusion in relation to introversion is the following: the more introverted a military, the more prone it is to getting actively involved in politics, and the less professional it will become over time. Conversely, the more focused the military is on its traditional core combat missions, the more professional it gets and the less tempted it is to get involved in politics, particularly if the political institutions function correctly, whether the political system is democratic (e.g. Senegal, Mauritius, Botswana, Cape Verde), authoritarian (e.g. Angola and Eritrea) or semi-authoritarian (e.g. Tanzania up to 1990). It could be posited that there is a relationship between the lack of professionalism, introversion and involvement in politics without being able to say, at this stage, if the relationship is characterized by causation, causality or correlation (rigorous statistical studies, which are beyond the scope of this paper, are needed for that purpose). However, the question is empirically approached in the examination of the insulation issue by quickly reviewing four countries. Most certainly, the introversion is correlated to the lack of professionalism, at least at higher echelons where people are closer to political leadership. Introversion is always a political choice by the political leadership.

The issue of professionalism must be revisited in the context of introversion,

48 Amnesty International, *Togo: Impunity for killings by the military*, AI (AFR 57/13/93), London, 1993, p. 5.

not the least because some scholars wonder whether there is a relation between professionalism and intervention. As Kieh, Jr. and Agbese put it "(...)..several analysts have employed the concept of military professionalism as an explanatory variable for coups. Nonetheless, it is not yet clear how military professionalism impacts military intervention in politics."[49] Even if the issue of professionalism in relation to intervention is a complex one, it is possible to approach it in a practical way. Firstly, the term 'professionalism' should be preferred to that of 'professionalization'[50] as we talk about the state of the military rather than a process. Secondly, mentioning politicization or ethnicity as a measure, index or proof of a lack of professionalism is not enough from an epistemological viewpoint. The argument must be taken a step further. For example, and for argument sake, let us suppose that all the persons recruited from the same ethnic background have the technical skills- this will not automatically result in the decrease of professionalism. Basically, my contention is that recruiting on ethnic grounds or based on family connections, while morally and legally condemnable, does not *ipso facto* and in and of itself impair the armed forces' ability to carry out operations. We have examples of mono or quasi-monocultural recruitment of whole regiments in professionally sound armed forces like the British and Indian Armies (e.g. Gurkha regiments).

The approach to professionalism in the military should therefore be based on two sets of criteria: ethos and strategic and tactical abilities. Strategic and tactical abilities refer to the capability to carry out core combat missions by mounting joint operations (army, air force, navy), including out-of-the area/ country operations. The latter implies mastery of the logistic chain, integration of technical bodies like engineers, good military leadership through adequate training and a solid command chain. Ethos, which can be defined as the guiding beliefs, addresses the following question: whom do servicemen serve, the nation, the leadership against the population or a section of the population? The answer to this question does not entail the same consequences in terms of capacity building and soldiers' attitude towards competence, whether the real aim is to defend the nation (against foreign armies) or to defend the country's political leadership against its own civilians. The former goal necessitates a high combat value. The latter goal does satisfy itself with maintaining the armed forces at the level of an enhanced police force. In the context of an introverted military, professionalism, as defined earlier, is neither valued nor encouraged. Loyalty is the preferred value. Professionalism is even fought when incarnated by officers who are not affiliated to the party, the junta or simply to the political leadership. Competence is even threatening if

49 Kieh Jr., George Klay and Pita Ogaba, Agbese (eds.), *The Military and Politics in Africa: From Engagement to Democratic and Constitutional Control*, Ashgate Publishing Company, Aldershot, 2004, p. 22.

50 Ndiaye, Boubacar, *The Challenge of institutionalizing civilian Control: Botswana, Ivory Coast and Kenya in Comparative perspective,* Lexington Books, Lanham (MD), 2001, p. 10.

competent and professional officers are from different or 'competing' ethnic groups. The non-recognition and non-systematic promotion of competence decreases the professionalism of the military, which reinforces the military's introversion.

Insulation is the last point to be examined. It will cause us to refine the definition of 'politicization' and contrast it to the issue of indoctrination. Every military and state has a doctrine, as well as a doctrine for the government's relationship with the military. It is generally argued that insulation guarantees the military non-involvement and non-intervention in politics. But insulation, i.e. insulating the military from politics, is not synonymous with isolation. The military is part of the government and it is normal for the political leadership to engage with the military (and *vice versa*) when discussing the military's budget or strategic orientations in relation to national defense matters for example. Should it be reminded that the head of state, whether he is a soldier or a civilian, rules over a democratic country or not, is *ex officio* the commander-in-chief? Insulation should actually mean a clear demarcation between the military sphere and the political one. While the lines of communication between both spheres must be open, the demarcation line should never be blurred nor should the hierarchical order be subverted; the military must be subordinated to political authorities. The blurring of lines and subverting of the hierarchical order are not always to be blamed on the military as, more often than not, it is the political leadership that is tempted to use the military for political purposes. This is a key issue in civil-military relations or, as I would prefer to say, a key issue in 'government-military relations' (in effect, the term 'civil' in the expression 'civil-military' refers to civil authorities, i.e. the authorities of the city, alias the government).

To address the issue of insulation, three countries have been selected: Angola, Senegal and Tanzania. To offset possible biases due to geography, history, cultural traditions, those three countries represent:

- Three geographical areas (West, East, Central Africa);
- Three linguistic areas: French-speaking (Senegal), Portuguese-speaking (Angola); Swahili-English speaking (Tanzania);
- Three types of political regimes: liberal democracy (Senegal), authoritarian (Angola), and semi-authoritarian (Tanzania).

Angola is a peculiar case, as its military has not always been insulated from politics. The military was actually part of the state political structures up to 1992. All three armies' professionalism and efficiency are recognized, particularly from an operational standpoint. This is objectively measured by those militaries' capability to project their troops beyond their borders in combined land and air operations.

The oldest of the three militaries, the Senegalese Armed Forces, has always been absent from state political structures, which should be self-evident in a liberal democratic country. This was actually the case before Senegal became a fully blown democracy in 1974. Soldiers were not even allowed to vote until 2000. The military's absence from the political arena or sphere was a condition of its neutrality. This stance is all the more surprising considering that since 1980, Senegal experienced a civil war in Casamance led by a separatist movement (Mouvement des Forces Démocratiques de Casamance, MFDC). The war has become a low-intensity war since 2006. Protracted civil wars can normally lead to the military seeking to play a greater political role. This never happened in Senegal. The Senegalese military is not known to display ethnic imbalances or political favoritism in recruitment or promotion. One of the long-standing Troop Contributing Countries to the United Nations (as early as the 1960s), the Organization of African Unity (now the African Union) and the ECOMOG (Economic Community of West African States Cease-fire Monitoring Group), the Senegalese Armed Forces have demonstrated their combat value on many fronts. The *Djambar* (a Wolof word meaning wrestler or fighter, commonly used to refer to Senegalese soldiers) intervened in the Gambia in 1981 to put down a coup attempt. They also intervened in Guinea-Bissau during the early hours of the 1989 civil war to help stabilize the front and prevent the capital from falling in the hands of the rebels (a force projection operation entirely carried out by the Senegalese military on short notice and financed by the Senegalese government). In 1992, Senegal sent troops to Liberia as part of the ECOMOG peacekeeping mission. In 1994, Senegalese troops were sent to Rwanda to participate in the UN peacekeeping. They also took part in international operations in the Central African Republic (1997), the Democratic Republic of Congo (MONUC, 2000) and the Ivory Coast (2002). But most emblematic is the fact that Senegal was the only Sub-Saharan country that contributed troops to the 34-nation coalition in Operation 'Desert Storm' (Iraq, 1991). Considering the importance of the notion of interoperability in international operations of such complexity, it is undoubtedly a recognition of the Senegalese military's professionalism.

If insulation has perfectly operated in Senegal, it seems as if the absence of insulation has not had adverse effect in Angola and Tanzania. This is an apparent paradox in the etymological sense of the word, i.e. something that goes against the commonly held opinion (*doxa)* but which is not necessarily contradictory. A more refined definition of insulation is therefore needed and possibly a requalification of politicization too. Let us start with the older of the two militaries. The *Jeshi la Wananchi wa Tanzania* (JWTZ, Tanzania People's Defence Force in Kiswahili) was created in 1964 almost from scratch to succeed the colonially-tainted Tanganyika Riffles. From the outset, the ruling party, the Tanganyika African National Union (TANU) and successor

Chama Cha Mapindunzi (The Revolutionary Party, created in 1977), integrated the military into its structures and promoted a clear political indoctrination within the military ranks. The latter point was illustrated by the introduction of political commissars in the JWTZ on the model of the Soviet Union Red Army's political commissars created by Trostky. In that sense, the Tanzanian military was not insulated. According to Lupogo, "Military personnel, as well as other public officials were allowed to join TANU, the ruling party, in a *de facto* one-party state. Membership of TANU was a prerequisite for enrolment in the army... Later, battalion-size units became party branches and every commander was party chairman in his command."[51]

In accordance with the two-way politicization process defined earlier on, the military was also involved in the political structures of the country at both central and local levels. Army officers held Cabinet posts, were elected or co-opted to Parliament and appointed to regional and district offices. Besides the armed forces, the ruling party also set up a militia to complement the defense system. The system worked this way until 1992 when the armed forces were declared apolitical and the militia disbanded.

In theory, the aforementioned system should have led to introversion and a consecutive weakening of professionalism. But neither of the two occurred. As far as professionalism is concerned, the JWFT has given evidence of its efficiency and professionalism on many occasions. Just like Senegal, Tanzania is a long-standing and numerically important Troops Contributing Country to the United Nations, the Organization of African Unity and successor African Union, and even the ECOMOG (even though Tanzania does not belong to the West African region). The *Jeshi la Wananchi wa Tanzania* launched a successful counter-offensive operation against Uganda which led to the toppling of Idi Amin Dada; in 1979, the Tanzanian Defence Force took Kampala. So, why did that political permeation (i.e. the absence of insulation) not lead to the weakening of professionalism, the emergence of factionalism or a string of coups?

A couple of explanations have been attempted. From a conceptual standpoint, Schiff's 'concordance theory' holds that the military, the political elite and the citizenry should engage in a partnership and entertain a cooperative relationship. According to that theory, the separation of political and military institutions is not a fundamental issue (both institutions may or may not be separated).[52] The key issue is the above-mentioned three partner agreement on four principles: a) the social composition of the officer corps; b) the political decision-making process; c) the recruitment method; d) and the military style. Military style probably means the way the military interacts with the population. In the African context, the social composition should include the

51 Lupogo, Herman, "Tanzania: Civil-military Relations and Political Stability," *African Security Review,* No. 10 (1), 2001. Available at http://www.iss.co.za/Pubs/ASR/10N01/Lupogo.html.

52 Schiff, Rebecca L., "Civil-military relations reconsidered: A theory of concordance," *Armed Forces and Society*, No. 22 (1), 1995, p. 7-24.

ethnic composition. According to the concordance theory, the respect of those four principles should decrease the likelihood of military intervention.

Tungaraza confirms this view when he asserts that "...in a society which enjoys a high level of cultural security where norms and assumptions are broadly shared, and are adequately expressed in social institutions — both the legitimacy and effectiveness of civilian rule is likely to be high, and the military propensity to intervene (MPI) is likely to be low."[53] This seems to have been the case in Tanzania. According to Lupogo, "The social mix of the TPDF (Tanzanian Defence Force) played an important role in relations within the military and between the military and civil society."[54] It has already been mentioned that the soldiers came from various tribes. They also came from all strata of society. Officers were selected after a general recruitment and not from special groups; commissioned appointment depended on individual performance. Thus, a private soldier could be the son of a cabinet minister or a corporal could be the father of a colonel. Three sons of presidents failed to reach commissioned ranks. In a nutshell, nation building was president Julius Nyerere's top priority. No segment of Tanzanian society would be spared from this voluntary nation building, including the military. It is the concordance between the political ideology (advocated by the ruling party, conveyed in the military) and deeds that contributed to the stability of government-military relations in that country.

The Angolan armed forces are the third of the three militaries to be examined. Angola, led by civilians since its independence (presidents Agostinho Neto (1975-1979) and José Eduardo Dos Santos (1979-present), had experienced a civil war from 1975 to 2002. The FAPLA (*Forças Armadas Populares de Libertaçaõ de Angola*), which became the FAA (*Forças Armadas Angolanas*) in 1993 (when the integration of rival UNITA troops was first attempted) have a unique trajectory that probably shaped their efficiency if not their professionalism over time. Just like the JWTZ, the Angolan armed forces have never been insulated. On the contrary, they have always been permeated by political ideology (Marxism-Leninism) and involved in the political structures of the state and ruling party, the MPLA (*Movimento Popular de Libertação de Angola*), at national and provincial levels.[55] Political commissars were integrated into all FAPLA units and reported, not to the political chain of command, but directly to the political leadership in the locality.

The FAPLA, while used for guerilla anti-colonial fighting, had experienced only very modest conventional warfare. Directly following independence, they benefitted from USSR logistical support and training, Cuba's tactical support on the ground and Congo-Brazzaville's internationalist solidarity. But the

53 Tungaraza, Casta, "The transformation of civil-military relations in Tanzania," *The military and militarism in Africa,* CODESRIA, Eboe Hutchful and Abdoulaye Bathily (eds.), Dakar, 1998, p. 306.

54 Lupogo, Herman, *Op. Cit.*

55 Many provincial governors were members of the MPLA Central Committee and senior commissioned officers from the FAPLA.

FAPLA, confronted with a special international context, quickly learned the necessity to fight for MPLA's survival and the country's territorial integrity. On the subject of the FAA's reorganization, Leão and Rupiya write "The government realised that in order to defend itself adequately it would have to reorganise the FAA."[56] The same could be said of the FAA's predecessor. The MPLA-led government realized that in order to defend its power and the territorial integrity of the country against a UNITA-South Africa coalition, it had to transform the FAPLA into a professional army with a high combat value. This necessity probably decreased the prospect of introversion and offset or mitigated the weakening effect of the politicization of the armed forces. Reinforcing the tactical capacity of the military was a matter of life or death for the MPLA regime. And the real danger did not come from within MPLA ranks (despite the short-lived episode of the so-called Nito Alves's dissidence in 1977) nor did it come from parts of the territory under MPLA's control but from 'outside' the controlled zones.[57]

The international context (The Cold War) played a crucial role in the framing of the Angolan armed forces. In order to contain UNITA's advance, Cuba, with the belated logistic support of the USSR, launched Operation Carlota (1976), using Congo-Brazzaville as a rear base. Because of its geographical proximity with Angola (Cabinda), its port in deep water and relatively good airport facilities, the Congolese city of Pointe Noire, and its military garrison, played an important role as a bridgehead. Operation Carlotta was named after 'Black Carlota,' a nineteenth century female leader of a slave rebellion in Cuba. The operation, which mobilized more than 50,000 Cuban troops, culminated in the battle of Cuito Canavale (1988) in which UNITA and the South African Defence Force (SADF) were decisively prevented from taking the town of Cuito Canavale. The SADF was forced to retreat in a more or less orderly way. Cuito Canavale was the second-largest battle on the African continent behind the battle of El Alamein in 1942.

Although both sides claimed victory, it is a fact that the battle of Cuito Canavale forced the South African armed forces to pull out of Angola and reduce their support to UNITA. It also resulted in the 1988 New York Peace Accord mediated by the USA under which Cuba and South Africa agreed to withdraw from Angola. Most importantly, the peace accord paved the way for the independence of South-West Africa (administered by South Africa by virtue of a League of Nations Class C mandate). The situation in Namibia, where South Africa was fighting against South-West African People Liberation Movement (SWAPO), justified South Africa's support of UNITA,

56 Leão, Ana and Martin Rupiya, "A Military History of the Angolan Armed Forces from 1960s onwards-as told by former combatants." *Evolutions and revolutions: a contemporary history of militaries in Southern Africa,* Institute of Security Studies, Ana Leão and Martin Rupiya (eds.), Pretoria, 2005, p. 32.

57 Zaire-backed the FNLA movement (the FLEC movement in the province of Cabinda). South Africa and the US backed the UNITA movement in the southern part of the country. UNITA was by far the greatest military threat to MPLA.

as SWAPO and MPLA were allies.
MPLA/FAA combat experiences contributed to the sharpening of tactical skills illustrated on many occasions. The Angolan armed forces played a key role in helping Kabila's troops topple Mobutu's regime in 1997 (Angola's strategic motivation was to cut off UNITA from one of its remaining rear bases, i.e. Zaire). Angola successfully intervened again in DRC in 1997 to stop Rwanda-backed insurgents from overthrowing president Kabila. The same year, they also successfully intervened in Congo-Brazzaville in a combined ground and air operation to help the rebels overthrow the constitutional government. All these recent out-of-the country interventions lead Leão and Rupiya to assert,

> From a military point of view, no country in the SADC and ECCAS sub-regions, with the exception of South Africa, has, or in the short and medium term will have, the capacity to match FAA. It should be noted that apart from its size, aspects such as the FAA's organisation, discipline and combat experience make the Angolan force far superior to most other armed forces in the region.[58]

So, why is it that a military, which became operationally efficient over time, was never tempted to seize power? Why has it been subordinated to a civilian, albeit authoritarian, leadership, in the context of a protracted civil war? It seems as if one of the possible answers is to be found again in Schill's concordance theory. According to Leão and Rupiya,

> Today, the FAA can be considered a factor and reflection of national unity comprising soldiers and officers of all ethno-linguistic groups, from all regions and parts of the country and from all political and social groups. For the vast majority of Angolans, the FAA represents the entire nation and is one of the few institutions in the country that truly embody a sense of nationhood.[59]

In fact, 'today' could be replaced by 'always.' Whereas Angolan liberation movements were broadly organized along ethnic lines,[60] the MPLA, although led by the Mbundu (25 percent of the population, located in the Luanda area), was more urbanized and mixed in its ethnic composition, having absorbed all the other small groups, including the mestiços and ideologically like-minded people from the other two important ethnic groups. This mixed ethnic composition seems to have been reflected in the FAPLA/FAA. But this voluntary nation-building strategy only accounts for part of the non-

58 Leão, Ana and Martin Rupiya, *Op. Cit*., p. 37.
59 *Ibid*., p. 8.
60 FNLA (*Frente Nacional de Libertação de Angola*) was dominated by the Kongo ethnic group, representing 13 percet of the population, mainly in the northern part of the country. UNITA was dominated by the Ovimbundu ethnic group, representing 37% of the population, mainly in the southern part of the country.

occurrence of coups. With regard to the military's non-intervention in politics despite its involvement in the party and the state's structures (according to Marxist-Leninist orthodoxy, state and party are not separate and the former is subordinated to the latter), the explanation can be found in the tactical posture of the MPLA/FAPLA. The MPLA/FAA had no time for introversion as it was encouraged to focus on combat missions, facing enemies, which had serious conventional capabilities (UNITA and the South African armed forces). The political leadership therefore, had a vested interest in increasing the military's professionalism for its own survival, thus limiting politicization to indoctrination for the reinforcement of the unity of action, not for politicking or undermining the cohesion of the armed forces. Had that serious external threat not existed, introversion could have occurred in the context of the politicization of Angolan armed forces.

These historical elements concerning the Angolan, Senegalese and Tanzanian militaries are recalled to point to the fact that these three armed forces have the tactical abilities to stage and perform coups. They probably have more capabilities than most of the militaries, which have intervened in politics elsewhere in Africa. The cases of Angola and Tanzania illustrate the difference I make between 'involvement' and 'intervention.' There is an obvious involvement of both Angola and Tanzanian's armed forces in politics. But their involvement has not resulted in an intervention in politics in the meaning usually ascribed to that term, i.e. a military take-over of state power.

Conclusion

According to Malaparte, all governments are subject to overthrow. If that statement is potentially true, reality also shows that not all governments are actually overthrown. There is no *fatum*; a couple of factors can offset the risk of overthrow. What are those factors? Why have certain African countries not experienced a coup? Is it because they are rich? Maybe, but not necessarily. Is it because they are democratic? Maybe, but not necessarily. Is it because they are culturally homogeneous? None of the African countries are culturally homogeneous. So, what is the silver bullet, if any? For Welch and Smith, "Political legitimacy is the most crucial factor affecting the likelihood of military intervention."[61] This is certainly true, and Niger has illustrated that hypothesis twice in her recent history (1999 and 2010). But some 'legitimate' governments have also succumbed to military interventions around the globe. Should we therefore focus on the military as an institution? The answer is undoubtedly positive. In this regard, Ndiaye argues, "A professional, autonomous, and politically insulated military is not likely to stage coup."[62]

61 Welch Jr., Claude E. and Smith, Arthur K., *Military Role and Rule*, Duxbury Press, North Scituate (MA), 1974, p. 49.

62 Ndiaye, Boubacar, *The Challenge of institutionalizing civilian Control: Botswana, Ivory Coast and Kenya in Comparative perspective,* Lexington Books, Lanham (MD), 2001, p. 10.

While insulation and the absence of politicization have contributed to the professionalism and non-intervention of the Senegalese military for example, the Angolan and Tanzanian cases show that politicization and non-insulation can also go hand in hand with both professionalism and non-intervention. However, the absence of introversion seems to stand out in all three militaries. We therefore infer that professionalism and non-introversion, which all three countries have in common, significantly account for non-intervention in politics, offering more than insulation and the absence of politicization. While no single structural factor can account for the likelihood of a coup, the introversion of the military, which is always a signal of politically weak institutions, will put any African polity at risk of a coup in the long run.

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MILITARY INCIDENTS, CRISIS AND THEIR POLITICAL CONSEQUENCES

The *Wilhelm Gustloff*

Carlos E. Perez del Castillo

Economic Affairs Officer, World Trade Organization

"Ladies and gentlemen, this is your captain speaking; please do not take out your lifejackets." That must have been the routine announcement made by the cabin crew of the *Gustloff* to the packed passengers. But at that moment, nobody suspected the extent of the tragedy that was unfolding. The ship represented, in one way or another, their unique and last chance to escape from the Red Army, and surely from death. The relative safety of their embattled homeland should have been only a few hours away, but three torpedoes changed the course of history and created the deadliest disaster in modern times.

At the beginning of 1945, after more than 2'000 days of conflict, while the Eastern Front was disintegrating, the German High Command put in place Operation HANIBAL, intended to rescue their nationals from, at that time, the unstoppable advance of the Red Army in Prussia towards Berlin. The cruise liner *Wilhelm Gustloff*, among others, was commissioned as a transport carrier to rescue the German Diaspora in Prussia. The *Gustloff* however, never reached her final destination, neither did her desperate passengers, nor her supposed but never confirmed precious cargo.

The 1912 sinking of the *Titanic* (iceberg accident) and the *Lusitania* (torpedo attack) three years later, were commonly considered as the greatest maritime disaster of all times. Yet, a German ship carrying mostly civilian refugees, which sank in the Baltic Sea in the closing months of World War II, claimed more than twice as many lives as both ships combined. Only a few managed to escape from the biggest tragedy at sea of all times.

At the beginning of 1945, prior to the surrender of Germany, a series of disasters at sea were registered. At least five German merchant ships were involved. These ships were commissioned for the war effort and were transporting normal military personnel, the wounded, and civilians alike. Their names were the *Wilhelm Gustloff*, *General Steuben*, *Goya*, *Cap Arcona*, and the *Thielbeck*.

As opposed to the *Lusitania* accident, the sinking of the *Gustloff* did not change

the course of the conflict, or even history, except for those directly involved. The *Gustloff* tragedy only added more casualties to an already heavy list of deaths and atrocities committed by both sides during the War. The true story surrounding the *Gustloff* is not only tragic, but absolutely incredible, filled with a wide spectrum of human drama and mystery, during one of the most terrifying periods in history.

In order to better understand the sinking of the *Gustloff* and why it was neglected as a tragedy, we will try to answer the following research question: was the *Gustloff* the worst maritime tragedy in war? We will also analyze the corresponding hypothesis: the *Gustloff* was, during World War II, one more casualty of war. But with time, it became a much more serious, tragic, unjustifiable and mysterious event.

The *Wilhelm Gustloff*

The *Wilhelm Gustloff* was a German passenger ship constructed by the Blohm & Voss shipyards in 1936-37 at a cost of 25 million Reichmarks (RM). She was named after the leader of the Swiss Nazi Party (NSDAP).[1] The launching ceremony of the ship and its first test were on 15 March 1938. Here are her main characteristics:[2]

Launch	5 May 1937	**Decks**	8
Delivery	15 March 1938	**Power**	Four 8-cylinders MAN diesel engines (9,500 hp)
Type	Passenger cruise ship	**Propulsion**	2 "twin-screw" propellers (4 blades each)
Tonnage	25'484 gross register tons	**Speed**	15.5 knots (approximately 29 km/h or 18 mph)
Length	208.5 m	**Range**	12'000 nautical miles at 15 knots
Beam	23.5 m	**Capacity**	1'456 (original layout)
Height	56 m	**Crew**	417

Her maiden voyage (*Jungferneise*) took place on 24 March 1938, consisting of a three-day cruise in the North Sea. The first missions of the *Gustloff* were quite *sui generis.* First, she complied with an emergency call from the *Pegaway*, an English cargo ship that was sinking 25 miles northwest of Terschelling Island (The Netherlands), rescuing 19 seamen. Then, in April 1938, on the occasion of the "Anschluss" plebiscite, she was commissioned to act as a floating polling station for German and Austrian citizens living in England. The *Gustloff* cast anchor over three miles offshore in order to remain in international waters.

1 The ship was originally intended to be named A. Hitler, but just before her launching in 1936, Gustloff's assassination took place. It was perpetrated on 4 February in Davos by David Frankfurter, a Jewish medical student, who surrendered voluntarily to the police. He spent the entire war in prison but was pardoned and released less than one month after Germany's unconditional surrender.

2 *Wilhelm Gustloff* Official Website. Available: http://www.wilhelmgustloff.com/welcome.htm (all websites last visited: 13 April 2009).

Eligible voters were then ferried between the Tilbury docks (east of London), in what could be considered one of the most extravagant polling stations in history.

The *Gustloff* was the first purpose-built cruise liner for the Nazi "Strength Through Joy" (Kraft durch Freude (KdF)) labor organization.[3] The main purpose was to provide recreational and cultural activities for German civil and public servants. She was the flagship of the KdF cruise fleet until the spring of 1939, providing pleasure cruising at bargain fares (45 RM). In 17 months and over 50 excursions, the *Gustloff* transported 65'000 passengers. That was her last civilian role. From then on, she would increasingly serve the needs of the German military machine. Within one week, Germany had invaded Poland, sparking off a chain of events that ultimately destroyed the Third Reich, including the *Gustloff*.

In May 1939, she transported part of the "Condor Legion" who had fought in the Spanish Civil War back to Germany. This was the only time the boat would ever be used exclusively as a troop transport ship. In September 1939, she was commissioned by the Kriegsmarine as a "Hospital Ship D" (*Lazarettschiff D*). The *Gustloff*, joined by many other former KdF cruises ships, became part of Germany's naval hospital fleet. Conforming to international law regarding identification of hospital ships, her appearance was changed. A conspicuous green stripe was painted horizontally around its hull and red crosses replaced the KdF logos on the funnel. It would be only briefly that she would serve a neutral hospital role.[4] In November 1940, she was stripped of her medical equipment (500 beds) and repainted from her hospital ship colors to standard naval grey.

In early July 1940, Hitler gave orders for the planned invasion of England (Operation SEELÖWE). *Lazarettschiff D*, like many other resources in the Kriegsmarine, was to be requisitioned for this massive and ambitious undertaking. The German High Command certainly expected more casualties during this campaign than the previous one. The Wehrmacht had no units specifically trained and equipped for large-scale amphibious operations. As a previous step, the Battle of Britain was raging in the air, and Royal Air Force fighters defended the UK skies, ultimately destroying the Luftwaffe. On 5 September 5 1940, she arrived at Wesermünde (Port of Bremen, later renamed to Bremerhaven) with deployment plans for Rotterdam, readying for Operation SEA LION. Around mid-September, the invasion was

3 The basic idea behind this concept was that a contented labor force would be more productive on the front. Its main characteristics were: (i) perception by workers that the Nazi Government cares about them by providing affordable travel opportunities; (ii) provides means to reward consumers and workforce and bring to the "common man" pleasures reserved only for the rich; (iii) demonstration of power of the "New Germany;" and (iv) ultimately increasing worker productivity (despite wage freezes) as Nazi Germany prepares for war.

4 Surprisingly, the first patients treated on board were not those of the Wehrmacht but 650 wounded Polish soldiers.

cancelled, and the ship was ordered to return to the Gulf of Danzig (Poland).[5] This proved to be the last time the *Gustloff* serviced the war effort in her short history as *Lazarettschiff D*.

During the winter of 1940, the *Gustloff* once again began a process of metamorphosis, the second one in just over a year. She was turned into an accommodation vessel (floating barracks)[6] anchored at the Baltic port of Gotenhafen (former Gdynia), where she would remain until January 1945.[7] Only a handful of the engine maintenance crew were ordered to remain, a decision that would have serious consequences in the near future.

In October 1943, American bombers of the 8th Air Force carried out a raid over Gotenhafen. The *Gustloff* narrowly escaped disaster as a bomb exploded in the water on her starboard side, creating a reparable gash of 1.5 meters long in the hull. Several other ships in the harbor were damaged or sunk, such as the *Stuttgart* (hospital ship), another former member of the KdF flotilla.

As a civilian ship, her Captain was F. Petersen, a merchant marine officer, but as a residential vessel for the 2nd U-Boat Training Division, she also carried Commander W. Zahn, head of the U-boat division, which had made its home on the ship for the last four years.[8] This bi-command structure complicated the decision making process and proved to be fatal during the incident. The *Gustloff* would spend the majority of her life as a U-boat barracks. She sat dockside for over four years until she was put back into service to transport civilian refugees and military personnel as part of "Operation Hannibal." The desperate situation on the Eastern Front, coupled with the scarcity of available equipment, triggered the return of the *Gustloff* from retirement to active duty again.

Operation HANNIBAL

Backdrop to evacuation of refugees

Since the capitulation of Marschal Paulus' 6th Army in Stalingrad at the beginning of 1943, the broad background was the following: (i) the front lines continued to disintegrate; (ii) fewer U-boats returned from mission; (iii) North Africa had been evacuated, and (iv) "D-Day" loomed in the horizon.[9]

5 The Gulf of Gdansk, southeast area of the Baltic Sea which provided perfect, sheltered waters for German U-boat training operations (relatively shallow inland sea). Currently Poland and Russia surround the Gulf, but during WWII, it was primarily German territory (East Prussia and Pomerania).

6 Barracks for U-Boat (submarine) trainees of the 2nd Submarine Training Division (*Unterseeboot-Lehrdivision*).

7 The port nestles at the western side of the Gulf of Danzig, sheltered from the Baltic Sea by the Hela Peninsula.

8 Carl Lübbe (58 years-old) was the original designated Captain, who died from a heart attack while on duty on board. He was replaced by Peterson, who ironically commanded the boat at sea only twice in his career.

9 Beevor, Antony and Cooper, Artemis, *Stalingrad: The Fateful Siege 1942-1943*, Penguin, New York, 1998.

Although Danzig still stood at the end of 1944, there was an uneasy feeling over the bay as the Russians drove nearer by the day. Refugees began heading towards the ports in the Gulf to escape Russian forces.

By October 1944, the Red Army, under the command of General Galitsky, crossed the eastern border of the Third Reich and took the town of Nemmersdorf in East Prussia - the first German city to fall into Russian hands.[10] Hundreds of thousands of German refugees continued to stream into Danzig, hoping for safe passage to the West. The vast majority formed part of the Sudetenland contingent.

The reason for this vast rescue operation of the German enclaves at Danzig and Konigsberg was the sudden thrust on 12 January 1945 of Soviet forces rushing towards Berlin.[11] By 26 January, they had reached the eastern shore of the Gulf of Danzig. This maneuver effectively cut off Prussia from the rest of Germany. For the 30'000 refugees and wounded soldiers now crowded into the Gotenhafen port, the only escape could be by sea.[12] The Russians had reached the Oder River and were only about 100 miles from Berlin. They had overrun and massacred thousand of German refugees in these areas, both civilian and military.

Operation HANNIBAL was designed to evacuate Germans surrounded by the Red Army in East Prussia and was also known as the "German Dunkirk." The *Gustloff*'s final voyage was during Operation Hannibal. Its mission consisted of sailing from Gotenhafen to Kiel and Flensburg (western Germany). Gross Admiral Doenitz's "sea bridge" managed to transport over two million refugees from East and West Prussia, and Courland (present-day western Latvia and Lithuania, respectively).[13] Despite Hitler's refusal to yield an inch, Doenitz managed to send a one-word coded signal, "Hannibal," for his submariners to flee to the West.

Eventually, it became the most successful and largest emergency sea evacuation in history.[14] Over a period of 15 weeks, up to 1'080 merchant vessels of all types as well as numerous naval crafts were assembled to rescue these people, reaching an outstanding 2'116'500 persons picked up and rescued by sea to a relatively safer area back in Germany. This rescue operation enjoyed over a 98% success rate, and only about half a million of the total rescued were military personnel. By contrast, if compared with the rescue of the British Expeditionary Force and some leftover troops from other European nations at Dunkirk in 1940, the number of refugees was seven times

10 Today its name is Mayakovskoye (Russia).
11 Former capital of East Prussia until 1945, when the Russians annexed it into their territory and renamed the city Kaliningrad.
12 The Nazis seized Gdynia Port (in Pomerania, Poland) in late 1939. It was renamed Gotenhafen after the Goths. Gdynia established itself as a major seaport as a result of Polish-German tensions after WWI.
13 Flag Officer U-boat, Commander-in-Chief of the German Navy, and in the final days of the Third Reich appointed successor to the Fuehrer.
14 Doenitz, Karl, *Memoirs: Ten Years and Twenty Days*, De Capo Press, Inc., Cambridge (MA), 1997.

greater.[15]/[16]
German women and children knew that the Red Army would not spare them. For some of them, the *Gustloff* was their only means of escape from the advance of Soviet forces, which were converging on the region. Out of the total number rescued, about 25'000 to 30'000 lives were lost, the majority with the sinking of the *Gustloff*, *Steuben*, *Cap Arcona*, and *Goya* (see below).

Disasters at Sea[17]

Year	Vessel	Country	Number of casualties
1865	*Sultana*	United States	1'700
1912	*Titanic*	Great Britain	1'198
1915	*Lusitania*	Great Britain	1'503
1940	*Lancastria*	Great Britain	5'000
1945	*Wilhem Gustloff*	Germany	8'000 - 9'000[1]
1945	*Goya*	Germany	6'000[2]
1945	*Cap Arcona*	Germany	4'500[3]
1945	*General Steuben*	Germany	3'500
1945	*Thielbek*	Germany	2'800[4]
1941	*HMS Hood*[5]	Great Britain	1'415
1948	*Woosung*	China	2'750[6]
1982	*General Belgrano*	Argentina	323
1987	*Dona Paz*[7]	Philippines	4'000[8]

The beginning of the end

On 22 January 1945, the *Gustloff* started preparations to receive thousands of refugees. As the engines had not operated in over four years except for minor test runs, one of the biggest challenges for the crew was to get the ship seaworthy and running properly. The "German Dunkirk" was about to begin for the *Gustloff*. The *Gustloff* once again found itself in the role as flagship in Gotenhafen. This time however, she was not a gleaming white flagship of the KdF cruises. It was a naval-grey "ship of hope" for an anxious flood of refugees, who had been lucky enough to make it as far as the docks. The vast majority were women and children, given that men had been called for duty to fight the Russians.
Despite the mass of refugees flocking on the docks, boarding the boat was relatively orderly in the early stages, as armed sentries guarded the gangways.[18] The ship's printing press, once used to create colorful cruise

15 On 27 May 1940, 234'000 British and 112'000 French troops were rescued from the North of France.
16 Mackenzie, Gregory, *Under Water Warfare, The Struggle against the Submarine Menace 1939 – 1945,* Naval Historical Society of Australia, Garden Island, New South Wales, 1997..
17 *Wilhelm Gustloff* Official Website. Available: http://www.wilhelmgustloff.com/welcome.htm (accessed 13 April 2009).
18 People were so desperate that it was not unusual that mothers already on board were persuaded to throw their babies to relatives in the harbor, who used them again as boarding vouchers. Sometimes the infant would fall into the water between the ship and the quay. More often, they were trampled in the rush to catch them, as strangers grabbed them as

agendas, now cranked out the coveted "Identity Pass," that allowed access on board.

With less than two days before the departure, ten of the 22 lifeboats were still missing. After over four years as a floating barracks, they had gradually disappeared from their davits,[19] requisitioned for other duties in the harbor (i.e. to create smoke screens to obscure allied air raids). Hastily, 18 small boats were hoisted to the sundeck and numerous life rafts were also installed. Wherever there was a place on the upper decks, these additional crafts were put, and somehow secured. Not having enough davits, these crafts were to float up in the event of an accident. This in fact eventually happened, saving several lives.

Before counting was stopped in the morning of 30 January, already more than 3'000 passengers (double of its normal capacity) were loaded. Additionally, small boats full of people begging for a spot on board pulled up alongside the ship. They were rewarded as nets were lowered to take them aboard. Consequently, the exact number of those aboard would never be known.

K. Hoffmann, a Kriegsmarine sailor and survivor of the sinking described the following scene:[20]

> …by January 22, the ship was ready to receive her passengers. It was extremely cold, about-14° C, and with likely arrival of Russian forces, chaos was the order of the day. 60'000 refugees crowded into the harbor town of Gotenhafen and people stormed aboard the ship, children became separated from their parents. At the last moment, about 400 women aged from 17 to 25 who were naval auxiliary personnel were added to the overflowing throng on board. They were housed in the swimming pool area.[21] On 29 January, when it was doubtful that any further numbers could be squeezed on board, a hospital train arrived, and these injured soldiers (1'200) were somehow crammed into the *Wilhelm Gustloff*.[22]

Due mainly to the existing confusion during the loading of the boat, no official figures were available on the number of passengers. The official passenger list cited 6'050 people on board, but many refugees boarded without being accounted for. More recent estimations situated that figure between 8'000 to 10'000 people.[23] Although the ship was built for less than 1'500 passengers,

their passports to safety.

19 Small cranes over the side of a ship that are used to rise or lower lifeboats.

20 He was saved by German Torpedo Boat T-36. He reported that three rescued pregnant mothers gave birth that night aboard of the converted torpedo boat nursery.

21 Only two fortunate ones survived.

22 Mackenzie, Gregory, *Op.Cit.*

23 H. Schön, who carried out extensive research into the sinking in the Eighties and Nineties, concluded that a total of 10,582 passengers were on board, distributed as follows: 173 naval armed auxiliary forces; 918 officers; 373 female naval auxiliary helpers; 162 badly wounded soldiers; and 8'956 refugees.

she had the capacity to carry many more for a short trip by utilizing public recreation spaces to accommodate more people.[24] Nevertheless, she was carrying less than 50% of the rescue equipment necessary for the extra passengers.

On 30 January 1945, shortly past midday, the boat started its final journey from Gotenhafen, following a westward route to the open sea. At the beginning, she was accompanied by another passenger liner (*Hansa*), also filled with refugees and soldiers, and two torpedoes boat. However, the *Hansa* and one of the torpedo boats encountered technical problems and were not able to continue, leaving the *Gustloff* with its escort, the *Löwe*, unconscious of their forthcoming dreadful fate.

After four years, the *Gustloff* had started its engines again, setting course for Kiel, far away from the continued disintegration of the Eastern Front. Icebreakers had to work to carve a path through the Bay of Danzig to allow passage to the Baltic Sea. On the bridge, disagreements and tensions were budding: the two main senior officers commanding the ship, Captain Peterson and Lieutenant Commander Zahn, could not agree on an appropriate course.[25]

Every possible space on the ship was occupied. Below deck, thousand of passengers attempted to settle into their assigned areas for the journey. Last minute arrivals carved out any reasonable living space. Above deck, wind, snow, and hail pelted the *Gustloff*. After leaving the bay, the sea became rougher, and seasickness was the common denominator. Unable to relieve themselves overboard, onboard toilets became clogged and the stench nauseating. Instructions from the crew were to wear the lifejackets provided to them and under no circumstances to remove them. Despite the bitter cold outside, heat and humidity was rising below decks. Many ignored the orders to keep them on, a risk they were willing to take to somewhat relieve the tremendous discomfort. Despite the reigning chaos, soup, sandwiches, and other basic food were offered but accepted only by those who could tolerate them. Even so, for many it was a small price to pay compared with the hardships endured recently and the menacing of the Red Army.

The conditions aboard this "liberty ship"[26] were far from ideal, not only because of the bad weather and rough Baltic Sea, but below, in the overcrowded decks, many succumbed to seasickness. The weather was bad with strong wind, snow, and the presence of ice floe in the surrounding waters. Layers of ice also commenced to form on the deck of the boat. Although the bad weather rendered the conditions on board extremely unpleasant, it should

24 The last to come aboard was the Mayor of Gotenhafen and his family. They were given the suite that had been exclusively reserved for the Fuehrer but had never been occupied.

25 Adding to the already complex chain of command, two young captains from the merchant marine (Köhler and Weller) were aboard and also gave their opinions.

26 "Liberty Ships" were cargo ships built in the US during WWII and used in convoy operations to supply the UK. They represented also the largest number of ships produced to a single design (2,751). I therefore use this term to define the *Gustloff*, because for the Germans, strangled by the Red Army, it represented their only means out from the inferno.

have been an alibi. The worse the weather became, the better the chances for a safe transit appeared. Against all odds about two hours after departure, it suddenly started to clear somewhat.

The Captains could not agree on the best course of action to guard against submarine attacks. Against the advice of Zahn, the military Commander, who argued for a course in shallow waters close to the shore and without lights in order to provide better protection against submarine attacks, the route followed was quite the opposite.[27] Petersen decided to head for deep water, following "Route 58" to be protected by the immensity of the sea. The idea of sailing the countervailing zigzag course (to deter and complicate submarine attacks) was briefly considered but quickly discarded for the following reasons: (i) the narrowness of "Route 58" impeded the maneuver; (ii) the tactic would consume far too much time and diesel; and (iii) it had been swept free of mines.

Conversely, one thing the Captains did agree on was the inadequacy of their escort; the *Gustloff* was basically alone in an unforgiving sea and hostile scenario with only one small escort for protection (the *Löwe*). She barely had any means of defense apart from two anti-aircraft guns mounted on the upper deck;[28] there were no sonar or dissuasive weapons against submarines, which were omnipresent in the zone. Approximately 90 minutes after leaving Gotenhafen, she settled into a course further away from the coast (Lane No. 58), an "officially" mine-free/clear channel.

Moreover, when Petersen was informed by radio of an oncoming German minesweeper convoy, he decided to activate its navigation lights in order to avoid collision in the dark. He reasoned that the danger from collision in low visibility was greater than any danger from submarines. Despite the weather, this move made the boat an easy target, not to say a sitting duck. According to Kappes,

> Captain Petersen did have some justification for what in retrospect seems like a risky tactic. For most of the war, the Nazis had kept the Soviet fleet bottled up in Kronshtadt by a naval blockade and mining the Gulf of Finland. But after the Russian-Finish armistice (19 September 1944), the Soviet Navy was finally able to break out. However, Russian naval activity in January 1945 was still fitful. Nonetheless, the armistice agreement awarded the Russian important military bases on Finnish territory, including the strategic Hangö peninsula.[29]

27 Near the coastline, mines were the main danger.

28 During its short journey and due to the freezing temperatures, they froze. The efforts from the crew to keep them deiced were futile.

29 Kappes, Irwin J., "Wilhelm Gustloff - The Greatest Marine Disaster in History... and why you probably never heard of it," Military History Online, 7 June 2003. Available: http://www.militaryhistoryonline.com/wwii/articles/wilhelmgustloff.aspx.

In normal situations, due to her speed (15.5 knots), she would have been able to outrun any submarine. But as she had been used as a barracks and poorly maintained for years, her current maximum speed of 12 knots made her vulnerable.

The Sinking

The doomed cruiser was sighted by the Russian submarine S-13. At 21:10, three torpedoes from S-13, under the command of Alexander Marinesko, hit the *Gustloff* about 30 km offshore between Groβendorf and Leba (near the Danish island of Bornholm). The wreck revealed that the first torpedo impacted deep below the waterline near the port bow; the second one exploded below the swimming pool area; and the third one hit the amidships in the fore part of the engine room, opening up the hull and cutting off electrical power and traction.

Panic ensued, as thousands tried to reach the deck in an attempt to save their lives. The *Gustloff* listed starboard then righted herself briefly. The ship was doomed, and the forecastle started to dip below the sea surface, while the stern rose higher in the air.[30] In less than one hour, the boat sunk, taking with her in the icy depths of the Baltic over 9'000 human beings. Fortunately, a small flotilla of German ships in the vicinity managed to save almost 1'000 people.

At that time of the year, the water temperature was around zero, thus the lifeboats were not free of ice. In fact, hindsight indicated that the lifeboats should have been swung out from their davits as the ship got underway. Captain Peterson took this into account but reasoned that such a procedure would have caused more panic among the passengers. Those decisions would end up costing hundreds of lives, although the exact number of casualties will remain unknown.

The *Gustloff* was sunk by a Russian submarine (S-13), which was in that area despite a series of contradictory factors. The schedule of the S-13, as well as the last moments of the *Gustloff*, are depicted in the following section.

Russian Submarine S-13

In October 1942, the 780-ton S-13 was caught on the surface while charging her batteries and attacked by two Finnish submarine chasers.[31] During her crash dive, the submarine hit the bottom, severely damaging her rudder and destroying her steering gear. The subsequent depth charges inflicted additional

30 The mid-section was badly damaged and crushed. The bow and stern appear relatively well preserved.

31 Designed in 1933, the *Stalinets* class boat was constructed by a German company set up in Holland, to evade restrictive clauses of the Versailles Treaty. Although the S-13 was built in 1939-40, it was built out of an illegal cooperation with the Russians prior to the war.

damage, but she managed to escape and made it back to Kronstadt.

On 2 January 1945, Captain Alexander Marinesko was supposed to leave the port of Turku (Finland) to patrol the Baltic, together with three other submarines.[32]/[33] He disappeared on December 31st for a three-day New Year's Eve celebration. The S-13 crew finally located him, and sent him back to base- one day after the other submarines had left.

After being interrogated for several days by the NKVD's Soviet security forces[34] on 11 January 1945, Marinesko was finally released and authorized to head out to the Baltic aboard the S-13. He was not court-martialed as a deserter, as the Baltic Fleet Admiral realized that in such case, the S-13 would not have been operational for a long time. He still commanded his vessel at sea but needed a big score to mitigate for his misdeeds while on land. Therefore, Marinesko was sent on a new mission to prove his abilities.

The sequence of the attack on the *Gustloff* is described in the next section. On his way back to the base, Captain Marinesko had received orders to return immediately, but he would score a second hit. Shortly after midnight on 10 February, the S-13 lined up a second large ship in his periscope. Marinesko was convinced he had found a cruiser of the "Emden class." Using his stern tubes he fired two torpedoes, hitting below the bridge of the 14'600-ton ship named "*General Steuben*." She was also transporting between 3'000 to 4'000 wounded persons, refugees, and medical personnel from Danzig to Swinemunde (see table "Disasters at Sea").[35] Within seven minutes, the *Steuben* had rolled over and sunk. Only 300 passengers were rescued.

When he arrived at his base four days later, he was informed by his superior officer, Captain Oryel, that he had sunk the *Gustloff* and the *Steuben*, which were both in emergency evacuation missions. Marinesko alone was responsible for the loss of over 10'000 men, women, and children in a single mission (five torpedoes). Nevertheless, he was not declared a "Hero of the Soviet Union." On the contrary, he had become a marked man, his character deemed less than compatible with the Soviet ideal. In September 1945, despite all efforts to gain recognition for his "achievements," Marinesko was removed from his post of commander, mainly due to the problems of discipline and alcoholism. He was transferred to shore duty with a lower rank. In November of the same year, he was dishonorably discharged from the navy. After that, he was sentenced to three years of hard labor in Kolyma Labor Camp (Siberia) for stealing property.[36]

At last, in 1963, he was finally credited with recognition, almost a posthumous

32 Born in Odessa, he was the son of a Romanian sailor and a Ukrainian woman. His father had fled to Russia after beating an officer, settled in Odessa, and changed the last letter of his name, "u," to an "o."

33 Turku is located in the southwest of Finland and was home to Smolny Naval Base for the Soviets in the latest part of WWII.

34 Predecessor to the KGB.

35 Promenarian town (present-day Swinoujscie).

36 Soviet forced labor camp situated in northeastern Siberia, forming part of the "Gulag Archipelago."

achievement, just three weeks before dying of cancer.[37] According to the Soviet propaganda version, more than 1'000 German officers, including around 80 U-boat crew were aboard the *Gustloff* and died in the sinking. For the female personnel, they were mainly described as SS personnel on duty in the concentration camps.
Finally, the S-13 was decommissioned on 7 September 1954 and scrapped on 17 December 1956. Out of the 13 units of the type S (Stalinets) submarine, only this boat survived the war.

The Attack

It was from Hangö that Captain Marinesko sailed in the morning of 11 January. During the 19 days at sea, he encountered only civilian small craft. He was receiving radio dispatches, describing the fall of Memel and Königsberg (Kaliningrad).[38] Based on that information, he reasoned that German transports might be evacuating troops to the west. Nonetheless, while patrolling the coastline, he saw no activity where he expected it most. He then decided to enter into the Gulf of Danzig without informing his central command, aware of intense enemy activity in the zone. One should keep in mind that he was awaiting a more than secure court martial on his return; it was thus a calculated risk for him and his crew (47 men).
At 20:35, he raised his periscope for a final look before surfacing for the night.[39] Visibility had further improved, but there were still no potential targets in sight. Later, the first officer on guard spotted lights in the distance, and Marinesko gave orders to follow that course. As the snow and fog were clearing from time to time, he spotted "the silhouette of an enormous ocean liner, even with its lights showing." Over the next two hours, he shadowed the target, fine-tuning his plan of attack.
He decided to carry on his attack from the coastal side, where least expected. Although the danger from mines was greater there, he was playing the odds (like Petersen albeit more successfully). In addition to the threat of mines, his greatest concern was the shallow depth (only 30 meters). Keeping in mind that his target would be under the protection of a destroyer, he considered it a risk worth taking and decided to proceed. On board the essentially unarmed "enormous ocean liner," no one was aware of the danger lurking in the darkness. The sonar on board the *Löwe* had frozen.
Marinesko narrowed his range on the *Gustloff* to 1'000 meters before ordering

37 In October 1963, 18 years after sinking both German cruises, he finally received the traditional honor ceremony due to a captain upon successful return from a mission. In 1990, Mikhail Gorbachev posthumously awarded him with the "Hero of the Soviet Union" Title. Also, the submarine museum in St. Petersburg was named after him, and monuments dedicated to him were erected in Kaliningrad, Kronstad, and Odessa.
38 Now Klaipeda (Lithuania). It was a traditional East Prussian town until the Treaty of Versailles separated it from Germany. In 1939, it was annexed back.
39 In order to recharge its oxygen tanks and batteries.

all torpedoes set to run at a depth of three meters. He waited for the doomed ship to lumber into the crosshairs of his periscope and then gave the order: "fire one"; three seconds later: "fire two"; and then "fire three and four."[40] As if to emphasize Soviet retribution and revenge, each torpedo had been painted with a dedication: number 1 – "for the Motherland;" 2 – "for Stalin;" 3 – "for the Soviet People;" and 4 - "for Leningrad," respectively.

Three torpedoes speeded towards Marinesko's unknown but "enormous" target. At 21:16, the first torpedo struck the front of the ship, blowing a gaping hole in the port bow. Moments later, the second hit further astern, and finally, the third scored a direct hit in the engine room below the funnel. Upon the first reports of damage, the watertight doors were ordered shut to seal off for the forward part of the ship. Unfortunately, this area contained the crew quarters. Many off-duty crewmembers (especially those trained in lowering lifeboats and emergency procedures) were sealed to their doom with direct consequences for the abandoning ship phase.

Torpedo No. 2 got stuck in its launching tube armed and activated, threatening to blow the S-13, but in the end, the crew managed to deactivate it. What a sarcastic coincidence that the weapon dedicated to the Supreme Leader almost caused their own destruction.

The third torpedo sealed the fate of the *Gustloff*; the direct hit on the engine room immediately knocked out both the engines and power. Lights as well as communication collapsed. Without power and communications, radio room operator Rudi Lange had to use an emergency transmitter to send the SOS. With a transmission range of 2 km, only the *Löwe* was able to receive the distress call. This is how it became aware of the attack on the *Gustloff*. Without delay, the *Löwe* turned towards the damaged ship, while re-transmitting the *Gustloff*'s SOS.

Seventy minutes after the first torpedo had struck, the ship sloped below the surface of the icy Baltic, taking many thousand of people with it. Those left flailing in the freezing, stormy water would not last long. Many tried to grasp at lifeboats or rafts only to be clubbed or beaten off by desperate and paranoid occupants. Several bodies of victims, made buoyant by their lifejackets, bobbed lifelessly up and down in the sea.[41]

On deck, the combination of panic, ice, and lack of trained crew exacerbated the situation. People often slid off the icy decks into the freezing waters. Each passing minute, the ship listed more and more. Lifeboats were frozen to their davits. Desperate people clawed and smashed at them with bare hands, trying to free them. Many did not survive the frenzied charges on the deck. The "women and children first" rule was ignored by many in their terrified efforts to get on the deck and lifeboats. The stairwells jammed quickly, as a mob of people attempted to escape the rushing and freezing waters below

40 Kappes, Irwin J., *Op. Cit*.

41 Corpses of young children floating upside down were not uncommon, because the ill-fitting lifejackets were not designed for smaller sizes.

decks. To fall on the way would mean almost certain death. Some, sensing the hopelessness of the situation, decided to take their lives, including those of their families- especially the critically wounded, who could not move without assistance. Guns were not exclusively used for suicides. Many officers used them in order to try to keep the situation under control; therefore, shooting was not uncommon.

After the *Gustloff* sunk, escort rescue efforts continued. Obviously the *Löwe* was the first to be on the scene and pluck survivors (in total 442) out of lifeboats and the water using nets. The *Gustloff* list was making it difficult to move around the deck and people started to jump overboard. The *Löwe* was alongside within 15 minutes, and the scene her Captain found was one of complete confusion and chaos, worsened by the freezing conditions.

T-36, another torpedo boat, arrived just in time and managed to rescue another 564 "castaways." The heavy cruiser, the *Admiral Hipper*, which the T-36 had been escorting, arrived later but could not stay in the rescue operation due to the eminent danger of more Russian submarine attacks. Three other minesweepers eventually arrived to assist in a desperate race against time and the freezing water, saving a total of 179 persons. By that time, the *Göttingen* and *Gotenland* freighters as well as other smaller boats, which had arrived to assist, were plucking mostly frozen, lifeless bodies from the water.

The T-36 was also fired at by the S-13, but despite being overloaded with survivors, her captain was able to dodge the torpedo. Even in a tragedy, miracles can happen. Seven hours after the ship went down, the VP-1703, a small German patrol boat, arrived to a sea of floating bodies. Its onboard searchlight found a lifeboat. When petty Officer W. Fick jumped in to inspect, he discovered the last official survivor of the *Gustloff*: an infant, alive and wrapped in a wool blanket.

The heavy cruiser *Admiral Hipper*, commanded by Captain Henigst was also in the vicinity. She had sailed from Danzig a few hours later, carrying a load of about 1,500 refugees, moving at a speed of 32 knots. Once near the *Gustloff*, Henigst reported that, "three empty lifeboats still hung in their davits, there were nine empty life rafts and the ship had now a 30 degree list to port."[42]

It was now apparent to Henigst that his ship's high freeboard would be an enormous obstacle to any rescue attempt. In their weakened condition, only the fittest survivors would be able to climb the "Jacobs ladders." In addition, this type of rescue operation would require hours. But before he could decide on his next move, one of his lookouts spotted a torpedo wake 20 degrees of his starboard bow, and shortly after a second, probably also coming from the S-13. The Captain lost no time and radioed all rescue vessels: "U-boat risk too great for us to risk ship, passengers, and crew - also, our high freeboard would hinder and slow rescue attempts. Leaving operations in your hands - wish you success and good luck."

42 Kappes Irwin J., *Op. Cit.*

Overall, the total number of survivors rescued was approximately 1,230. Over 9,000 went to their deaths, trapped at the bottom of the Baltic or floating frozen on its unforgiving surface. The vast majority of casualties were civilians.

The Wreck

The wreck of the *Wilhelm Gustloff* lies in a shallow depth (45 m) of seawater with ample ambient light. It was designated as a permanent war memorial site, making it off-limits to salvage crews (divers).[43] Her final resting place is 181 feet deep in the soft mud of the Southern Baltic, at 55.07°N, 17.41°E. It represents the most tragic event in maritime history with the greatest loss of life.

The main masts of the *Gustloff* have now fallen across the wreck and lie out across the seabed. Several lifeboat davits remain in position, especially high above the wreck on the starboard side. This reconfirms that several lifeboats remained frozen on the *Gustloff*. The wreck lists 45° to port.

There is still much for people to learn. Similar to its wreck in relatively shallow waters in the Baltic, the *Gustloff* still largely remains below the waterline of consciousness in historical awareness. Perhaps in the years to come, the *Gustloff* will be seen as much more than a footnote in history.

Even if the exact number of those who perished in the *Gustloff* tragedy remains unknown due to the fact that crewmembers lost count when thousands of refugees jammed on every corner of the ship, historians commonly agree that it is the most deadly single ship disaster ever. For years, the estimates of those who lost their lives ranged from 5'000 to 10'000. Now it is generally agreed to be well over 9'000.[44] That is to say more than 30 times worst than the Korean Air Lines (KAL 007) tragedy (269 casualties).

The existing mystery around the wreck

News of the *Gustloff* sinking were not reported within the remains of the Third Reich with the exception of a minor mention in a couple of newspapers. The main reasons for not classifying the *Gustloff* sinking as the greatest tragedy at sea and keeping it as a low profile occurrence are as follows: (i) it occurred during wartime and to the loosing side; (ii) German war-guilt has repressed the disaster; (iii) Russian retribution for Nazi occupation; (iv) world sentiment regarding Nazi atrocities; (v) ship was named for a prominent Nazi leader; (vi) bad reputation of Captain Marinesko; (vii) demise of so many refugees (mostly women and children); (viii) no world-renowned celebrities were on board.[45] Moreover, it also remained largely unreported in western, allied

43 On Polish navigation charts, it is ignominiously noted as "Obstacle No. 73."
44 A team of experts funded by the Discovery Channel's "Unsolved History" confirmed this most recent number of casualties.
45 Kappes Irwin J., *Op. cit.*

countries, and the USSR. Ironically, the only known high-profile mention of this tragedy was a front-page newspaper *Nachrichten für die Truppe* (news for the troops), an allied propaganda newspaper dropped out by bombers to Germans as the war was near its end.

However, if someone were to ask most people to name the greatest ship disaster in history, the usual response would inevitably include the *Titanic*, *Lusitania*, and even the *Exxon Valdez*.

One could draw an interesting correlation between the *Gustloff* incident and how the international community reacted to the shooting down of civilian aircraft: that is, flight KAL 007 by the USSR and Iran Air 655 by the US. The first incident was widely criticized and condemned by the international community and surely transformed in a high profile matter in the international agenda. Meanwhile, the Iran Air, although as flagrant violation as the first event, was kept on a much more low profile, and therefore received much less international condemnations.

The Expedition

In May 2003, a team of American and English divers was authorized by the Polish authorities to explore the wreck and take pictures. The expedition brought to the surface the following facts. For 58 years the wreck of the *Gustloff* had lain on the cold bottom of the Baltic Sea, resting over to her port across a white sand and shingle seabed. The history of her visitors is as clear as rumors of her concealed precious cargo. Furthermore, examination of history and facts surrounding the *Gustloff* provided that certainly the wreck had been examined by more than sport divers, as it was discovered that her props were missing. The anchors were also missing, which clearly indicated that this wreck had at one time been visited by a commercial company. Exactly who remains a mystery at present. Clearly, the members of the Discovery Channel's 2003, funded expedition were not the first divers to descend to the wreck.

Apart from the very bow and stern, which were incredibly intact, the remaining amidships section had collapsed perhaps through salvage. During the team's stay in Poland, several local people were asked if they had heard of any such salvage attempts at the site. At least one or two strongly suggested they had reason to believe the Soviets had been to the site soon after the war ended. My personal belief is that this is also the explanation as to the missing components of the wreck. It is easy to rule out that the Polish would have had the resources to salvage the wreck in 1945, and it is hard to imagine that the Germans would have aggressively attacked a site regarded as the country's largest war grave.

Although strong evidence suggested that Russia was especially interested

in the *Gustloff*, its interest was not based on an historic naval wreck but on a mysterious treasure named the "Amber Room." This is the greatest disaster the sea has ever seen and one which, let us sincerely hope, will remain forever a single tragedy. It is not a secret that the Soviets searched extensively for the Amber Room. It is quite possible therefore, that they searched the *Gustloff*'s amidships, where the damage was and at the same time took valuable metals to finance the expedition. But what was so precious for Stalin's Regime? The following section describes why this treasure was so desired by the Russians.

The Amber Room

In May 2003, the Amber Room once again made news. An announcement was made by local authorities that work recreating the room had been carried out in order to celebrate the 300th anniversary of the city of St. Petersburg, which was named after Peter the Great. But what exactly is the importance and history of this event and its links with the *Gustloff*? If any, they are described in the following subsections.

Its Origins

The Amber Room was a famous Russian treasure plundered by the Nazis in 1941 outside of Leningrad (St. Petersburg). After its relocation to Königsberg (Kalingrad), it was packed in wooden crates when it became clear that the Eastern Front was collapsing. According to one theory, these crafts were packed on board the *Gustloff*. Since its sinking, the wreck of the boat has been vandalized, fueling rumors that the Russians were looking for something and later covered their tracks.

In 1945, just days before the *Gustloff* took her fateful voyage, the Amber Room was seen for the last time. The panels were last seen packed into crates, which many believe were loaded onto the *Gustloff*. The Amber Room was composed of unique works of art that once lined the walls of the Kings Palace in Prussia. During WWII it was dismantled after falling into the hands of Gauleiter Erich Koch.[46]

In 1709, King Frederick I of Prussia ordered the decoration palace room, measuring 55 m entirely with amber.[47] The decoration consisted of panels set in polished mosaic over a landscape of coats of arms, monograms shells,

46 Gauleiter of the Nazi Party in East Prussia (1928-45) and Reichskomissar in Ukraine (1941-43). He was captured by the British forces in Hamburg in May 1949 and sentenced to death on March 1959 in Poland. His death sentence was never carried out, and many believe that he traded his life for information about art looted during the war, including the Amber Room. In 1986, at the age of 90, he died of natural causes in a prison in Barczewo (Poland).

47 Amber is a semi-precious stone, which was used as far back as the Bronze Age. It was later prized by the Greeks and Romans, who used it for decorative work. The substance is the result of the crystallization of the fossil resin from the now extinct coniferous trees. It was found mainly across the Baltic regions of Latvia, Lithuania, and Germany.

and garlands. It is well known that the financial setback almost ruined the State of Prussia. In 1716, during a visit to the Palace, Peter the Great of Russia admired the Amber Room to the point of wanting it for himself.[48] Thus, in late 1716, the room was dismantled and transported by sledge to his winter Palace at St. Petersburg. After his death, his daughter Elizabeth inherited the panel, which once again, was dismantled and rebuilt in her summer palace at Tsarkoye Selo just outside the city. She named her new treasure the "Poem Amber."

After the 1917 Russian Revolution, the room was opened up to the general public. In 1941, fearing for the safety of the treasured amber, the Russians made preparations to store the panels in a secret location, safe from the advancing German troops. The underground vaults in Sverdlovsk seemed a good place to hide it. However, the Russians were too late and only managed to secure two loaded trains of treasure and hence, the amber was not dismantled in time, falling instead into German hands.

The conspiracy of silence

In 1943, the Germans dismantled the panels and stored them in the cellar of the Königsberg Castle, as a temporary measure to avoid possible damages caused by air raids. On 12 January 1945, Rhode, a German officer, wrote in his diary, "I am packing the Amber study in boxes and other containers on the orders of the provincial custodian. As soon as it is done I shall evacuate the panel to Wechselburg" (near Rochlitz in Saxon). This was only 18 days before the departure date of the *Gustloff*. Packed into 24 strongboxes and completed by 15 January 1945, they were stacked in the castle courtyard. From then on, they were never seen again nor has any trace of their whereabouts ever been disclosed.

It seems to me quite mysterious that one of the worlds finest treasures had simply vanished. The amber never arrived at Wechselburg, and Rohde and his wife later that same year died mysteriously, leaving no indication as to its final whereabouts. Many theories arose. Some historians suggested that it was hidden in a mine, while others believe it was buried in the cellars of the Königsberg castle, or in a bunker, which has now been built over.

For one particular school of thought, the mine suggestion is perhaps a more realistic explanation, due to the fact that the *Gustloff*'s wreck showed no evidence to suggest that the amber is still to this day on the wreck itself. On the contrary, one could strongly argue that this is a weak alibi, mainly basing its argumentations that the area where it may have been stored has collapsed, possibly due to salvage attempts.

The salt mine in question, which is situated close to the West German town

48 Apparently King Frederick had a special interest in tall soldiers for the strong Prussian army. Peter the Great offered him 60 giants from the Tsar's Imperial Guard in exchange for the amber panels.

of Gottingen, is over 2'145 ft. deep and currently flooded. According to Dr. Georg Stein, a coded telex sent by Ringel to Berlin in 1945 could support this theory.[49]/[50] The message was: "Amber room operation completed, object stored in B.Sch.W.V." Stein claimed that the reference to "B" stood for "B Shaft" at the salt mine 12 miles from Gottingen, known as Wittekind Vollpriehausen; hence the W.V. referred to in the code. Also, "Sch" is not only the abbreviation for shaft; but also for "Schiffstraum" (that means "hold" in English).[51] In late September 1945, the mine was deliberately flooded by the British army after being used as an ammunition dumping ground. Those are the main reasons why nobody has been able to contest Stein's theory yet.

However, if one considers that there could have been a substitution of the letter "V" for "G" in the coding, the message could then refer to: "object store in B hold on the *Gustloff*." Coincidently, nobody has seen any trace of the amber since the *Gustloff* sank. The ship sailed from a point close to the castle. Evidences in the wreck are more than obvious that the Russian delved for the treasure extensively after the war. As mentioned, the 2003 Anglo-British expedition revealed proof that the *Gustloff* had definitively been visited by salvage divers. Evidence of missing parts of the boat (i.e. anchors, props) clearly showed that the wreck had been vandalized. Furthermore, some parts could only have been removed with heavy-duty equipment, and professional divers. Local people remember frequent Russian activity around the wreck quite well.

As coincidental as it may sound, in May 2003, the Amber Room resurfaced to public attention and notoriety. Was this only a fortuitous coincidence? Were only the two containers managed to be saved before the Germans' arrival enough to recreate the entire room? Did the authorities of St. Petersburg manage to recreate the existing room without falling into bankruptcy? Or simply, is it the original Amber Room, rescued somehow by the Red Army, hidden and stored for more than half a century, that is now once again on display?

The reconstruction to rebuild or revamp the room began at the end of the Seventies and was boosted in the late Nineties by a donation (US$3.5 million) by a German company, Ruhrgas. As several reports suggested, the restoration could well mean that the amber was in the *Gustloff* after all and that it had been recovered and simply restored. The restoration could well have taken a number of years, and the dire state of the Russian finances after the USSR collapse, could well explain the delays in bringing the treasure back into light.

Why should the new Amber Room be a rebuilt one and not the original itself? If the amber was effectively inside the *Gustloff*, what right would the Russians

49 He devoted himself to the recovery of looted treasures by the Nazis during WWII.
50 SS Group Northeast Könisgberg (Prussia).
51 A shaft is a long and narrow passage, for example one that leads from the surface of the ground down to a mine.

have to violate the world's most enigmatic and significant war grave inside other countries' territorial waters? Especially a mass war grave they had created themselves. Had they done so and glamorously announced to the world they had at last recovered their long searched treasure, many would have pointed out the number of casualties that rest in that specific wreck. Did the Germans themselves endorse such an action providing some form of financial support?

Whatever the answer to the Amber Room mystery, one thing is certain. Unlike the flooded mine, the *Gustloff* has undoubtedly been visited with heavy equipment, especially the amidships where an extraordinary amount of damage has occurred. On the other hand, the public also now has a "replica" of the great room, or could they be admiring the same one from Peter the Great?

As strange and surrounded by mysteries this all is, another unfaithful event, which sixty years later involved another Russian submarine (the Kursk), show some similarities to what could have happened to the Amber Room, and may be reconfirming that it was effectively on board the *Gustloff*.

Nevertheless, some eerie coincidences continue to exist around the *Gustloff* incident: the S-13 was a German-designed boat. Its registration number was 13. Despite the 13 units of the type S (Stalinets) submarine, only the S-13 survived the war. Captain Marinesko should had been court-martial, and thus not able to be commanding the submarine. He also disobeyed orders not to enter the Bay of Danzig. This is not to mention the fact that the torpedo named after Stalin did not work. On the other hand at normal speed, the *Gustloff* would not had been at the mercy of a submarine attack. Also interesting is that her Second Officer, Vollrath, had already lost four ships; every ship he served on got sunk. And the last but not least is of course the Amber Room.

Conclusion

To conclude, as Frawozky noted, "the Titanic was a testimony of the hubris of a civilization that worshipped technology and thought it could conquer nature. The *Gustloff*, on the other hand, was the symbol of the German hubris, the dream of a greater German Empire that ended in a nightmare. It was Hitler Titanic."[52]

Over the centuries, many ships have foundered at sea in varying circumstances with subsequent loss of lives. But nowhere in the annals of sea history, has there been recorded a single calamity such as the sinking of the *Gustloff*, which continues to be currently, the greatest maritime disaster in history. Almost four times as many men, women and children lost their lives in this single incident than that of 9/11 and six times that of *Titanic*.

52 Frawozyk, D.F., *Wilhelm Gustloff* Official Website. Available: http://www.wilhelmgustloff.com/welcome.htm

Many ships carrying civilians were sunk during the war by both sides. Indeed, during WWI, it was the sinking of the *Lusitania* cruiser that prompted the US entry in the conflict.

The mystery surrounding the *Gustloff* remains under sea until the Russian authorities reveal whether the current Amber Room is a replica or the original, rescued somehow from the wreck of the deadliest disaster in modern history.

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The U-2 Incident: US Intelligence, the Crash of Pilot Gary Powers and its Cold War Repercussions

Heather Achbach

Global MA in International Relations, Webster University

It has been nearly fifty years since the morning of 1 May 1960, when American pilot Captain Francis Gary Powers took off from Pakistan on a covert CIA mission to photograph ICBM sites in the Soviet Union. Several hours into his flight in a U-2 spy plane, while cruising at 70'000-feet, Powers was shot down by a Soviet SA-2 missile and crash landed near Sverdlovsk (Yekaterinburg) in the USSR. The United States government, believing that Powers could not have survived the crash, were astonished when the Soviets presented to the media not only Captain Powers but, more critically, the wreckage of the covert U-2 spy plane. In the months that followed, a swarm of diplomatic activity occurred as the Soviets tried and convicted Powers of espionage, and the US government sought his return. But the greater effect of the incident can be seen in the years and decades to follow: effects not only for Powers on a personal level, but also for the US espionage machine. In the following pages, we will investigate the early methods employed by the USA for overhead reconnaissance of the USSR, the crash of pilot Gary Powers in 1962 and the effect this incident had on the diplomatic relations between the two superpowers, as well as how the crash provided US policy makers an argument for increases in defense, technology and intelligence spending and rapid improvements to US espionage practices.

Research Approach

Any investigation into the U-2 incident must take into account the communications and activities of the Central Intelligence Agency (CIA). Thanks to the United States Freedom of Information Act, many of the documents pertaining to Captain Powers, the U-2 Program, US and Soviet

relations, and US intelligence gathering policies and practices have been released for public use. These documents shed light on the US government and the CIA during these early years of the Cold War. Unfortunately, many of these documents have been "sanitized" of some vital information, such as names, positions, and comments which could further aid our understanding of the incident. Even with these omissions, however, information gleaned from these documents has been instrumental in furthering our understanding of the U-2 incident.

While CIA files on Captain Powers, the U-2 program, and CIA Cold War surveillance of the Soviets have been opened, the corresponding KGB files have not. The Russian Federation maintains strict control over the files of their State Security Committee, or KGB, and has only allowed limited access to these files, usually to Russian scholars. This dearth of information from the Soviet side certainly handicaps our understanding of the U-2 incident and Russian perceptions of both that program and the United States' intelligence services. Despite this lack of access, a wealth of other information exists, detailing not only the lead-up and immediate aftermath of Captain Power's crash, but also the long term effects on US–Soviet relations.

History/Background: The development of overhead surveillance

At the end of World War II, the long-brewing confrontation between the Soviet Union and the United States of America came to replace uneasy wartime cooperation. While a plethora of books, articles and briefings written over the years detail various factors that contributed to this conflict between former allies, the fact remains the same, no matter what the cause: by the mid-1950s these two burgeoning superpowers were engaged in a deadlock over politics, economics, the military and ideologies. It was during this time that the intelligence agencies of both countries increased their spying activities on eachother and sought new, more covert ways to gain vital information that would provide one country a strategic advantage. In the United States, the newly created CIA, successor to the World War II era Office of Strategic Services (OSS), began to feel the pressure to gain that one crucial piece of information that could be used to strong arm the Soviets. During the 1950s, CIA directors perceived themselves at a serious disadvantage in the spy game, believing that "because the United States is relatively new at the game and because we are opposed by a police state enemy whose social discipline and whose security measures have been built up and maintained at a high level for many years, the useable information we are obtaining is still far short of our needs."[1] CIA directors and intelligence agents believed the United States needed an intelligence service that was more aggressive,

1 Central Intelligence Agency, "Report on the Covert Activities of the Central Intelligence Agency." 30 September 1954, p. 6.

unique and, if necessary, more ruthless than the enemy. And, because of this stated goal, they were constantly looking for new ways to increase the intelligence gathering capacity.[2] This need can be seen in the released letters between the CIA and the White House. It was during this time that the CIA, in partnership with the military and the Weather Bureau (later the National Weather Service) developed various ways to spy on Soviet missile production facilities and depots.

Balloons

Initial hopes for overhead surveillance were placed with the weather balloons in use by the Weather Bureau and the US military. The hope was that by releasing these balloons on declared meteorological flights that the CIA would also be able to gather pictures of Soviet military bases and weapons depots. The development of balloons that could traverse the extensive Eurasian sub-continent and could be retrieved safely outside Soviet airspace hit snag after snag, as first the problems of equipping the balloons with cameras, then the question of retrieval and finally the selection of transit paths had to be overcome. A December 1954 US Air Force project called GREYBACK failed dismally when eight balloons launched from a base in Scotland and expected "to float on the jet-stream currents across Europe and the Soviet Union," instead "all went south and ended up making lazy circles over North Africa and Yugoslavia."[3] The Agency, meanwhile, had been experimenting with its own balloon program and had even managed to float a balloon across the Soviet Union and retrieve it near South Korea. With this success as 'proof' that the project could work, then Assistant Director for Scientific Intelligence, Philip G. Strong, reported the successes to the Air Force, who were able to secure additional funding for their program. In January and February 1956, the newly renamed project GENETRIX released 516 balloons. Only 45 were recovered, and, of those, only 32 had usable pictures. While most of the film was of clouds and sky, there was one striking result of this program: the discovery of the vast Dodonovo nuclear refining facility in Siberia. This success not only gave the CIA and the US military hope for future overhead surveillance plans, but it also demonstrated the inherit weaknesses of balloon reconnaissance, thus leading to the development of programs that were less dependent on factors that could not be controlled, namely weather.

In the years that followed, additional balloon projects were rarely able to repeat the successes of project GENETRIX. When, in 1957, the Soviets announced the launching of the satellite *Sputnik I* and then *Sputnik II,* with its payload of a television camera and a canine passenger named Laika, who became the

2 Central Intelligence Agency, *Op. Cit*., p. 7.

3 Welzenbach, Donald E., *Observation Balloons and Reconnaissance Satellites,* Central Intelligence Agency, September 1958/1999, p. 23. Available: www.foia.cia.gov (all websites last visited 23 January 2010)

first creature to orbit the Earth, the US government, military and intelligence programs realized the pressing need for better, more reliable overhead surveillance programs, fearing that their efforts might soon be outstripped by the Soviet intelligence programs. It was this early Soviet success which initiated American fears of a "missile gap," a fear that would dominate the American psyche for the rest of the Cold War and would provide the Defense and State Departments the backing they needed to develop new, more advanced methods on intelligence collection.

The Development of the U-2 Program

Prior to the success of the *Sputnik* program, the CIA had already initiated the now famous U-2 program. Later described as "one of the CIA's greatest intelligence achievements, in fact… one of the greatest achievements of any intelligence service of any nation,"[4] the U-2 program was intended to be a covert overhead reconnaissance program that would provide the CIA, State Department, and the president with critical intelligence that could break the deadlock with the Soviets. In 1954, development of a "high-flying, high performance reconnaissance plane… designed to fly unintercepted [*sic*] over the vitally important closed areas of the Soviet Union"[5] began. Deployment of the project was authorized in 1956 by President Eisenhower after the rejection of the President's "open skies" proposal at the July 1955 Geneva Summit. "Open Skies" was proposed to the Soviets as a way to "relax the growing tensions resulting from the danger of surprise attack."[6] It called for the USA and USSR to exchange maps showing the "exact location of every military installation in their respective nations… each nation would then be allowed to conduct aerial surveillance of the installations in order to assure that the other nations were in compliance with any arms control agreements that might be reached."[7] In other words, "trust, but verify."[8] With Soviet rejection of Eisenhower's initiative and having no way to verify Soviet military abilities, the President authorized the CIA to begin U-2 flights over the Soviet Union.

Both Eisenhower and his advisors were under the impression that the U-2 planes, because of their operational altitude (70'000 ft.), would be invisible to Soviet radar or that only a few of the flights would be detected. Unfortunately for US intelligence, the Soviet Union knew almost immediately about the

4 Tenet, George J., "DCI Remarks at the U-2 Conference," CIA, 17 September 1998. Available: www.cia.gov

5 McCone, John A. "Letter to Pres. Eisenhower," *CIA FOIA Releases*, August 1960, p. 2. Available: www.foia.cia.gov

6 Dulles, Allen W., "Statement by Mr. Dulles CIA Director to Senate Foreign Relations Committee," CIA FOIA, 31 May 1960. Available: www.foia.cia.gov

7 The History Channel, "Eisenhower presents his 'Open Skies' plan," *This Day in History - The History Channel*. 2010. Available: www.history.com/this-day-in-history.do?action=Article&id=2735

8 This became President Ronald Regan's standard slogan on first the arms treaties signed with the Soviet Union and then a general belief of the administration.

flights and used the continuance of the program as grounds to block US efforts to both control military stockpiling and to reach reconciliation in the Cold War. President Eisenhower was also forever skeptical of the program and later regretted his decision to authorize the flights, at one point in 1958 even declaring a 16-month moratorium on U-2 flights. During a December 1958 meeting of his Consultants on Foreign Intelligence Activities, Eisenhower questioned the "continuation of the over flight reconnaissance program [and] whether the intelligence which we received from this source is worth the exacerbation of international tension which results."[9] The President's Chief of Staff and Secretary of Defense both believed the U-2 program constituted 'undue provocation' and should be halted at once. Despite this recommendation, and against his own belief in the long-term ineffectiveness of the program, President Eisenhower permitted continued U-2 flights, only demurring when he was asked to approve an increase in the frequency of the flights.

Early Successes of the U-2 flights

The CIA had good reason to request an increase in U-2 flights and to continue to advance the benefits of overhead reconnaissance. While the idea that the flights would be invisible to the Soviets was gone, both the CIA and the military believed, based in part on the photos taken by U-2 flights, that the Soviets lacked the technology to launch a missile high enough to reach the planes. Because of this belief, the planes continued to make passes over the Soviet Union and by the time of Captain Powers' crash (four years into the program) had photo-documented nearly 15% of the USSR (over 1.3 million square miles).[10] Early flights during the U-2 program confirmed the USSR possessed only a minimum number of long-range bombers and that production was not at the level previously feared. Flights also showed the Soviets were developing a medium-range bomber with supersonic ability and uncovered several nuclear weapons storage facilities. The photographs from the U-2 program enabled the CIA to look at the testing and launching facilities for ICBMs and even "showed that the Soviets were conducting all of their missile and space firings from a single launcher during the 1957-1959 period."[11] This information allowed the US military to review their own launch pads. U-2 flights also showed the Soviets had a "modest but active chemical warfare program" and "may have a program of biological warfare testing."[12]

The benefit of the U-2 program was seen mostly as a confirmation of

9 Welzenbach, Donald E., *Op. Cit*., p. 26.
10 Dulles, Allen W., "Statistics Relating to the U-2 Program," Central Intelligence Agency – FOIA, 19 August 1960, p. 1. Available: www.foia.cia.gov
11 *Ibid*., p. 3.
12 *Ibid*., p. 5.

intelligence analyst's predictions of Soviet capabilities, as well as a way to correct maps of the country. CIA Director Allan Dulles even saw a benefit of the Soviets being able to detect the U-2 flights, as this provided the USA with the ability to see the Soviet air defense system in operation. The clincher for continued operation of the U-2 program was American belief that the surface-to-air-missiles of the USSR were incapable of reaching the 70'000 feet cruising altitude of the U-2 planes. This belief was believed confirmed when U-2 planes photographed a second generation missile system that could reach an altitude of 60'000 – 80'000 feet but with a "considerably reduced accuracy."[13] The CIA believed that with the combination of the speed and altitude of the U-2 planes, the chance of a Soviet missile striking a plane and bringing it down inside the Soviet Union was slim to none.

The "Indecent"

In the years after he was shot out of the sky by a Soviet missile, Captain Francis Gary Powers was branded a traitor, a patriot, a decoy, a hero, a bum, an embarrassment, and a survivor. His Soviet captors accused him not only of espionage, but also of being sent to intentionally scuttle the Paris summit between Eisenhower and Khrushchev. In the United States, he was investigated by a Board of Inquiry of the CIA for his actions both during and after the crash and accused by the media of failing to follow CIA guidelines and use a poisoned needle to commit suicide rather than risk capture by the Soviets. Gary Powers spent four years as a pilot for the US Air Force prior to his CIA recruitment in 1956, at which point he was commissioned to fly "weather missions:" the backup story for the pilots should they be captured by the Soviets. On 30 April 1960, the day before Powers' flight, the CIA's daily brief for the Communist Bloc expressed concerns over "Soviet intentions to launch another vehicle soon, probably a space vehicle" and that the "next optimum period for a lunar-associated launch is between 7 and 14 May."[14] In all likelihood, it was the need to confirm or deny this suspicion that was the purpose of Powers' flight on 1 May. Powers was shot down in the southwest corner of Soviet Union, near Yekaterinburg, relatively close to Tyuratam, Kazakhstan, the missile testing facility and launching pad of the *Sputnik* program. It is likely that the target for Powers' photography passes was this base with the hope of determining the state of readiness of any future launch. As no documents have been released as to the objective of Powers' flight, it is likely we shall never know if this was in fact the purpose, but the 30 April briefing report certainly makes Tyuratam a likely goal of the flight.

On 1 May 1960, as Powers passed over the Ural Mountains near Sverdlovsk, two Soviet surface-to-air-missiles (SAMs) were launched to intercept him. The

13 *Ibid*., p. 8

14 USA Central Intelligence Agency, "Daily Brief - The Communist Bloc," *CIA FOIA Releases* (30 April 1960). Available: www.foia.cia.gov (accessed 28 January 2010).

first struck the U-2, the second hit a Soviet MiG flying nearby, destroying the plane and killing the pilot. Incredibly, Powers not only survived the missile strike, but was able to eject from his U-2 and land safely, although badly injured, where he was promptly arrested and taken to KGB headquarters at the Lubyanka in Moscow. Initially, Powers' disappearance was reported as a US weather plane that had trouble with its oxygen system and had gone off course before crashing. At this point the American government was unaware of the state of the U-2 plane, believed there was no way Powers was still alive, and was confident he had been able to activate the self-destruct mechanism on the high-resolution camera in his plane. It was the camera and its technology that concerned the CIA more than the plane or its pilot.

A few days after the crash, Nikita Khrushchev revealed not only that Powers was alive, but that the camera from the U-2 was intact and the pictures retrievable. Initially, the Soviet Premier had shown wreckage of a destroyed plane he claimed was the wreckage of the U-2, but American intelligence in the days following revealed that the plane had crash landed virtually intact, its camera still operational and the pictures retrievable. It is believed the wreckage shown by Khrushchev to state media was likely the wreckage of the MiG that had also been hit. In the months that followed, Powers was tried for espionage and sentenced to ten years in prison, including seven years of hard labor. For two years, Powers sat in a Soviet prison until that fateful day in February 1962, on a Berlin bridge, when he was exchanged for CIA prisoner Rudolf Abel.

Once home, Powers faced not only public criticism and condemnation, but a thorough CIA debriefing and hearing by a board of inquiry. Contrary to the belief at the time, Powers attended his inquiry with the full backing of the CIA and the investigations of the board confirmed that Powers had behaved as he had been trained. The board ruled that his only transgression was his failure to push the button that would destroy the camera and imaging system. Even on this point the board was lenient, ruling that since the plane had gone into an inverted spin, the efforts (and subsequent failure) of Powers' to operate the destruction mechanism "were reasonable under the circumstances at the moment, that his conduct was not to be censored or deemed in violation of his obligation."[15] The board also ruled that use of the poisoned needle was entirely optional and, in truth, "was intended for use primarily if the pilot were subjected to torture or other circumstances which in his discretion warranted the taking of his own life."[16] Powers was never instructed to commit suicide nor was there an expectation that he would. In fact even taking the needle with him on flights was entirely optional. Additionally, the board found that Powers had done everything in his power to avoid being hit and had followed Agency guidelines regarding behavior in captivity. He

15 Central Intelligence Agency - Board of Inquiry, "Investigation of the Francis Gary Powers." 27 February 1962, p. 12.

16 McCone, John A., *Op. Cit.*, p. 11.

had surrendered without resistance, been respectful to his captors, and, most importantly, freely cooperated with the captors and felt "free to tell the full truth about the mission with the exception of certain specifications of the aircraft…to represent themselves as civilians, to admit previous Air Force affiliation, to admit current CIA employment and to make no attempt to deny the nature of their mission."[17] The board concluded that Powers had acted in accordance with his training and the terms of his employment and "that he complied with his obligations as an American citizen."[18] They subsequently cleared him of any wrongdoing. A year later, Powers' was awarded the CIA's Intelligence Star. Unfortunately, the board of inquiry hearing remained classified until after his death in 1978, and the notes on his interrogation in the Soviet Union, detailing his stamina under questioning and the fact that he never released key details of the U-2 program (such as the cruising altitude or the names of his superiors) would only be discovered by chance in 2006.

Diplomatic Aftereffects in USA/USSR relations

At the time of Powers' U-2 mission, the USA and USSR were in contentious discussions in partnership with France and Britain over arms limitations, German reunification, the neutrality of Berlin, and various other efforts toward an early détente. A Five-Power Summit was scheduled for Paris between 15 and 18 May, and Eisenhower had great hopes that he would be able to convince the Soviets of the need for a scaling back of military buildups and a de-escalation of the tensions between the two superpowers. Both Eisenhower and Khrushchev had taken steps to rectify Soviet–American relations. Eisenhower had restrained military spending throughout his terms, hoping the Soviets would see his good intentions and reciprocate. Meanwhile, Nikita Khrushchev had actively and publicly initiated a de-Stalinization process in the USSR and hoped that he and Eisenhower could make progress on the neutralization of Berlin and the removal of Western troops from the city. For this reason, Powers' crash could not have come at a worse time. The Paris Summit collapsed before it had even begun, and even though the Soviet delegation arrived in Paris, Khrushchev walked out on 16 May, when Eisenhower refused to offer an apology.

On 23 May, the Soviet Union convened an emergency meeting of the United Nations Security Council to consider US espionage and other illegal activities. The two powers traded allegations of spying throughout the following days until a vote was called on a resolution condemning the US actions and requesting the US prevent any recurrence. The USSR overwhelmingly lost the vote. In August, the USSR Minister of Foreign Affairs sent a letter to the UN Secretary General requesting that the "'threat to universal peace created

17 Central Intelligence Agency - Board of Inquiry, *Op. Cit.*, p. 9.
18 *Ibid.*, p. 14.

by US aggressive acts against the Soviet Union' be included on the agenda of the forthcoming 15th Session of the UN General Assembly."[19] The only result of the Soviet Union's request to the Secretary General was UNGA Resolution 1495 urging "all countries, in accordance with the charter of the United Nations, refrain from actions likely to aggravate international tensions."[20]

The true tragedy of the U-2 incident is in the international relations of the Soviet Union and United States. The two countries stood at a critical point in history and could have greatly improved relations, possibly shortening the Cold War. Instead, even more frigid relations developed and a rapid escalation of US military capabilities ensued. The knowledge that the Soviets had missiles capable of reaching the cruising altitude of the U-2 planes, a previously unknown fact, worried the US and led many in the defense and intelligence communities to wonder what else they didn't know about Soviet capabilities. On the domestic front, the U-2 incident provided the American government with "proof" of a missile/intelligence gap between the two superpowers and allowed for the massive increase of defense, technology, and intelligence spending.

Impact on the advancements in U.S. Technology

Much of this flood of new spending went towards developing more advanced ways of spying on the Soviets. Prior to the U-2 incident, President Eisenhower had used the promising development of satellites as a reason not to authorize increased U-2 flights over the Soviet Union. After Powers' crash, it became evident that the US intelligence sector needed improved methods of data collection. CIA and Air Force Satellite programs were sped up and in August 1960, only 110 days after the U-2 was shot down, a *Corona* satellite was successfully launched.[21] The CIA acknowledged vulnerability of the U-2 program after the crash and recognized the benefits of data collection from a distance, both for the safety of their employees and as a way to prevent another public relations nightmare. Funding for NASA and other programs that could aid in satellite intelligence collection jumped in the years after 1960. Defense spending in the 1960s increased from $289.6 billion in 1960 to $388.9 billion in 1968.[22] NASA's budget between 1963 and 1964 increased from around 13.5 billion to 22.5 billion USD.[23]

With the implementation of satellite photoreconnaissance, the US was able to gather a lot of intelligence from a distance without putting their agents

19 "U.N. Asked to Consider U.S. Violations," *CIA FOIA Releases* (22 August 1960). Available: www.foia.cia.gov

20 UN General Assembly, "Resolution 1495 (XV)," New York, 17 October 1960.

21 Studeman, Admiral William O., "ACDI Speech: Early Satellites in US Intelligence," CIA, 24 February 1995. Available: www.cia.gov

22 Center for Defense Information, "U.S. Military Spending, 1945-1996 Annual Spending," 9 July 1996. Available: www.cdi.org/issues/milspend.html (accessed 30 January 2010).

23 Muniz, Benigno, "NASA Budget History: Total Budget," *Rain*, 9 May 2000. Available: www.rain.org

in harm's way. Satellite development and the ability to conduct photo-recon from space was used by policy makers during the Vietnam war and has repeatedly proven beneficial in the 50 years since the U-2 incident, first for intelligence and military purposes and later for environmental and natural disaster studies. During the Cold War, advancements in "Satellite reconnaissance broke the logjam over verification in strategic arms control"[24] and allowed for the signing of strategic arms control treaties. With the ability to look behind the Iron Curtain, US intelligence and the government could confidently enter into negotiations with the Soviets and sign arms treaties that would help ease tensions.

Analysis & Conclusion

In the years following World War II, the competition and conflict between the USA and USSR fueled a race not only for the next technologically superior weapon, but also to know about the enemies advancements before the enemy discovered yours. Overhead reconnaissance conducted by the US military and later the CIA was to serve as both a confirmation of Soviet acquisitions and abilities and also as a way to improve maps and knowledge of the country. When balloons failed to be as effective as the military hoped, the CIA sought a technically advanced plane and camera system, which they hoped would be undetectable by Soviet radar. Even when this hoped-for invisibility proved to not be the case, the USA continued its high-altitude U-2 flights, believing the Soviets lacked the ability to effectively intercept the plane. But the success of the early Sputnik launches worried the CIA, and the downing of Captain Gary Powers' plane proved that the Soviets had technology of which the USA was not aware. This created fears that the US was lagging behind the USSR in terms of technology. The downing of Powers' plane caused additional anxiety for the relatively young CIA. Not only was the U-2 incident a demonstration of possible weaknesses, but the aftermath was a diplomatic disaster for both the Agency and the White House.

In the years following Powers' crash, the US military and intelligence sectors became increasingly focused upon improved technology for intelligence collection (satellites, unmanned planes, etc) and less upon the traditional means of intelligence gathering. As a result, the Agency actually became less able to gather critical, lynch-pin, information. So long as the "enemy" was a national entity with military and intelligence programs that could be investigated and analyzed from afar, the United States' high-tech intelligence system was effective and able dominate. However, in the post-Cold War, the "enemy" has become a series of non-state actors who can blend in, disappear, and wreak havoc from mountain caves. As this new enemy has emerged,

24 Garthoff, Raymond L., "Foreign Intelligence and the Historiography of the Cold War," *Journal of Cold War Studies*, 2004, p. 44.

it has become difficult to establish identities, agendas, chains of command, locations, and means- the sort of intelligence that can only be obtained by human intelligence (information from "sources," ongoing relationships, and infiltration into the enemy's system). In this new environment, the high-tech system the US developed in the Cold War has proved woefully ineffective. As situations have become more complex, the system has been unable to adapt to continue producing critical and effective intelligence: a failure that was horribly realized on 11 September 2001.

An additional effect of Powers' crash that must be considered is the intelligence the CIA lost during the incident. Three years before the crash, a covert Soviet agent named Rudolf Abel was arrested in New York City. Able, who had grown up in Britain but returned to the USSR after the Bolshevik revolution, was recruited by Soviet intelligence prior to World War II, where he trained radio operators who would function behind enemy lines. After the war he was assigned to "establish himself as an 'illegal' – an intelligence officer without diplomatic cover – in New York" and from there he would run the Kremlin's spy network in the USA. Able (real name Vilyam Fisher) "directed his agents to collect top-secret military data on US underwater detection devices, rocket techniques and nuclear armaments" as well as monitor activities at the United Nations.[25] Abel's capture was a major coup for US intelligence, and even CIA director Allen Dulles was impressed by the Soviet agent's ability to remain hidden for eleven years, while he and his agents siphoned off vital US secrets.

After his capture, the Soviets were keen to have Abel returned to the USSR, hoping he would be able to train future agents. It was Abel who was exchanged for Gary Powers on that Berlin morning in 1962. While Powers' return to the USA was a matter of pride for the intelligence agency since the CIA considered leaving him to languish in a Soviet prison out of the question, the loss of Abel was a major blow. Powers' importance to the US intelligence system was negligible. He possessed no state secrets, was even trained to reveal almost everything about the U-2 program if captured (although he did not), and was never told the purpose of his reconnaissance flights. His job was to simply fly the plane. Abel, on the other hand, was a significant player in the intelligence game and his loss to the Soviet Union was considerable. The Soviet Union certainly received the better end of the bargain in the prisoner swap.

Diplomatically, the downing of Powers' plane had far-reaching consequences, arguably prolonging the Cold War. Prior to the crash, the leaders of both the USA and the USSR were seeking a thawing of relations; afterwards, the situation became frostier than ever. The dissolving of the Paris Summit marked the end of any hope of an early détente. For the United States, the realization

25 Boghardt, Thomas, "The Last Great 'Illegal:' Rudolf Abel and Soviet Espionage in America," *The International Spy Museum*, Winter 2006/2007. Available: http://www.spymuseum.org/programs/background.php

was that a better means of intelligence gathering needed to be developed. The marked increase in both Defense and NASA budgets in the ensuing years, demonstrates a shift in the mentalities of policy makers. Whereas Eisenhower had hoped that decreased military spending would entice the Soviets to the bargaining table, his successors relied on American military capability and technological developments that would outpace the Soviets. While the crash of Powers' U-2 was by no means the cause of the break-down in negotiations, it was certainly the final nail in the coffin of any hope for reconciliation and restoration of more cordial relations between the USA and USSR.

Interestingly, if considered another way, it is entirely possible that the U-2 incident actually shortened the Cold War. If Powers' had not crashed and the USSR and USA had reached that early détente, could the altered course of history have meant the long-term survival of the USSR and the continued, uneasy East – West truce even up to the present day? The fall of the Soviet Union in the 1990s, while aided by independence movements within the satellite nations, was precipitated by the bankrupting of the Soviet state. The forty-year race with the US to develop and build up the most advanced military had left the USSR bankrupt and unable to not only compete with the US but also hold together and continue to exert dominance over the various Soviet Republics. This paved the way for Gorbachev's policy's of Perestroika and Glasnost and the eventual dissolving of the USSR. In the end, the crash of Gary Powers, the failure of the Paris Summit, and the fears of the "missile gap" led the American government to take a harder line towards the Soviets, a risk that paid off big in the end.

Overhead intelligence gathering has come a long way in the last sixty years, from balloons to high-altitude planes to satellites. The crash of U-2 Pilot Gary Powers not only affected the course of history, it also altered US intelligence gathering processes and helped fuel the push for satellites that could monitor from a safe distance. While most know the story of Powers and the U-2, understanding the repercussions of the incident are critical to our understanding of how the Cold War played out. The decades after Powers' crash witnessed both an arms race and an intelligence race between the two superpowers as each sought new and better weapons and new, more efficient methods of intelligence collection. The US came to rely on the satellites they developed for intelligence gathering, and when the enemy was a state, this was effective. The challenge now for US intelligence is to develop and adapt again. Gary Powers, his U-2 plane, and the events of May 1960 mark a critical point in history – both diplomatically and technologically. In the decades following 1960, the developments and setbacks in both sectors can be traced, in one way or another, back to this man, this moment, and this machine.[26]

26 Acknowledgement given to the History Channel for the phrase "Man, Moment, Machine."

Annotated Bibliography

Boghardt, Thomas, "The Last Great 'Illegal:' Rudolf Abel and Soviet Espionage in America," *The International Spy Museum* (Winter 2006/2007). Available: http://www.spymuseum.org/programs/background.php (accessed 29 January 2010).

The author, a historian at the International Spy Museum in Washington DC, briefly details the life and career of Rudolf Abel, a Soviet spy stationed in the USA to spy on both US and UN activities. Abel passed key information to the Soviets during his time in the US until his arrest. Abel returned to the USSR when he was swapped for Gary Powers. While Powers held virtually no intelligence value, Abel was a key figure in the espionage game and his return to the Soviets a great blow to the USA.

"Traitor or Patriot? The Story of U-2 Pilot Francis Gary Powers," *The International Spy Museum* (October 2007). Available: http://www.spymuseum.org/programs/background.php (29 January 2010).

The author, a historian at the International Spy Museum in Washington DC, retells the story of the downing of Gary Powers' U-2 spy plane and the impact on US/Soviet diplomacy. The US had not known the Soviets possessed the ability to shoot down the U-2 planes and were shocked not only by the crash, but that Powers had survived and the self-destruct on his plane had failed. Boghardt describes the criticism Powers received upon his return to the US and the eventual vindication of his actions.

Center for Defense Information, "U.S. Military Spending, 1945-1996 Annual Spending," 9 July 1996. Available: www.cdi.org/issues/milspend.html (accessed 30 January 2010).

The CDI analyzes US national security and defense policy and tracks spending. This document is a tracking of annual spending throughout the Cold War and into the 1990s.

Central Intelligence Agency - Board of Inquiry, "Investigation of the Francis Gary Powers," 27 February 1962.

The Board was asked to investigate Powers' actions during the crash and his captivity in the Soviet Union. The document clearly demonstrates the US government found Powers' actions commendable.

Central Intelligence Agency, "Report on the Covert Activities of the Central Intelligence Agency," 30 September 1954.

This early document details CIA fears that their intelligence efforts were behind the Soviets and states the US must take a more aggressive stance in the intelligence game.

Dulles, Allen W. "Statistics Relating to the U-2 Program," Central Intelligence Agency – FOIA, 19 August 1960. Available: www.foia.cia.gov (accessed 24 February 2010).

Provides key details of the successes of the U-2 program up until the crash of Capt. Powers. The document is important in that it details the intelligence that had been received during the program and the role this intelligence had played in US military strategy.

Dulles, Allen W., "Statement by Mr. Dulles CIA Director to Senate Foreign Relations Committee,"

CIA FOIA, 31 May 1960. Available: www.foia.cia.gov (accessed 29 January 2010).

The document was released in 1995 by the Senate Foreign Relations Committee under the "Freedom of Information Act." It is a copy of the statement given by Allen Dulles, acting Director of the CIA, on 31 May 1960 regarding CIA intelligence gathering methods, the U-2 spy plane program, and the downing of Gary Powers' plane. Dulles details the attempted cover-up of the incident and the subsequent revealing of the true nature of the program, while at the same time defending his agencies actions in light of the growing crisis between the USA and USSR.

Garthoff, Raymond L., "Foreign Intelligence and the Historiography of the Cold War," *Journal of Cold War Studies*, 2004, p. 21-56.

The author, a senior fellow at the Brookings Institution (a Washington D.C. based think tank), examines the development of intelligence gathering in the Cold War and how the process influenced decision making on both sides.

Geelhoed, E. Bruce, "Dwight D. Eisenhower, The Spy Plane, and The Summit: A Quarter-Century Retrospective," *Presidential Studies Quarterly*, 1987, p. 95-106.

The author, at the time of writing an Assistant Professor of History at Ball State University, examines the U-2 spy plane incident and the effect it had on US – USSR relations. He argues that at the time of the crash, the leaders of the two countries were trying to improve relations, while also engaging in a substantial military build-up. After the capture of Powers and the U-2 plane, Eisenhower lied about the program, ultimately damaging his Administration. The result of the U-2 incident was the collapse of the Paris Summit and even colder relations between the two superpowers.

Launius, Roger D., *Sputnik and the Origins of the Space Age,* 24 February 2010. Available: http://history.nasa.gov/sputnik/sputorig.html.

Details on the Sputnik program and the launching pad location. Helps to demonstrate the probable goal of Powers' mission.

McCone, John A., "Letter to Pres. Eisenhower," *CIA FOIA Releases*, August 1960. Available: www.foia.cia.gov (accessed 29 January 2010).

McCone's letter to the president after the U-2 incident describes the CIA's program, the actions taken by the agency, and the successes of the program.

Muniz, Benigno, "NASA Budget History: Total Budget," *Rain*, 9 May 2000. Available: www.rain.org (accessed 30 January 2010).

Chart of NASA budget from Eisenhower through to G.W. Bush.

Orlov, Alexander, "A 'Hot' Front in the Cold War - The U-2 Program: A Russian Officer Remembers," *Studies in Intelligence* (CIA Declassified) Winter 1998-1999, p. 5-14.

The author, a retired Soviet Colonel, describes the Soviet Union's perception of the U-2 program and the shoot down of Gary Powers. He details how the USSR knew about the program and how this knowledge affected the decision making of the leaders. He also describes how the U-2 program played a role in Soviet decisions regarding Cuba.

Prados, John, "High-flying spies," *The Bulletin of the Atomic Scientists,* September 1992, p. 11-12.

The author, a senior analyst of the National Security Archive in Washington, D.C. and

an author of numerous books, writes briefly about the U-2 spy programs and their importance in intelligence gathering prior to the advent of reconnaissance satellites. He argues that at the time the Russians downed Powers' plane the USA was already starting to turn to satellites but that this incident made the advancement of that program critical. Prados details the development of the U-2 program and its benefits and disadvantages.

Studeman, Admiral William O., "ACDI Speech: Early Satellites in US Intelligence," CIA, 24 February 1995. Available: www.cia.gov (accessed 30 January 2010).

The speaker, at the time Acting Director of the CIA, announces the release of early satellite imagery. These intelligence satellite systems were developed to take the place of manned flights over the USSR and other conflict regions. The importance of the systems is detailed, as are the problems encountered, and the reasons for rushing the systems into use.

Tenet, George J., "DCI Remarks at the U-2 Conference," CIA, 17 September 1998. Available: www.cia.gov (accessed 30 January 2010).

The speaker, at the time Director of the CIA, opens a conference on the U-2 program and its effects on US intelligence gathering and analysis. He details the crucial role the program had in the early years of the Cold War and the important steps taken in both science and policy which can still be felt today.

The History Channel, "Eisenhower presents his 'Open Skies' plan," *This Day in History - The History Channel*, 2010. Available: www.history.com/this-day-in-history.do?action=Article&id=2735 (accessed 24 February 2010).

The history of Eisenhower's plan and the reception it received from the Soviets.

UN General Assembly, "Resolution 1495 (XV)," New York, 17 October 1960.

UNGA Resolution in response to Soviet requests that the US's actions on 1 May 1960 be investigated and placed on the agenda.

USA Central Intelligence Agency, "Daily Brief - The Communist Bloc," *CIA FOIA Releases*, 30 April 1960. Available: www.foia.cia.gov (accessed 28 January 2010).

The document was released by the CIA in 2004 under the "Freedom of Information Act." It is part of the Daily Brief that was prepared each day for internal release in the CIA. This brief details concerns that the Soviets are preparing to soon launch a rocket with "lunar-associated" technology. The brief comes one day before Gary Powers' flight over suspected ICBM and rocket sites.

"U.N. Asked to Consider U.S. Violations," *CIA FOIA Releases*, 22 August 1960. Available: www.foia.cia.gov (accessed 20 January 2010).

The document was released by the CIA in 1985 under the "Freedom of Information Act" and is an analysis from the USSR International Affairs branch regarding the Soviet's request that the UN consider if the US has violated international law by ordering U-2 spy planes and military bombers to fly through Soviet air space. The document is a translation from a Russian request.

Welzenbach, Donald E., *Observation Balloons and Reconnaissance Satellites,* Central Intelligence Agency, September 1958/1999. Available: www.foia.cia.gov (accessed 23 January 2010).

An early CIA document that looks into the options the CIA has for overhead reconnaissance of the Soviet Union and the benefits and challenges of these options. The document, declassified in 1999, was written prior to the U-2 crash, and provides a critical history of the U-2 and balloon programs.

Welzenbach, Donald E. and Pedlow, Gregory W.,. *The Central Intelligence Agency and Overhead Reconnaissance: The U-2 and OXCART Programs*, CIA Internal Report - Declassifed, Washington DC, 1998.

The history of the CIA's overhead recon program, its successes, failures, and challenges.

The *USS Liberty* Incident and the Six-Day War

Jubin M. Goodarzi

Professor of International Relations, Webster University Geneva

"There is no doubt that the Israelis knew what they were doing in attacking the Liberty."
CIA Director Richard Helms
in his memoirs, *A Look Over My Shoulder*, p. 301

"I was never satisfied with the Israeli explanation…I did not believe them."
US Secretary of State Dean Rusk
on the Liberty in his memoirs, *As I Saw It*, p. 388

At 2:00 PM on Thursday, 8 June 1967 the fourth day of the Six-Day War between Israel and its Arab neighbors, the American spy ship *USS Liberty*, operating in the eastern Mediterranean 17 miles off the Egyptian coast, was attacked by Israeli warplanes and torpedo boats for an hour. Once the assault ended shortly after 3:00 PM, the *Liberty* was immobilized, and out of its crew of 294, 34 lay dead and 174 were wounded. The Israelis subsequently claimed that the attack had been a mistake which occurred in the "fog of war". They stated that the *Liberty* had been mistaken for an Egyptian transport vessel, *El-Quseir*. Washington accepted the official Israeli explanation and a hastily conducted investigation by the US Navy exonerated the Israelis and the US Navy commanders involved. The case was considered closed. However, many doubts lingered, and privately many US officials and survivors from the *Liberty* believed that the attack had been deliberate.

To this day, 43 years after the incident, the documents concerning the *Liberty* incident remained classified. What actually transpired seems to be a closely guarded secret in Washington and Tel Aviv. In spite of the secrecy, over the years, several witnesses have come forward and many books and articles have been published which shed new light on various aspects of the assault on the

Liberty and cast serious doubt on the official portrayal of events. Although one cannot be completely certain and reach a definitive conclusion, based on the available evidence, a strong case can be made that the attack was deliberate, and the ensuing cover-up by the US and Israel was an effort to hide covert cooperation between the two, that had taken place in the run-up to Six-Day War, and to prevent any controversy and embarrassment.

In order to understand the events surrounding the *Liberty* incident, it is necessary to look critically at the evolution of US-Israeli relations subsequent to the 1956 Suez Crisis and the events leading to the outbreak of the 1967 war. Not only are the full facts regarding the attack on the *Liberty* unknown, but moreover, many aspects of the 1967 war are misunderstood. Indeed, the conventional account of the Six-Day War is incomplete and inaccurate. Based on available sources, this article aims to analyze the development of bilateral ties between the US and Israel in the period prior to and during the 1967 conflict, and questions why the two allies moved decisively to hide the facts regarding the *Liberty* incident.

US-Israeli Relations Prior to the 1967 War

While US-Israeli relations suffered a temporary setback during the 1956 Suez Crisis, the value of Israel as a potential ally for the US increased that same year. The conduct of the Israeli Defense Forces' (IDF) military campaign had impressed Washington, and earlier that same year, the Mossad had reportedly pulled off a major coup when it was able to obtain the complete text of Nikita Khruschev's landmark speech to a closed session of the CPSU in February 1956, condemning the excesses of his predecessor, Josef Stalin. Israeli intelligence provided a copy of the speech to their US counterparts later that spring. Furthermore, collaboration between US and Israeli intelligence paid off handsomely a few years later in 1960, when they jointly orchestrated the defection of an Iraqi pilot with the most advanced version of the Soviet-made MiG-21 *Fishbed* fighter aircraft to Israel.[1]

By the beginning of the 1960s, a combination of factors gradually led to the expansion of US-Israeli relations. The reverses experienced by the Baghdad Pact (CENTO), particularly the overthrow of the pro-Western Iraqi monarchy in 1958, the limited efficacy of the Eisenhower Doctrine and intense inter-Arab rivalries prompted Washington to forego any further plans to establish a pro-Western regional security arrangement, and instead to cultivate closer ties with Israel and other individual states in the area. The new thinking was reinforced by the rise of radical Arab regimes, at the forefront of which was Egypt's Gamal Abd al-Nasser, by the growth of Soviet influence in the Middle East, and by the cultivation of close links between Moscow and the

1 Schoenbaum, David, *The United States and the State of Israel*, Oxford University Press, New York, 1993, p. 132-133.

new anti-Western Arab regimes.[2]

The Kennedy administration laid the foundations for the new US-Israeli relationship once it came into office in 1961. It viewed Israel as a potentially useful ally, while Tel Aviv also saw advantages, in part because of the superpower status of the US.[3] Furthermore, Kennedy was keenly aware that he owed his victories in the key states of New York and Illinois during the 1960 presidential elections to Jewish voters in both states (with 800'000 and 55'000 voters respectively), who had rallied solidly behind him and helped him beat Nixon by a margin of 384'000 votes in New York and 9'000 votes in Illinois.[4]

In 1962, during a meeting with Israeli foreign minister Golda Meir, Kennedy assured her that the US would come to Israel's assistance if it were attacked by Arab states. Kennedy mistakenly believed if he provided security guarantees to Israel, Tel Aviv would abandon its quest for a nuclear weapon. However, this was not the case. While the US did not want nuclear proliferation to become another destabilizing factor in an already volatile region, the Israelis saw things differently.[5] Kennedy mistakenly believed that ensuring Israeli military superiority would contribute to eventual Arab acceptance of Israel and an Arab-Israeli peace. The Israelis had their own agenda. They had never been satisfied with their post-1949 borders, which rendered the nascent state vulnerable, needing greater water resources to facilitate domestic agricultural development. The convergence of interests was not complete between the two countries. In broad terms, Washington wanted to avoid regional instability and to prevent the Soviet penetration in the area.[6]

While Kennedy cultivated closer ties with Israel, he concomitantly tried to maintain some semblance of balance by boosting economic assistance to Egypt. For example, between 1946 and 1960, Egypt had been the recipient of 254 million USD in US aid, but during the Kennedy years alone (1961-63), it received some 500 million worth of economic assistance, mostly grain shipments.[7] Overall, he tried to maintain good relations with Arab states and build bridges with them. However, the situation changed when Lyndon Johnson assumed office. He did not empathize with the brand of Arab nationalism and socialism advocated by Nasser and the other Arab republican regimes. He saw the Egyptian leader and his policies as a threat to US interests in the region. Relations steadily worsened from 1964 onwards,

2 Rubenberg, Cheryl A., *Israel and the American National Interest*, University of Illinois Press, Urbana, 1986, p. 90.
3 *Ibid.*, p. 91.
4 Schoenbaum, David, *Op.Cit.*, p. 134.
5 Ball, George W., *The Passionate Attachment*, W.W. Norton & Company, New York, 1992, p.51.
6 Rubenberg, Cheryl A., *Op.Cit.*, p. 91.
7 Schoenbaum, David, *Op.Cit.*, p. 135.

due to differences over the Yemeni civil war, US arms sales to Israel, Soviet military support for Egypt, disputes over US agricultural aid to Egypt and other factors. By 1965, Johnson suspended food aid to Egypt and approved additional arms sales to Israel.[8]

Like his predecessor though, Johnson drew false conclusions thinking if he ensured Israeli military superiority vis-à-vis the Arabs, Tel Aviv would be more amenable to compromise on issues such as the return of Palestinian refugees and the resolution of border disputes. Johnson markedly increased aid to Israel in the years prior to the 1967 war.[9] During his first three years in office, Johnson increased the value of aid to Israel from 40 million USD in fiscal year 1964 (the last year under Kennedy) to 71 million in fiscal year 1965 and then to 130 million by fiscal year 1966. Moreover, the nature of US assistance changed markedly. In 1964, the lion's share was composed of economic development loans and food aid under the PL 480 program. However, within two years, military purchases constituted 71% of US aid to Israel.[10] While Kennedy had authorized the sale of five batteries of *Hawk* surface to air missile defense systems for 21.5 million in 1963, by the mid-1960s, Johnson had approved the shipment of 250 M-48 main battle tanks and 48 A-4 *Skyhawk* attack aircraft and other equipment worth 92 million to Tel Aviv. In fact, the military assistance provided during these years to Israel surpassed the value of all US military aid given to the Jewish state since its creation in 1948.[11]

Furthermore, during this period, in order to avoid raising public concerns and congressional scrutiny, the Johnson administration also moved to establish covert military-security ties with Israel. This development could be attributed to the shared security concerns of the two states and the convergence of their interests.[12] It is noteworthy that Johnson and many of his senior aides, among them Undersecretary of State for Political Affairs Eugene Rostow, his brother White House National Security Advisor Walt Rostow, US ambassador to the United Nations Arthur Goldberg, and many of his close confidants, including Abe Fortas, Clark Clifford, and John Roche were staunch advocates of a pro-Israeli policy. They all viewed Israel as a valuable ally and strategic partner.[13]

By 1966, the year prior to the Six-Day War, the US had increased its aid to Israel markedly. In fact, US aid to Israel since independence in 1949, totaled more than 1.2 billion USD, which made Israel the largest recipient of American assistance on a per capita basis.[14]

8 Ball, George W., *Op.Cit*., p. 51 and Rubenberg, Cheryl A., *Op.Cit.,* p. 93.
9 Ball, George W., *Op.Cit*., p. 52.
10 Green, Stephen, *Taking Sides*, William Morrow & Company, New York, 1984, p. 186.
11 *Ibid.,* p. 187.
12 *Ibid.,* p. 190.
13 Rubenberg, Cheryl A., *Op.Cit*., p. 94-95.
14 Schoenbaum, David, *Op.Cit.,* p. 146.

Regional Developments and US Policy Prior to the 1967 War

During the decade after the 1956 Suez Crisis, Egypt's leader Gamal Abd al-Nasser was increasingly viewed as an ingrate in official Washington circles. In spite of the fact that the US had saved him from a humiliating defeat in 1956, he had steered an independent path and antagonized the US at every turn. Although he had received American food aid and provided guarantees to President Kennedy to help preserve peace and stability in the Middle East, Nasser had recognized Communist China, sent troops to help the republican forces after the outbreak of the 1962 Yemeni civil war, and taken a hostile stance toward many pro-Western regimes in the region, including those in Iraq, Libya and Jordan.[15] By the mid-1960s, there was little sympathy towards him, especially in the Johnson administration, which considered him also to be a Soviet proxy who had to be neutralized.[16] Many US officials relished the thought of Nasser being humbled, or better yet toppled.[17]

By the mid-1960s, tensions in the region increased and a possible military confrontation between the Arabs and Israel seemed to loom on the horizon. The key issue which aggravated the situation was Tel Aviv's project to divert as much as 77% of the water resources from Lake Tiberias and Jordan River as part of its National Water Carrier (NWC) scheme, in order to irrigate the Negev Desert and southern Israel. Even during the planning stages in the 1950s, the scheme had been considered so controversial that the Eisenhower administration had suspended aid to Israel for a brief period. The project benefited Israel at the expense of Syria and Jordan. However, when Kennedy took office, he supported the construction of the NWC.[18] By late 1963, as the project neared completion, Syria urged Egypt, the most powerful Arab country, to take a decisive stand in order to thwart Israeli plans. Nasser though was reluctant to take on Tel Aviv for fear of sparking a military confrontation which he could not win.[19]

After Israel completed the construction of the NWC in 1964, Syria responded in early 1965 by beginning a water diversion project to diminish the amount of water resources Tel Aviv could exploit. Israel responded in a robust manner, by shelling the Syrian site.[20] Damascus remained undeterred and in order to maintain pressure on Tel Aviv, it allowed the Palestinian guerrilla group Fatah, under the leadership of Yasser Arafat, to use Syria as a springboard to launch cross-border raids into Israel. Syria's support for Fatah was also

15 Parker, Richard B., *The Politics of Miscalculation in the Middle East*, Indiana University Press, Bloomington, 1993, p. 100-101.
16 *Ibid.*, p. 102-103.
17 Ball, George W., *Op.Cit.*, p. 55.
18 Rubenberg, Cheryl A., *Op.Cit.*, p. 92.
19 ockburn, Andrew and Leslie, *Dangerous Liaison*, Harper Collins Publishers, New York, 1991, p. 131.
20 Green, Stephen, *Op.Cit.*, p. 191.

meant to uphold its pan-Arab credentials domestically, and to outbid Nasser as standard bearer of Arab nationalism and the Palestinian cause in the Arab world. Israel responded to these raids using massive, disproportionate force as a means to punish Fatah and its Syrian benefactors, and to deter them from orchestrating similar operations in the future. However, Israel's heavy-handed tactics did not deter its foes, leading to further attacks, retaliatory strikes and an escalating spiral of tensions along the Syrian-Israeli border. Damascus grew even more militant and cultivated closer ties with Moscow, in order the gain greater Soviet military and political support.[21]

Tensions reached new heights following the seizure of power by the more radical Syrian Neo-Ba'th regime in 1966, which took an even harder line against Israel. The nationalist government not only encouraged and backed Fatah attacks into Israel to a greater degree than its predecessor, but it also condemned Nasser for preventing Palestinian fighters from using the Egyptian-controlled Gaza Strip as a base for raids into Israel.[22] The Egyptian leader felt increasingly cornered and powerless to act. Nonetheless, by 1966-67, tensions between Syria and Israel, and inter-Arab rivalries were setting the stage for another war in the region.

For its part, Israel did not seem interested in defusing tensions with Syria during this period. Besides its ironfisted responses to Fatah assaults, it repeatedly entered the demilitarized zone in a bid to try to claim more land and test the tolerance of the Syrians.[23] The provocative behavior of both sides only led to the deterioration of the security situation along their mutual frontier.

Israel aggravated the conditions on the ground in November 1966, when after a number of raids from Syria, it inexplicably launched a major attack against the towns of el-Sammu, Jimba and Khirbet Karkay in the Jordanian-controlled West Bank resulting in many casualties and the destruction over of 140 homes and other structures.[24] During the Israeli operation, Egypt had promised air support to Jordan, but it never materialized, prompting King Hussein to condemn Nasser for cowardice. Nasser found himself increasingly in an uncomfortable position, trapped between the devil and the deep blue sea. Inaction on his part would lead to Arab condemnation and the loss of political prestige, while action would most probably lead to an ignominious defeat at the hands of a militarily superior Israel.

Between January and April 1967, the cycle of violence between Syria and Israel continued unabated. Tel Aviv then proceeded to add fuel to the fire

21 Rubenberg, Cheryl A., *Op.Cit.,* p. 100.
22 Ball, George W., *Op.Cit.,* p. 53, Rubenberg, Cheryl A., *Op.Cit.,* p. 100 and Cockburn, Andrew and Leslie, *Op.Cit.*, p. 135.
23 Rubenberg, Cheryl A., *Op.Cit.,* p. 101.
24 Ball, George W., *Op.Cit.*p. 53, Rubenberg, Cheryl A., *Op.Cit.,* p. 101-102 and Cockburn, Andrew and Leslie, *Op.Cit.*, p. 135.

on 3 April 1967 by announcing its intention to start farming in two areas of the demilitarized zone, also claimed by Syria. Four days later, when these activities started, Syria responded with mortar fire in the demilitarized zone. Israel then responded swiftly and disproportionately, with artillery and tank fire, and sent seventy warplanes into Syrian airspace where they shot down six Syrian aircraft sent to intercept them, after which they proceeded to break the sound barrier over Damascus.[25]

For the second time in less than six months, Israel had unleashed a massive assault at a neighboring Arab state, and the Unified Arab Command in Cairo, which was supposed to coordinate defense and provide protection to Arab states bordering Israel, had done nothing. Syria, Jordan and other detractors accused Nasser of impotence. The Egyptian leader felt cornered, and obliged to respond to the next emerging crisis. The stage was now set for a major confrontation.[26]

On 25 April, less than three weeks after the clashes along the Syrian-Israeli border, the Soviet foreign ministry summoned the Israeli ambassador to Moscow, informing him that the USSR was in the possession of information that Israel was engaged in a military build-up in the north to attack Syria, and warning him against pursuing such a course of action. The Kremlin subsequently passed on the information to the Egyptians during the visit of a high-ranking delegation from Cairo led by Anwar Sadat only days later.[27]

The accuracy of the Soviet warnings has been the subject of a major debate for decades. While critics argue the Soviet assessments were inaccurate, the chain of events during the Six-Day War, particularly the course of action pursued by the Israelis in the final two days of the conflict, lend credence to the position of those who maintain that the attack against Syria had indeed been on the cards all along. This is also supported by the admission of Ezer Weizmann, who had been IDF Head of Operations in 1967, when he candidly stated five years later in 1972: "Don't forget that we did move tanks north after the downing of the aircraft."[28]

The perception that Israel was assuming a war-footing was reinforced by a number of harsh statements made by Prime Minister Levi Eshkol and Chief of Staff Yitzhak Rabin in early May.[29] In the month prior to the outbreak of the war, Israel threatened military action to topple the Syrian regime, and at the same time, ridiculed the Egyptians for waging a war of words and their inability to take any effective action. On 11 May, Yitzhak Rabin declared on Israeli radio that "the moment is coming when we will march on Damascus to overthrow the Syrian Government." The next day, the head of military

25 Rubenberg, Cheryl A., *Op.Cit.*, p. 102 and Cockburn, Andrew and Leslie, *Op.Cit.*, p. 136.
26 Rubenberg, Cheryl A., *Op.Cit.*, p. 103.
27 Dawisha, Karen, *Soviet Policy Towards Egypt*, Macmillan Press, London, 1979, p. 39.
28 Cockburn, Andrew and Leslie, *Op.Cit.*, p. 137.
29 Dawisha, Karen, *Op.Cit.*, p. 39.

intelligence, General Aharon Ya'ariv, told reporters: "we must make it clear to the Syrians that they cannot continue in this way, and I think that the only way to make it clear to the Syrians is by using force."[30]
During the press briefing, General Ya'ariv also ridiculed Nasser's impotence. In a telling statement, he posited: "we are creating such a situation that it is impossible for the Egyptians not to act because the strain on their prestige will be unbearable." It is apparent that Tel Aviv's threats and taunts directly contributed to forcing Nasser to react after his inaction on previous occasions. Based on the threats and reports about an imminent invasion of Syria provided by Moscow and Damascus, he was determined not to be outmaneuvered this time and take a stand.[31]

The statements made by senior Israeli military officials were publicized extensively both in the regional and international press, thereby ratcheting up the pressure on Nasser to take some measures to demonstrate solidarity and support for Damascus in the seemingly likely event of an Israeli invasion of Syria. Therefore, less than 72 hours after the declarations by Rabin and Ya'ariv, the Egyptian leader decided to deploy two army divisions in the Sinai Peninsula, or some 58'000 troops, as a precautionary measure to deter a possible Israeli assault on Syria.[32]
When Nasser moved troops across the Suez Canal into the Sinai on 14 May, Washington did not react. Indeed, according to both US and Israeli assessments, this was only a demonstrative move. It was not a prelude for offensive action against Israel.[33] However, official statements and the news reports in Israel and the West depicted Cairo's actions as aggressive and menacing. Concomitantly, the Neo-Ba'th regime in Damascus and other detractors of Nasser claimed that he was not doing enough, and hiding behind the United Nations Emergency Force (UNEF) which had been deployed after the 1956 Suez Crisis on the Egyptian side of the frontier with Israel.[34] The taunts from his Arab rivals and Israel's decision to commence a general mobilization prompted Nasser to request the withdrawal of UNEF from the Sinai on 16 May. He hoped that great power intervention would defuse the situation through diplomacy and he could climb down the ladder of escalation in a face-saving manner.[35] Curiously, neither Washington nor Moscow took action to prevent the removal of UNEF and contain the rapidly escalating crisis.[36]
Once UNEF had been withdrawn, Nasser was under immense pressure from his Arab allies and rivals to reinstate the pre-1956 blockade of the Straits

30 Rubenberg, Cheryl A., *Op.Cit.*, p. 105. Cockburn, Andrew and Leslie, *Op.Cit.*, p. 137.
31 Rubenberg, Cheryl A., *Op.Cit.*, p. 105.
32 Ball, George W., *Op.Cit.*, p. 53. Cockburn, Andrew and Leslie, *Op.Cit.*, pp. 138-139.
33 Rubenberg, Cheryl A., *Op.Cit.*, p. 106.
34 Dawisha, Karen, *Op.Cit.*, p. 40 and Ball, George W., *Op.Cit.*, p. 54.
35 Cockburn, Andrew and Leslie, *Op.Cit.*, p. 139.
36 Rubenberg, Cheryl A., *Op.Cit.*, p. 107.

of Tiran - a direct contravention of the 1957 agreement that had led to the withdrawal of Israeli forces from the Sinai.[37] Consequently, on May 22, he announced the closure of the Straits, thereby furnishing Israel with a *casus belli*.[38] Although cognizant of the risk he was running, the Egyptian leader believed that UN mediation and great power intercession would enable him to emerge from the crisis with a political gain, without any bloodshed this time, perhaps somewhat similar to 1956 when he had been able to snatch victory from the jaws of defeat. However, Tel Aviv and Washington were both determined this time to avoid a repetition of 1956.[39]

As the crisis continued, Nasser realized that he may have overplayed his hand. He therefore tried to back-peddle by assuring the involved parties on 28 May that he did not intended to attack Israel, and his motives were purely defensive.[40] However, the dye had been cast. Once the straits were closed, Johnson dispatched the US Sixth Fleet into the eastern Mediterranean. War now seemed to be a foregone conclusion in Israel and the United States. Both were confident of an Arab defeat that would humble Nasser and possibly lead to his overthrow, thereby terminating Cairo's involvement in the Yemeni civil war and resulting in a royalist victory. Furthermore, Moscow would be humiliated as an Arab defeat would demonstrate the ineffectiveness of its weapons, and the neo-Ba'th regime in Damascus would be weakened and discredited. The US would also be able to obtain intelligence on Soviet weapons systems, and transform Israel into an effective instrument of US policy in the Middle East.[41]

In the run-up to the outbreak on the war on 5 June, the Israeli and Western press depicted Nasser's actions as aggressive and Israel being at a critical crossroads, facing an existential threat from its Arab adversaries. However, in truth, Tel Aviv and Washington never believed that Israel was in any real danger, and in fact were confident of an overwhelming Israeli victory in the event of war.

Only one year after the 1967 war, Israeli chief of staff Yitzhak Rabin stated: "I do not believe that Nasser wanted war. The two divisions he sent into the Sinai on May 14 would not have been enough to unleash an offensive against Israel. He knew it and we knew it."[42] Later, in 1972, Ezer Weizmann admitted that there had been "no threat of destruction" from the Arab states, while General Mattityahu Peled of the IDF General Staff explained: "to claim that the Egyptian forces concentrated on our borders were capable of threatening

37 Ball, George W., *Op.Cit.*, p. 54.
38 Cockburn, Andrew and Leslie, *Op.Cit.*, p. 139.
39 Rubenberg, Cheryl A., *Op.Cit.*, p. 112.
40 Ball, George W., *Op.Cit.*, p. 54.
41 Rubenberg, Cheryl A., *Op.Cit.*, p. 112-113.
42 Findley, Paul, *Deliberate Deceptions*, American Education Trust, Washington, D.C., 1995, p. 36 and Rubenberg, Cheryl A., *Op.Cit.*, p. 104.

Israel's existence not only insults the intelligence of anyone capable of analyzing this kind of situation, but is an insult to the Israeli army."[43] Indeed, that same year, former Israeli cabinet minister Mordechai Bentov admitted that Tel Aviv had manufactured and overstated the account about the threat of Israel's imminent demise in order to justify its actions and the annexation of new Arab territories.[44] Many years later, during a speech in 1982 at the National Defense College in Jerusalem, Prime Minister Menachem Begin also admitted that the Six-Day War had not been a "war of necessity," but "a war of choice…Nasser did not attack us. We decided to attack him."[45]

In the run-up to the outbreak of the Six-Day War, the Johnson administration went through the motions of trying to find a diplomatic solution to the crisis. Its moves were slow and lackadaisical, or in the words of the former US undersecretary of state, George W. Ball, "lethargic."[46] Washington signaled to Tel Aviv that it had no objections if Israel took matters into its own hands. By late May, US intelligence estimated that Israel could vanquish Egypt and its allies in less than a week. In fact, one CIA brief submitted to Johnson on 26 May estimated that the war would be over in six days.[47] Confidence was so high in the assessments that no contingency plans were drawn up in the event of a protracted war or an Israeli defeat.[48]

According to an anonymous source in the US National Security Agency (NSA), the CIA and Mossad had begun the implementation of covert efforts in 1966 to draw Nasser into a war.[49] Washington backed a limited conflict with Egypt, but expected Tel Aviv to adhere to a mutual understanding and avoid reckless actions.[50]

Overall, the Johnston administration believed that Arab reverses and the occupation of lands by Israel would expose the Soviet Union as an ineffective patron, and compel the Arab regimes to turn to the United States to find a diplomatic solution in order to regain the territories they had lost in the conflict. This would bolster US influence and standing in the region. Secondly, it concluded that a clear Israeli victory and territorial gains would end Arab aspirations of eliminating the state of Israel and make them come to terms with the new realities on the ground. Thirdly, it was hoped that an overwhelming Arab defeat would lead to the overthrow of the radical Arab regimes in Egypt, Syria and elsewhere in the region.[51]

In late May, Johnson ordered secret arms shipments to be sent to Israel,

43 *Ibid.*
44 *Ibid.*, p. 36.
45 Ball, George W., *Op.Cit.*, p. 56.
46 *Ibid.*, p. 55.
47 Cockburn, Andrew and Leslie, *Op.Cit.*, p. 142.
48 Ball, George W., *Op.Cit.*, p. 55.
49 Cockburn, Andrew and Leslie, *Op.Cit.*, p. 146-147.
50 Green, Stephen, *Op.Cit.*, p. 244-245.
51 Ball, George W., *Op.Cit.*, pp. 55-56.

including armored personnel carriers, spare parts for *Hawk* missile batteries and tanks, ammunition, bombs and other related items. All the shipments arrived in Israel prior to 5 June, when the Israelis initiated the hostilities.[52] Furthermore, on 27 May, when the Kremlin communicated to the US that it had reliable intelligence on Israel's plans to wage war and warned Washington of the potential consequences, Johnson duly passed on the information to the Israelis.[53] By the end of May, it was clear that Israel had decided on the military option with the full knowledge of the US. Prime Minister Levi Eshkol dispatched Foreign Minister Abba Eban and Mossad chief Meir Amit to Washington, to ensure that Israel had the backing of the US if it initiated a military campaign against Egypt.[54] The Johnson administration was supportive in private. But in public, it went through the motions of trying to find a diplomatic solution. On Sunday, 4 June, Israel decided to strike the following day.[55]

In the final analysis, there was very little sympathy if at all for Nasser and his policies in Washington. Hence, the Johnson administration assured Israel that unlike 1956, the US would not stand in its way to launch a war nor force it to give up the fruits of its victory afterwards. According to the available evidence, although there may not have been an explicit "green light" from Washington for Israel to commence hostilities, it was made clear that there was no "red" or "yellow light." Furthermore, the US signaled if Israel opted for war, it would indirectly assist it in its endeavor. In the crisis days leading to the Six-Day War, US Undersecretary of State Eugene Rostow, in discussions with Israel's ambassador to Washington, underscored the importance of preventing Nasser from gaining a diplomatic victory as had been the case in 1956.[56]

There is no doubt that Nasser set himself up for the disaster that followed, by making a number of serious miscalculations. He feigned willingness and readiness to go to war by mobilizing his forces and repeatedly making belligerent statements primarily for consumption of the Egyptian and Arab audiences. Much to the satisfaction of Israeli and US policymakers, he provided the appropriate pretext for Tel Aviv to launch a "pre-emptive" strike, by claiming that the existence of Israel was in danger and Egypt and its allies were preparing to launch a war.[57]

52 Rubenberg, Cheryl A., *Op.Cit.*, p. 113.
53 *Ibid.*, p. 117.
54 Cockburn, Andrew and Leslie, *Op.Cit.*, p. 142 and 149.
55 Rubenberg, Cheryl A., *Op.Cit.*, p. 120.
56 Schoenbaum, David, *Op.Cit.*, p. 152.
57 Ball, George W., *Op.Cit.*, p. 56.

The Six-Day War and US-Israeli Cooperation

At 7:45 AM on Monday, 5 June, Israeli warplanes attacked Egyptian airbases and within 2 hours destroyed over 300 aircraft, more than three-quarters of the Egyptian air force and killing a third of its airmen. Within hours, the Egyptian Air Force had ceased to function as a credible force.[58] The Israelis conducted similar operations in the following days against military airfields in Jordan, Syria and Iraq, completely neutralizing Arab airpower. The IDF then proceeded to overrun the Sinai Peninsula and the Jordanian-controlled West Bank and East Jerusalem in the 72 hours that followed the initial attacks of 5 June. Although the Egyptians made wild accusations, claiming that US warplanes had participated in the attacks on their airfields, no convincing evidence was ever produced.[59] However, according to various sources, the US did assist Israel during the conflict, not only on the diplomatic front, but also indirectly in military terms.

In the diplomatic arena, the US tried to assist Israel in achieving its goals by dragging its feet and blocking moves at the UN to end the war quickly and restore the *status quo ante*. Israel's ambassador at UN headquarters in New York, Rafael Gideon, told his US counterpart, Arthur Goldberg, that Tel Aviv wanted more time in order to capitalize on the situation and consolidate its gains. Goldberg tried to accomplish this, in part, by avoiding the Soviet ambassador Nikolai Federenko.[60] Furthermore, on 6 June, the US succeeded in securing the adoption of a UN Security Council resolution calling for a ceasefire (UNSC Resolution 235), but not mentioning the withdrawal of (Israeli) forces to the pre-war lines. Interestingly, Jordan immediately accepted the resolution, but Israel pressed on its attack against Jerusalem and the West Bank. The next day, when a second resolution was proposed, calling for a ceasefire and withdrawal of military forces to the pre-war borders, the US vetoed it. On 8 June, although Egypt accepted the 6 June resolution, Israel continued to consolidate its gains in the Sinai.[61]

On the military front, according to Stephen Green, the US Air Force secretly dispatched two units to Israel prior to the outbreak of the conflict, to gather intelligence for the Israelis by conducting aerial reconnaissance missions over the battle front. Before the crack of dawn on June 3, US air force pilots belonging to the 38th Tactical Reconnaissance Squadron of the 26th Tactical Reconnaissance Wing in Ramstein, Germany were abruptly woken up and ordered to fly to the US air base in Moron, Spain immediately.[62]

58 Cockburn, Andrew and Leslie, *Op.Cit.*, p. 149-150.
59 Druks, Herbert, *The Uncertain Alliance*, Greenwood Press, London, 2001, p. 46.
60 Findley, Paul, *Op.Cit.*, p. 39-41.
61 Rubenberg, Cheryl A., *Op.Cit.*, p. 123.
62 Green, Stephen, *Op.Cit.*, p. 204.

Once in Moron, they were joined by a team of photo technicians who had also been hastily dispatched from the 17th Tactical Reconnaissance Squadron of the 66th Tactical Reconnaissance Wing at Upper Heyford, England. They were then informed that they were being sent on a top secret mission to an Israeli air base in the Negev Desert, to provide aerial reconnaissance support to the Israelis in the forthcoming conflict against the Arabs.[63] The pilots from Ramstein flew the RF-4C, the unarmed photo reconnaissance version of the *Phantom*, one of the most advanced tactical reconnaissance aircraft at that time.

The servicemen had to turn in their uniforms and all items that could give away their true identity, including dog tags, coins and personal belongings, and then given new uniforms. Their RF-4Cs were repainted with Israeli markings and serial numbers. They subsequently arrived at an airbase in Beersheba at dusk on 4 June, and the very next morning following the Israeli strikes, they began photographing the damage inflicted by attacks on Arab air bases. They flew 8 to 10 sorties daily.[64] Two days after the end of the conflict, the US airmen flew back to Spain. All the participants were instructed never to reveal their activities during the war and later received promotions.[65]

As the fighting died down along the Egyptian and Jordanian fronts, Israel turned its attention toward Syria. Damascus accepted the ceasefire resolution on the evening of 8 June, New York time – 5:20 AM in the morning Damascus time on 9 June. Israel also officially accepted the UN Security Council Resolution 235. However, Tel Aviv had other plans.[66] But before implementing their plans against Syria, the Israelis had to take care of a potential source of trouble off their coast – the *USS Liberty*.

The Attack on the *Liberty*

The *USS Liberty* was a Second World War *Victory*-class merchant ship that had been upgraded and equipped with 40 million USD worth of the most advanced electronic surveillance equipment to monitor and decode electronic communications. Along with its sister ship, *USS Belmont*, it was the most technologically advanced vessel in the US Navy, and operated on behalf of the NSA.[67]

Twenty-four hours after Nasser declared his intention to close the Straits of Tiran on May 22, the NSA had ordered the *Liberty* to sail from West Africa to the eastern Mediterranean.[68] By the evening of 7 June, the vessel had reached

63 *Ibid.,* p. 205.
64 *Ibid.,* p. 206-207.
65 *Ibid.,* p. 209.
66 Rubenberg, Cheryl A., *Op.Cit.,* p. 123.
67 Green, Stephen, *Op.Cit.,* p. 212.
68 *Ibid.,* p. 213.

its area of operation off the coast of southern Israel and the Sinai Peninsula. That night, the *Liberty* now closely monitoring activity in the area, picked up signals clearly indicating that Israeli warplanes flying nearby were practicing locking their fire-control radar on the vessel without launching their weapons. Concomitantly, the US embassy in Tel Aviv dispatched an urgent message to Washington relaying information that Israel intended to attack the *Liberty*. However, no action was taken by the Pentagon.[69]

For the crew of the *Liberty*, the weather on the following day, 8 June, was perfect. It was a clear, sunny day with good visibility. The ship was easily identifiable due to its structure and communication antenna. Its naval designation, GTR-5, was visible on both sides of the bow and the stern, and its large 5x8-foot American flag was flying in an eight-knot breeze.[70] Everybody on board expected it to be the first full day of monitoring battle communications among the Israeli and Arab combatants. The United States was a neutral country and the *Liberty* was operating in international waters.

By now, the fourth day of the war, it was apparent that Egypt and Jordan had been routed. As mentioned, Israel shifted its focus onto Syria, the country that had been the main source of tensions all along and the immediate cause of the conflict. From the Israeli perspective, the "Syrian problem" had to be settled once and for all. As far as Tel Aviv was concerned, at minimum, the strategic Golan Heights had to be seized to deny the Syrians the ability to shell the Galilee, one of the most agriculturally important regions of the country, and deny them access to the headwaters of the Jordan River by securing control of both banks of Lake Tiberias. It was also envisioned that Israeli military actions could directly or indirectly lead to the ouster of the Neo-Ba'th regime in Damascus.[71]

However, as the guns fell silent along the Egyptian and Jordanian fronts, the task at hand was complicated for the Israelis with the adoption of a UN Security Council resolution calling for ceasefire. Tel Aviv needed to cloak its intentions and wanted more time in order to achieve its objectives. Although Washington had at least tacitly supported the attack on Egypt, it was unclear whether it would support all of Israel's actions, especially if it meant violating a UN Security Council resolution and a possible showdown between the two Superpowers.[72]

In fact, on the morning of 8 June, the US consulate in Jerusalem sent an urgent dispatch to Washington stating that Israeli forces had commenced an intensive air and artillery barrage against Syrian positions on the Golan Heights as a possible prelude to a full-scale assault against the Syrians. US Secretary of State Dean Rusk sent an immediate reply asking the consul to

69 *Ibid.,* p. 226 and 241.
70 *Ibid.,* p. 228.
71 Ball, George W., *Op.Cit.*, p. 57.
72 *Ibid.*

convey to the highest Israeli authorities, US displeasure with such a move. He demanded Israeli compliance with the UN ceasefire resolution and the cessation of hostilities. However, Israel was in no mood to compromise. The prominent Israeli daily newspaper *Ha'aretz* called on the Israel army to "finish the job" by turning on Syria, after having so decisively routed the Egyptians and Jordanians. "Everything started with Syria. The time has come to add up and settle accounts" it exclaimed.[73]

At approximately 6:00 AM on the morning of 8 June, the *Liberty* noted the first of eight Israeli reconnaissance aircraft surveying it. The Israeli aircraft, consisting of French-built Nord 2501 *Noratlas* and Dassault-Breguet *Mirage IIICs* monitored the *Liberty* at regular intervals throughout the morning until 12:45 PM.[74] The crew of the *Liberty* was not concerned. Although they were well aware that they were in a war zone, they were easily identifiable as American, and Israel was considered a friendly state.

At 1:10 PM, the crew of the *Liberty* conducted a general quarters exercise. Shortly after the end of the drill, at 2:00 PM, a first wave of Israeli *Mirage III* fighters attacked the vessel, firing 30 mm cannon and 36 68 mm SNEB rockets. The strikes were methodical - the four machinegun emplacements, the communications antennae and the bridge of the vessel being targeted first.[75] Once the *Mirage* had expended their ammunition, they were soon followed by *Mystere* fighter-bombers, which also dropped napalm bombs on the ship.[76] It is noteworthy that the dozen *Mirage* aircraft that participated in the assault were unmarked,[77] and the Israeli aircraft and onshore facilities jammed five out of six communications frequencies used by the vessel.[78] In spite of these efforts, the *Liberty* was able to send a distress call that was immediately picked up by the aircraft carrier *USS Saratoga* (CVA-60), some 450 miles west of the *Liberty*.[79]

The *Liberty*'s distress signal was picked up by the Sixth Fleet at 2:09 PM, only minutes after the attack commenced. The commanding officer, Rear Admiral Geis, ordered the immediate launch of twelve aircraft to assist the *Liberty*. The warplanes were launched from the carrier deck at 2:24. However, Geis ordered the aircraft to return to the carrier once he received a direct order by radio from Defense Secretary McNamara to delay action for ninety minutes. After the passage of that time, the aircraft were launched again, and Geis informed McNamara of the second launch. This time, President Johnson

73 Neff, Donald, *Warriors for Jerusalem*, Simon & Schuster, New York, 1984, p. 252-253.
74 Smith, Peyton E. (Colonel), *Assault on the USS Liberty,* US Army War College, Carlisle Barracks (PA), 2007, p. 7 and 14.
75 Lee, Richard D. (Lieutenant Commander), *Attack on the USS Liberty*, Air Command and Staff College, Air University, Maxwell Air Force Base, (AB), 1999, p. 18, and Neff, Donald, *Op.Cit*., p. 254.
76 Smith, Peyton E., *Op.Cit*., p. 9.
77 Lee, Richard D., *Op.Cit.,* p. 18-19 and Green, Stephen, *Op.Cit*., p. 229.
78 *Ibid.,* p. 19 and p. 230.
79 Neff, Donald, *Op.Cit*., p. 255.

spoke on the radio personally and instructed Geis to recall the warplanes because, "we are not going to embarrass an ally."[80] The *Liberty* was left to its own devices.

Less than half an hour after the beginning of the assault by the waves of *Mirage* warplanes, at 2:24 PM, three Israeli navy torpedo boats attacked the *Liberty*, riddling the vessel with 20 and 40 mm shells, and firing torpedoes. One of these struck the signals intelligence gathering section of the ship, tearing a giant 39-foot hole in the starboard side of the hull, instantly killing 25 crewmen. In the meantime, the *Liberty* managed to send another distress signal that was again picked up by the *Saratoga* and forwarded to all relevant military commands.[81]

With the ship now dangerously listing to starboard, and no power to move or steer, Captain McGonagle, ordered the crew to abandon ship. The Israeli boats then circled the *Liberty* and fired their guns at the waterline and any observed movement on deck, expecting the vessel to sink eventually. As the crew lowered three life rafts into the water, two of them were shot up and rendered useless by the gunboats, while the third was collected from the water by one of the Israeli vessels. Consequently, Captain McGonagle rescinded the order to abandon ship.[82]

The boats left the scene at 3:05 PM and were followed immediately by two Israeli military transport helicopters full of soldiers. Unlike the warplanes, which had no markings, the two French-built Aerospatiale SA321 *Super Frelon* helicopters bore the Israeli Star of David insignia. They circled the *Liberty* a number of times and then withdrew,[83] leaving the ship dead in the water. Almost three dozen crewmen had been killed and many wounded. They would have to wait until the next day for help from the Sixth Fleet to arrive.

Meanwhile, at approximately 3 PM, the US consulate in Tel Aviv was informed by the Israeli government that Israeli air and naval forces had accidentally attacked a US vessel. It should be underscored that this was well after the *Liberty* had sent its distress signals and the communication from the Six Fleet had indicated that help was on its way. Although the Israelis had failed to deliver the coup de grace by sinking the *Liberty*, they had nevertheless rendered the ship ineffective in terms of monitoring their communications. The available evidence indicates that they decided, after 60 minutes of incessant strikes by their unmarked warplanes and boats on the hapless vessel, to discontinue their efforts and depict the event as an honest error. As far as Tel Aviv knew, US warplanes were expected to arrive and the Israelis did not want a confrontation with their Superpower ally in the midst

80 Lee, Richard D., *Op.Cit.*, p. 25.
81 Smith, Peyton E., p. 10 and Neff, Donald, *Op.Cit.*, p. 256.
82 Smith, Peyton E., p. 10, Lee, Richard D., *Op.Cit.*, p. 21 and Neff, Donald, *Op.Cit.*, p. 256.
83 Neff, Donald, *Op.Cit.*, p. 257.

of a war.[84]
Although in Washington senior administration officials were skeptical about Israeli claims that the incident had been an accident, they chose not to confront Tel Aviv. The war was still raging, and the immediate priority was to exercise influence and restraint on their ally to ensure the conflict was terminated quickly, without risk of drawing in the Superpowers.[85] That afternoon, Deputy Defense Secretary Cyrus Vance instructed the head of the US Navy's European command to impose a news blackout on the *Liberty* incident. The cover-up had already begun.[86]

With the *Liberty* immobilized, the Israelis now finalized preparations to take the Golan Heights the next day. Although, Syria accepted the UN Security Council ceasefire resolution in the early hours of 9 June at 5:20 AM local time precisely, this was to no avail. Within hours, at 11:30 AM, the IDF commenced its assault and made short shrift of the Syrian forces within 24 hours.
By 10 June, once Israel had gained the Golan Heights after heavy fighting, it signaled its intent to push towards Damascus. Soviet Premier Alexei Kosygin called US President Johnson on the hotline and threatened direct Soviet military intervention if the Israelis did not immediately abide by the UN ceasefire resolution. In response, Johnson ordered the deployment of the Sixth Fleet closer to the war theater, and in parallel, exerted tremendous pressure on the Israelis to end hostilities, which they promptly did at 3:00 PM on 10 June.[87]

It should be underscored that at no point during the Six-Day War did Washington disapprove of Israeli actions up until 10 June, when the specter of Superpower power confrontation emerged. The available evidence indicates that the US stood by and supported Israeli moves in the run-up and during the conflict until the belated but disconcerting Soviet ultimatum.[88]

Analysis and Conclusions

Less than 24 hours after the assault on the *USS Liberty*, Admiral John S. McCain, Jr., the Commander-in-Chief of US Naval Forces in Europe, ordered Admiral Isaac C. Kidd to conduct and complete an investigation on the *Liberty* incident within one week - an unusually short amount of time to conduct a proper inquiry for this type of incident. Although Kidd estimated that it would take six months to carry out an adequate investigation, he carried out

84 *Ibid.,* p. 257.
85 *Ibid.,* p. 257-258.
86 *Ibid.,* p. 260.
87 Dawisha, Karen, *Op.Cit.,* p. 42-43, Druks, Howard, *Op.Cit.,* p. 40, Rubenberg, Cheryl A., *Op.Cit.,* p. 123 and Green, Stephen, *Op.Cit.,* p. 200-201.
88 Rubenberg, Cheryl A., *Op.Cit.,* p. 124.

his orders to the best of his ability.[89]
The Kidd inquiry managed to interview only 14 of the 260 surviving crew members. Sixty declarations from injured crewmen still hospitalized were excluded from the record. Furthermore, when Admiral Kidd requested traveling to Israel to interview Israelis involved in the incident, Admiral McCain denied his request. Both Kidd and his assistant, Captain Ward Boston, Jr. believed the attack had been deliberate. Incredibly, they were instructed by President Johnson and Defense Secretary McNamara to write that it had been a case of mistaken identity. Upon their return to Washington, they had to rewrite their findings with direct input from White House and Pentagon officials. Once the document was completed, it was quickly processed and classified as Top Secret. Kidd was also instructed not to discuss the *Liberty* incident ever again.[90]

The fact that the investigation was conducted in a swift and surreptitious manner not only left many questions unanswered, but also raised suspicions about the official version of events and a cover-up. Although the incident was officially considered closed, and US-Israeli relations markedly improved subsequent to the 1967 war, many doubts lingered in the years that followed. While Lyndon Johnson and Robert McNamara avoided the *Liberty* incident in talks, interviews and publications, other administration officials questioned the official version.
US Secretary of State Dean Rusk and Chairman of the Joint Chiefs of Staff Admiral Thomas Moorer openly stated their belief that the attack had been deliberate.[91] CIA Director Richard Helms also wrote in his memoirs that the attack had been deliberate, while Johnson's senior advisor Clark Clifford also wrote in his account, *Counsel to the President: A Memoir*, "I never felt the Israelis made adequate restitution or explanation for their actions."[92]

Furthermore, in the years that followed, there were many important revelations about the incident. In 1978, the lead pilot from the Israeli *Mystère* aircraft came forward and told US Congressional officials that he had identified the *Liberty* as an US vessel since it was flying an American flag and had immediately informed his command center. He was still ordered to press on with the attack. However, he disobeyed the order and returned to his airbase, where he was promptly arrested.[93] In addition, in 1991, the US Ambassador to Beirut at the time of the Six-Day War, Dwight Porter, stated that the CIA station chief had shown him a transcript at that time of a secret intercept proving that the Israeli pilots had identified the *Liberty* as an American vessel,

89 Smith, Peyton E., *Op.Cit.,* p. 12.
90 *Ibid.,* p. 15.
91 Findley, Paul, *Op.Cit.,* p. 41.
92 Smith, Peyton E., *Op.Cit.,* p. 16.
93 *Ibid.,* p. 9-10.

but nonetheless had been ordered to continue with the attack.[94] In fact, prior to the assault, on the morning of 8 June, the Liberty's own communication section had intercepted radio transmissions between the Israeli warplanes, boats and their bases indicating that they were aware that the *Liberty* was an American ship.[95]

Perhaps most interesting of all, according to former CIA agent Wilbur Crane Eveland in his book, *Ropes of Sand: America's Failure in the Middle East*, after the incident, Israeli "Defense Minister Dayan had stated his government's position bluntly: unless the United States wishes the Russians and Arabs to learn of joint CIA-Mossad covert operations in the Middle East and (CIA spymaster) Angleton's discussions before the 1967 fighting started, the questions of the lost American ship and how the war originated should be dropped."[96] Overall, based on the available evidence, it does seem that the 1967 war was a premeditated attack, planned well in advance by Israel with the connivance of the US. Although an attack on Egypt had been part of the agreed script, the expansion of the conflict and possible Superpower involvement was not, as far as Washington was concerned. Indications are that Tel Aviv was concerned the *Liberty* would pick up communications pointing to the preparations to invade Syria, and wanted to prevent Washington from discovering that it was about to open a third front in the war, thereby heightening the risk for Superpower confrontation; particularly at a time when Syria had already accepted the UN ceasefire resolution and its forces had not even crossed the 1949 armistice line since the outbreak of the hostilities.[97] It is noteworthy that Israeli Defense Minister Moshe Dayan candidly admitted in his memoirs that after Israel had officially accepted the UN ceasefire resolution, he ordered the head of the IDF Northern Command to attack the Golan Heights.[98]
Finally, in 1976, the US Navy released 707 pages of classified documents on the *Liberty* incident. However, only 28 pages were not sanitized.[99] Hence, to this day, the full truth about the *Liberty* incident remains unknown. Although after the Six-Day War the US and Israel expanded their bilateral ties and formed a *de facto* alliance, even Johnson questioned the outcome of the 1967 war and whether the results yielded would lead to a comprehensive Arab-Israeli peace.[100] Indeed, on that account, Johnson was correct. The conflict and the occupation of new territories only complicated the overall equation, and 43 years after the Six-Day War and the *Liberty* incident, peace in the Middle East seems as elusive as ever.

94 *Ibid.*, p. 14 and Findley, Paul, *Op.Cit.*, p. 41.
95 Lee, Richard D., *Op.Cit.*, p. 19.
96 Smith, Peyton E., *Op.Cit.*, p. 17.
97 Findley, Paul, *Op.Cit.*, p. 41 and Cockburn, Andrew and Leslie, *Op.Cit.*, p. 152.
98 Lee, Richard D., *Op.Cit.*, p. 35.
99 Schoenbaum, David, *Op.Cit.*, p. 157.
100 Green, Stephen, *Op.Cit.*, p. 244-245.

The Truth in a Drawer: The Ustica Mystery

Astrid Callegaro

MA in International Relations, Webster University Geneva

On 27 June 1980, Itavia flight IH 870 suddenly disappeared off the radar, close to the island of Ustica. The tragedy has become Italy's most famous and most guarded mystery, and its investigation has led to one of the biggest trials in Italian history. After 30 years, no one has been condemned out of the accused highest officials of the Italian Air Force, despite countless lengthy hearings and shocking depositions by many witnesses. The Ustica mystery is a partial truth, because through the trials and the inquiries, enough data was gathered as to infer the general picture of the accident's progression. However, important details, such as the reason behind the tragedy and the name of the actual perpetrator, which could lead to justice, are missing. The purpose of this research is to demonstrate that complete truth concerning the tragedy of Ustica has been denied by a systematic concealing of the evidence. This includes radar traces and an utter denial on the part of witnesses, particularly regarding recorded phone conversations and past depositions.

As an Italian citizen, the tragedy of Ustica has provoked my indignation, particularly in light of the grief of the families of the victims, who are left with no peace. It is important to never forget what has happened in respect for the 81 passengers who perished in the accident, and because of the significance that this event had in the history of Italy, being a source of shame and bitterness for those who seek truth and justice. The mystery of Ustica is metaphorically comparable to an iceberg. Ustica represents not only the tragedy of an airplane accident, but also the outrageous, incomplete implementation of justice taking place in a democratic country like Italy. Hence, the importance to address this research problem: the fact that the questions to an accident of such caliber have not yet found a right and proper answer under a democratic government devoted to freedom, justice to all, and equality, is incomprehensible and unacceptable. How and why was it allowed to happen that the investigation and the trials unfolded over a period of almost 30 years without any guilty verdict, leaving behind such

inconsistency and vagueness? The tragedy of Ustica deserves to obtain justice and complete truth in order to finally clear out all the various suppositions formulated, and to give more integrity to a democratic institution.

Research structure and sources

Our research consists of three sections in which we attempt to reconstruct the tragedy of Ustica through the recounting of the events, the hypotheses formulated and the trials held. The first section describes the last moments of the IH 870, before its last plot was displayed on the radar, and features various radio contacts portraying the atmosphere surrounding the flight. In the first section, I will also illustrate the developments of the days following the accident, including the rescue operations and the results of the autopsies of the victims. The second section presents the initial reactions and various hypotheses formulated, the investigation and analysis of the debris recuperated peremptorily excluding some hypotheses and supporting other ones. The final section focuses on the trial, particularly the progress made in the last few years. In this section, we present the evidence brought to court, such as radar traces, and recorded conversations, used by the prosecution first to try to determine the possible events and secondly to proceed with the charges of high treason against the highest officials of the Air Force.
The mystery of Ustica is a very complex topic of research, as the literature on the subject is quite ample. Publications range from journalistic to narrative -bordering fictional-, from technical to purely descriptive, oftentimes attempting to solve the mystery with many a suggestion. Therefore, it was extremely difficult to select the most objective sources. Even some sources, which were selected, make at times arguable statements in their attempt to demonstrate the truth behind the mystery. However, all sources were helpful in drafting a chronological and less confusing order of events amidst the disorder of over-information characterizing this subject. The most objective and important instrument to support my thesis is the publication written by one of the magistrates who followed the Ustica trial in the last years as part of the prosecutor's office, in collaboration with another experienced lawyer. Other secondary sources, despite the fact that they suggest varied solutions to the mystery, which may or may not be plausible, also present valid background information and details that add to my fundamental source. In terms of primary sources, I will avail myself of the official website dedicated to the mystery of Ustica, which collects all articles published by ANSA since 1980, and which provided additional general information during the initial phases of my research. Also, we will make use of the facts provided by a documentary on the mystery, which conducts an investigation in chronological order, facilitating our research amidst the sometime difficult

juridical language. Furthermore, in order to more easily carry out this research, and for length purposes, we have deliberately omitted certain facts. Among these is an in-depth analysis of the possible correlation between the accident of the DC9 and the crash of the Libyan Mig-23 fighter, for which evidence is lacking, as well as the writings of the military daybooks, as neither constitute the most fundamental evidence used in the trial, and because the purpose of this research is not to solve the mystery of Ustica.

The crash and the immediate developments

"I know this will be my last flight, I know I will die, I know I will die." Mrs. Calderone burst into tears before boarding the airplane: "I know I will die, but my relatives are waiting, I want to go," as she boarded the plane.[1] On 27 June 1980, with two hours of delay due to the heavy rain in Bologna and connection tardiness, Itavia Flight IH 870, a DC-9 built by McDonnell Douglas, finally took off at 20:08. Destination: Palermo, Sicily. In the plane, were 77 passengers, and four cabin crewmembers. Giuliana Superchi was one of them: eleven years old and full of all the trepidation of a young pupil who has just received her transcript, which she proudly wanted to present to her relatives. Her body will never be retrieved - only her doll.[2] Alberto Bonfietti was another passenger, living in Venice and paying a visit to his sister Daria and their father in Bologna, flying to Palermo to celebrate his daughter's birthday. His wife, Giannina Giau, had told him to postpone the trip, but he refused, because he missed her birthday the year before. Different people with different stories...
At 20:26, IH 870 makes contact with tower control in Rome (CC Roma Ciampino) for the fourth time since takeoff. Here, the conversations begin to bear a mysterious undertone, which will only find meaning in the aftermath of the event. 18:26:03 Zulu time—20:26:03 local time:

> CC Roma: 870 what prow do you have.
> IH 870: 870 is perfectly aligned on the Florence radial, we have 153 in prow. We have to change our minds on the functionality of VOR of Florence.
> CC Roma: Yes, it's really not working very well.
> IH 870: Then the colleague is right.
> CC Roma: Yes, yes completely.
> IH 870: Tell us what we have to do.
> CC Roma: Now I see that you are coming back so basically let's say that you are aligned, maintain this prow.

1 Amelio, Erminio and Benedetti, Alessandro, *IH 870: Il volo spezzato*, Editori Riuniti, Roma, 2005, p. 17.
2 *Ibid*., p. 18.

IH 870: We didn't move, okay?[3]

The control tower noted a move in the airplane and then a realignment, which the cabin crew denied. The air-traffic controller saw a movement that was not of the Itavia flight, but probably of another aircraft, right above Tuscany, whose trace was not picked up by the DC-9 but by the control tower for a fraction of a second. No one pays much attention to this issue. Most probably, it is just another airplane. Being in the same radar cell, it is not seen due to the disguise mechanism and is therefore not picked up by the control.[4] At 20:44, CC Roma and the Itavia flight make radio contact again: 18:44:08 Zulu time—20,44,08 local time:

IH 870: It's 870, good evening Rome.
CC Roma: Good evening 870, maintain 290 and will call back Alfa 13.
IH 870: Yes, listen, not even Ponza works?
CC Roma: Pardon.
IH 870: We found a cemetery coming this evening, from Florence on we basically didn't find one working.
CC Roma: Well, yes actually it's all a bit out, Ponza included, what is your prow now?
IH 870: We have a steady 195.[5]

There are problems in the radio assistance, as some contact points are not functioning, but that should not really cause problems. At 20:56, the DC-9 has the last radio contact with CC Roma. IH 870 is finally approaching Palermo, and landing is authorized. The trip is almost over. Just a few minutes more and everyone will reach their final destination. In the meantime, the pilots exchanged a few jokes, telling each other stories, as some of the random words registered demonstrate:

Allora siamo a discorsi da fare… l'autorita' con la barba Bianca anche lei… ma anche loro ci hanno abituato…. Mamma! Va bene I capelli sono bianchi…e' logico… Eh lunedi' intendevamo trovarci ben poche volte se no… sporca eh! Allora sentite questa…"gua"[6]

The last word is cut off: "Gua." The dialogue is suddenly cut off. At 20:59, the transponder stops registering the beat of the DC-9 that has plummeted into the Tyrrhenian Sea, 3'600 meters deep.
At 21:04, the control towers of Ciampino (Rome) and Punta Raisi (Palermo)

3 *Ibid*,. p. 20-21.
4 *Ibid*., p. 21.
5 *Ibid*., p. 25.
6 *Ibid*., p. 28.

begin to call the DC-9 to no avail. Ciampino even contacts an Air Malta flight that was flying over an area close to IH 870, but they are unsuccessful as well. Punta Raisi tries again, but there is only silence. The DC-9 should be landing any time now. At 21:16, Punta Raisi and Ciampino try again - still nothing. The plane is three hours late for the scheduled arrival time. The relatives of the passengers are waiting in the airport in Palermo - their consternation growing. As a flight comes in, one of them asks: "Where do you come from?" "Naples," the passengers answer.[7] The relatives keep waiting, fear raging: Palermo airport is located directly next to Montagna Longa - a steep, rocky coastline. It is a beautiful yet dangerous landscape, treacherous to pilots. There, in 1972, a DC-8 from Alitalia crashed against the rocks; none of the 121 passengers survived. Again in 1978, a DC-9 from Alitalia plummeted into the sea instead of landing on the runway.[8] The frustration among the relatives grows stronger as they continue to wait for any and all news of the flight.

At 21:22, Air Force base Martina Franca gives the green light for rescue choppers to fly over the area where the last signals of IH 870 were picked up. But the helicopters leave 38 minutes late, at 22:00, and arrive one hour later at the location, not too far from the island of Ustica.[9] The coordinates they were provided with are off by 50 km, and the helicopters find it difficult to see anything, so the rescue team decides to attempt another operation the next day.[10] At 23:00 in the airport of Palermo, on the flight information display, the arrival board starts flipping until it reads "to be determined."[11] Airport officials finally come in the waiting room and are ready to release the information: the plane is lost. A private radio program, Radio Europa, starts to spread the news, having received information from a radar controller working in the airport of Trapani Birgi.

> On June 27, 1980, the night the DC-9 was lost, a collaborator of mine, working at the airport of Birgi as a non-commissioned officer and who was assigned to radar control called me and told me: "Osvaldo, listen, I have some breaking news. We lost a plane from the radar, from the monitor." So I asked him: "What happened?" He replied: "It crashed, it's gone! I was at the radar myself!" […] The person who called me was Luciano, or Lucio, known to all in the radio program as "il pugliese," because it appeared he was from Lecce. In the night he calls me again telling me: "I beg you, be quiet, don't tell anyone, what did you do, did you broadcast the news live even?" I replied: "Yes." "Do you want to jeopardize me?" I said: "What happened?"

7 Gatti, Claudio, *Il quinto scenario*, Rizzoli, Milano, 2004, p. 27.
8 Amelio, Erminio and Benedetti, Alessandro, *IH 870: Il volo spezzato*. Roma: Editori Riuniti, 2005, p. 34-35.
9 "La Strage di Ustica," *Blu Notte—Misteri Italiani*, in Lucarelli, Carlo (Host), Rai. Rai 3 (5 January 2003). Television documentary.
10 *Ibid*.
11 Gatti, Claudio, *Op. Cit*., p. 27.

> and he said: "Nothing, we will talk later, we will meet later, we will meet later, I'm sorry, I'm sorry I beg you we never talked" and he hung up, terrified, I remember it clearly.[12]

Daria Bonfietti is not aware of any development and is sleeping, sure that Alberto is in Palermo with his wife and daughter. At 23:00, the phone rings. It is a friend calling from Venice; she is crying and can hardly speak. "Did you see the news," she asks. "What?" "Alberto, Alberto boarded the plane?" "Yes, why?" "The TV says it's lost. The plane… Go to the airport." "What? What does it mean lost?" "Yes, lost… they don't know… it's lost… go to the airport."[13] During the night, another heartbreak within a tragedy unfolds, as the ferry *Giosue' Carducci,* owned by the Tyrrhenian company, is asked to make course towards the point where supposedly the DC-9 has crashed. Aldo De Lisi, a lawyer from Palermo, is a passenger on board the ferry. He does not know that the debris he sees surfacing belong to the airplane that was carrying his daughter Elvira and his granddaughter Alessandra.[14]

On 28 June 1980 at 5:00, the rescue helicopters, flying close to Ustica, notice an oil slick and debris as dawn approaches. At 7:30, other items start coming afloat: life jackets, seats, pillows, etc. But at 9:00, something else begins to surface: the first body is spotted. Only 38 bodies are retrieved, along with some remainders of unidentified bodies for a total of 43 bodies. The remaining 38 will remain at the bottom of the sea. Any hope left among the passengers, who now must begin the process of identification, is crushed. As the news of the tragedy starts to spread all over the country, the bodies are transported to Palermo to be identified. Giannina Giau, whose husband, Alberto Bonfietti, was on that flight, must take up courage and see if Alberto is among them. She looks at each lacerated body with "no arms, or legs, or even heads."[15] But Alberto is not there; he is one of the passengers whose body will never be found.

The autopsies are performed in Palermo, even though the facilities are not the most adequate.[16] Seven bodies are selected after all 38 are identified. Five were chosen, because they needed further identification. The sixth body was that of a hostess and the seventh of a child, who was selected because he was "almost whole" and so that the coroners could "compare [his] visceral wounds to those of the adults" in order to establish the same *causa mortis*.[17] The results reveal that the passengers had very severe pulmonary damages, caused by sudden decompression, and traumatic damages caused by the consequent crash.[18] This is a first sign of what might have happened on that

12 Amelio, Erminio and Benedetti, Alessandro, *Op. Cit*., p. 35-36.
13 Gatti, Claudio, *Op. Cit*., p. 30.
14 Amelio, Erminio and Benedetti, Alessandro, *Op. Cit*., p. 50.
15 Gatti, Claudio, *Op. Cit*., p. 34.
16 Amelio, Erminio and Benedetti, Alessandro, *Op. Cit*., p. 37.
17 *Ibid*.
18 "La Strage di Ustica," *Op. Cit.*

flight, because such results indicate that the plane suddenly broke up in the air and then dove into the sea.[19] A few days later, the funeral of the victims is held in Palermo, in its "Arab-Norman cathedral with a solemn Mass."[20] But this is just the beginning of the tragedy. "The mourning of Ustica is something that with time does not find peace."[21]

So, what really happened in the skies over Ustica? What caused the DC-9 to crash? What happened that made Luciano, "il pugliese," so terrified for having passed information to Radio Europa? Immediately, various hypotheses are formulated, and the newspapers and news broadcasts continue to cover the tragedy attributing the causes of the accident to one hypothesis and then another, leading to even more confusion. Every day, new titles highlighting the possible causes shout from the newspapers, overwhelming the public with information, while the commission tries to investigate the accident.

The hypotheses and initial findings

On 8 July 1980, Formica, the Minister of Transport, communicates to the Italian Parliament that the hypotheses of structural failure, collision, explosion, or even sabotage are all being taken into consideration.[22] The Minister, after describing what has been accomplished so far to investigate the various hypotheses, also states, "No effort will be omitted in the search for truth about the true causes of the tragedy and the possible responsibilities of the case."[23] Initially, the investigation is very scrambled, the evidence very confusing and at times conflicting. Everything becomes even more complicated when on 18 July 1980, a Libyan MiG 23 is found in the mountains of Sila in Calabria. Is there a correlation? If there is, it is hard to prove, even though the event attracts widespread attention from the public.[24]
The first hypotheses investigated and tested are that of a structural failure, due to the company's inefficiency and of a collision with another aircraft through both an analysis of the debris found and the autopsies. The Rai (the Italian aeronautics registry) is given the task of providing the documents relating to the safety of the airplane.[25] Hon. Corallo and Hon. Gualtieri believe that enough abstract conjectures have been proposed and that most probably the causes of the DC-9 are to be found in the "inefficiencies and irresponsibility" of the company.[26] In fact, all these reflections are made in full knowledge that the Itavia Company was suffering from heavy financial troubles and was

19 *Ibid*.
20 Amelio, Erminio and Benedetti, Alessandro, *Op. Cit*., p. 38.
21 *Ibid*., p. 39.
22 *Ibid*., p. 57-58.
23 *Ibid*.
24 *Ibid*., p. 378.
25 *Ibid*., p. 58.
26 *Ibid*., p. 59-60.

close to being disbanded. Accordingly, it seemed clear that the company was cutting down on the maintenance of the aircrafts for financial reasons and was therefore to be charged. Commander Paolo Palagi, an Itavian pilot, replies, however: "The plane was perfect when I flew it an hour before from Palermo to Bologna; I left the airplane in a perfect state of efficiency."[27] Another pilot of the company, Adriano Ercolani, instead states, "The plane vibrated too much, it wasn't a safe aircraft."[28] Despite Parliament's desire to support the hypothesis of a structural failure, doubts about the veracity of this stance exist from the beginning. In fact, already on July 7, Minister of Transport Formica received a report from Gen. Rana, director of Rai, suggesting not to "expose himself in choosing a hypothesis, because the hypotheses can be varied."[29] Furthermore, the Department of Defense peremptorily excluded any type of involvement of military planes or ships in the area where the DC-9 crashed, prompting the immediate discard of the hypothesis of a collision, which seems suspicious to various members of Parliament.[30]

In November, the Itavia Company reports that it will cut down its services, and on 9 December, announces that the services will be completely discontinued.[31] Soon after, the results of the Commission of Inquiry led by Mr. Luzzatti are revealed: "At the present stage of the investigation, with the elements available to the commission, the same has reached the reasonable conviction that the hypotheses of a spontaneous structural failure and of a collision with another aircraft are to be excluded."[32] The commission therefore, also proves that the second hypothesis of a collision is not plausible in view of the analysis of the debris and the autopsies. Not too long after, the same Itavia Company releases a press review in which it confirms the thesis of the commission while adding new statements:

- The causes of the accident are now limited to the hypotheses of a 'missile' or a 'bomb on board.'
- The radars show at the moment of the accident an interception maneuver against the DC-9 by a military plane, highlighting a "trajectory intersecting the aircraft I-Tigi (the DC-9) West to East with an angle of about 90 degrees."[33]
- The DC-9 disintegrated in various parts, and those parts "suddenly deviated at 90 degrees from the established route."[34]
- The autopsies reveal not only that there was a sudden

27 *Ibid.*, p. 62.
28 *Ibid.*
29 *Ibid.*, p. 64.
30 *Ibid.*, p. 58-59.
31 *Ibid.*, p. 66.
32 *Ibid.*, p. 67.
33 *Ibid.*, p. 70.
34 *Ibid.*

> "explosive" decompression, but also that in one of the bodies was found a fragment of the airplane covered in phosphorus, an elements found in bombs and missiles.[35]

The debate in Parliament is not over, as Hon. Tremaglia states that the tragedy of Ustica was wrongly attributed to the Itavia Company, and that clearly the fault is to be attributed elsewhere, shifting the responsibility from a private realm to a public one.[36] The hypotheses left are that of a missile or a bomb, to which the Stamadifesa (General Staff of Defense) counteracts that no military airplane either from NATO or from the Italian Air Force was present in the area of the DC9 when it crashed, that no military ship was involved and that no military simulation was taking place.[37] Additionally, the Stamadifesa argues that the hypothesis of a missile is to be eliminated, based on the fact that the radar could never have detected the movement of the explosion of the DC-9 caused by a missile.[38]

Instead, the hypothesis of a bomb on board gains much importance as shortly after the tragedy of Ustica, another incident unfolds: a bomb is placed in the Bologna train station, killing nearly a dozen civilians. Such a quick concatenation of events induces people to think that there is indeed a correlation between the explosion in Bologna and the accident of the DC9. The hypothesis is that the bomb was placed either in the airplane toilet or the luggage trunk as a terrorist attack to be attributed to a communist terrorist organization known as Nuclei Armati Rivoluzionari (NAR) (Armed Revolutionary Nuclei). In fact, NAR calls the newspaper *La Sicilia* and states that one of their comrades, Marco Affatigato, was on the flight under a false name. But Marco Affatigato proves that he was not on board, as his mother Enrica Giorgetti confirms a call she received from her son on 29 June, after Marco read a newspaper article wrongly mentioning his implication in the tragedy.[39] Additionally, Andrea Purgatori, the journalist who followed the mystery of Ustica from the beginning, states that the idea of a bomb in the toilet or in the luggage trunk is to be excluded a priori.[40] Certain fragments of the airplane's loading ramp were found in one of the bodies whose seat position on the plane suggests a very decisive, explosive motion from the bottom of the airplane upwards, which would be impossible in case of an internal explosion, which would cause a different motion. Furthermore, the idea that the bomb was placed in the toilet is completely unfounded, as the toilet was not destroyed.[41] However, despite how implausible it seems, many still hold to this day that the DC-9 exploded as a result of a bomb on board.

35 *Ibid.*, p. 69.
36 *Ibid.*, p. 72.
37 *Ibid.*, p. 73.
38 *Ibid.*, p. 74.
39 *Ibid.*, p. 38.
40 "La Strage di Ustica," *Op. Cit.*
41 *Ibid.*

The hypothesis of a missile is the most dreaded one. Initially, little evidence is found, beside the radars' registration and the data recorded in the registries of the control stations. As previously noted, the Stamadifesa argues that it is absolutely impossible and that no military entity was involved in the area of the crash. However, after a request from Italy, McDonnell Douglas sends two engineers to Italy, Steve Lund and Fred Kaizucka, to assist in the analysis of the accident in order to determine if there was a structural failure. However, the engineers determine something completely different. The radars' registrations are given to them, and calculating data, Lund finds out that the primary radar detected the presence of various objects that were not in forward movement. He also finds out that the secondary radar did not detect anything. Further calculations lead Lund to discover that immediately before the explosion of the DC-9, three plots were detected on the radar screen. These plots did not belong to the DC-9. The data analyzed by Lund clearly shows that "next to the DC-9 there was another flying object that, after having flown parallel about 10-13 miles distant, had suddenly banked in what seems to be an attack maneuver."[42] However, his findings about the presence of a second aircraft "bounce off from a rubber wall," a term coined by Andrea Purgatori, meaning that even though the findings determined an important development in the investigation, no one seemed to give it much importance.[43] But Gen. Saverio Rana from Rai is convinced, like Lund, that the airplane fell to a missile attack. The only way to prove it is through the radars and through the finding of the rests of the airplane. The news about the mystery of Ustica and the requests for truth kept falling on deaf ears until 1986, when a letter sent to Prime Minister Cossiga from various relatives of the victims finally convinces the Italian authorities to begin the process of the airplane's retrieval, while the trials are progressing slowly.

The evidence and the trials

The purpose of the trials is to discover, firstly, what truly happened in the skies over Ustica; secondly, who is to be attributed responsibility; and, thirdly, if the highest officials of the Italian Air Force committed high treason and obstructed the investigation by concealing evidence. The trial is one of the biggest in Italian history, not just in terms of length, but also with regards to document load, characters involved in the depositions and the prosecution.[44] Because the trial of first degree extended over a long period of time, the information reported here highlights the major findings to be attributed, especially to the hearings taking place in the last years with mention of past depositions. The competence of investigation is given to the Prosecution Office of Rome and around 1999, the Office was only able to ask to "indict four

42 Gatti, Claudio, *Op. Cit.*, p. 41.
43 "La Strage di Ustica," *Op. Cit.*
44 Amelio, Erminio and Benedetti, Alessandro, *Op. Cit.*, p. 78.

officials for high treason and contempt against the constitutional organs."[45] The process quietly proceeds with scarcely any public interest until 2002, when the former President of the Republic, Cossiga, who at the time of the accident was Prime minister, is to be a witness. In this segment of the trial, the accused are all officials of the air force. One of the hot topics is the possible correlation between the accident of the DC-9 and the crash of the Libyan MiG-23, but no conclusion is reached. The trial focuses primarily on the charges of high treason brought against the officials. The evidence to be used in the trials was not only to be based on the radars but also on conversations among the officials in the control towers that were automatically recorded. The primary evidence, however, remains that of the radars' registrations.

The major radars that were following the area of the DC-9 were those of Licola, Marsala and Ciampino. Marshall Luciano Carico stated that on 27 June, he noticed something between 20:50 and 20:59. There were two plots alongside Ponza going south. One plot became weak until it disappeared completely. Additionally, Gen. Bozzo who at the time was in Corsica, clearly remembers to have seen French planes taking off towards the area of the DC-9.[46] However, these are not the only radars that were functioning at the decisive point in time; there are five other radars: Poggio Vallone, Poggio Renatico, Potenza Picena, Siracusa and Martina Franca. They should all have detected something. However, when such information is made known, the trials take a very bizarre turn. Poggio Vallone is the only one to have detected a trace coming from west at about 20:14. Poggio Renatico did not detect anything, nor did Potenza Picena, Siracusa or Martina Franca. Interestingly enough, the radar of Siracusa was turned off, but it should not have been. Poggio Vallone is equipped with an automatic radar, but the recordings are missing.[47] At Poggio Renatico, there is the same problem: the registry is gone. The most important radar registration is that of Marsala. The registry is there and is determined according to the commission as the "queen of all the evidence."[48] However, a page is missing. The page, describing the events recorded on 27 June 1980 at 18:00 Zulu time, the time the DC-9 crashed, was very skillfully cut.

When the witness, Abbate, who was working at Marsala the day of the accident, is asked to explain such circumstances, he "cannot." "Honestly I really cannot tell you why it was torn. I don't know what to say about this page. Probably, when they stamped the registry something happened and they tore it away."[49] However, the prosecution highlights the fact that despite the cut page, the numbering follows precisely, indicating that it had to be made after the page was cut. To this observation, Abbate replies, "I do not

45 *Ibid*., p. 77.
46 "La Strage di Ustica," *Op. Cit.*
47 *Ibid*.
48 Amelio, Erminio and Benedetti, Alessandro, *Op. Cit*., p. 95.
49 *Ibid*., p. 96.

know what to say."[50] Interestingly enough, the page was cut so well that not even the defense realized that the page was missing, and when the prosecution inquired about such page, the defense referred to another missing page that had nothing to do with the accident. So why was the page cut? What information did it contain? The prosecution was able to establish that the page was intentionally cut, a fact that even the defense recognized as true.[51] On the basis of the missing registries and the missing page, the prosecution accuses the officials with high treason, according to art. 77 of the military penal code. They are charged with "having obstructed, with their conduct, the governmental authority's explication of the fullness of its powers in the hope of acquiring all the necessary elements to ascertain the truth" according to the first paragraph of art. 289 of the Italian penal code.[52]

Another mystery related to the radar registration is that of the transcription of the airplane's trajectory. In fact, a very simple procedure was required in order to determine the location of the crash site. This procedure simply entails the finding of the last plot that bears the initials of the aircraft. According to Gisberto Petroni as well as Colonel Del Zoppo, such a procedure takes only a few minutes, as the geographical area and time were both known.[53] In fact, already before midnight, the crash site was known and the rescue helicopters were sent there. On the morning of 28 June, they found the first bodies, which implies that Ciampino and all the centers of the Italian Air Force already knew the coordinates. In turn, this means that Colonel Valenti came to know about the fate of the DC-9, as well as Colonels Guidi and Russo. However, officials say that the night of 27 June no relevant procedure was made, which seems bizarre, as the information was vital to the success of the rescue teams.[54] Officially, Colonel Guidi assigned Colonel Russo to individuate the last plot of the DC-9 on the morning of June 28; the procedure took twelve hours to be completed. However, in the transcription, Colonel Russo did not include the raw plots that would have demonstrated the presence of at least one other aircraft: plots 17 and 12. Furthermore, there are also other plots to the far west of the crash site of the DC-9, which imply that another aircraft was in fact present. The calculations of engineers Lund and Macidull proved this.[55]

Colonel Russo always denied having completed the procedure to determine if there truly were other aircrafts in the vicinity of IH 870 at the moment of the accident. Repeatedly, both Russo and Guidi assured the court's commission that the only objective was to find the exact point in which the DC-9 had crashed. However, it seems that such an objective is improbable, due to the fact that 1) the rescue helicopters had already reached the point the night of the accident and in the early morning of 28 June and 2) that the procedure to

50 *Ibid*., p. 97.
51 *Ibid*.
52 *Ibid*., p. 93.
53 *Ibid*., p. 168.
54 *Ibid*., p. 169.
55 *Ibid*., p. p.255; "La Strage di Ustica," *Op. Cit.*

individuate the last plot only takes a few minutes- not 12 hours. For over 23 years, Russo denies any other objective. But in the depositions of 2002, he starts contradicting himself after having provided absurd justifications as to the length of the process of individuation, such as having started from the initial plot instead of the last one as one should have done, meaning starting North of Ponza from Bologna step-by-step to Palermo.[56] The question is: why would one have inverted the order of the procedure, knowing that 81 people had just been involved in a dreadful accident and were lost at sea? Furthermore, is it even possible that while Russo was so intent on his job of transcribing the entire sequence of plots, even in two graphs, that no one communicated to him the news of the retrieval of the DC-9, which even the national news had already broadcasted on television?[57] After being bombarded with questions of that nature Russo finally breaks. After 23 years of lies and ridiculous justifications, Colonel Russo admits that the objective of the procedure was indeed to determine the presence of other airplanes and a possible collision. In fact, the only very clear plots were two, and according to the air force, only two plots did not compose an actual aircraft trace.[58]

However, through the course of the trials, it is not only apparent that some evidence has been concealed, but also that the accused are attempting to dissociate themselves from certain recorded conversations. What begins to unfold is a complete and utter denial of facts, such as phone registrations. In fact, the phone conversations that are automatically registered in the control towers are used by the prosecution to try to understand the reaction of the officials in the face of the disappearance of IH 870, as to possibly determine the series of events of 27 June 1980. The first conversations held directly after the last plot of the DC-9 was seen, demonstrate that all officials present were very shocked about the vanishing of the airplane and were trying to relocate it. After the attempt to contact airlines whose planes were in the neighborhood of the IH 870, the regional control center of Rome continually contacts the Cram in Siracusa in order to gain perhaps more information as to why there is no response from the DC-9.[59]

Then, at 21:30 local time, CRAM calls ROMA, having seen an aircraft. The plane is, however, flying in the direction of Malta, which is not the trajectory of the DC-9. Rome and Siracusa contact each other two other times at 21:36 and again at 21:42. All conversations reveal a complete unawareness as to the whereabouts of the DC-9.[60] The most important conversations are the ones that follow the initial frenzy. Captain Grasselli, supervisor of the Ciampino radar, contacts Marsala Defense Center (Moro) and talks with captain Lori who assures him that Marsala has not detected anything regarding the DC-9,

56 Amelio, Erminio and Benedetti, Alessandro, *Op. Cit*., p. 178.
57 *Ibid*., p. 212.
58 *Ibid*., p. 180.
59 *Ibid*., p. 32-33.
60 *Ibid*.

because at the time of the crash, a simulation called "Synadex" was taking place. In such a simulation, the radars cannot be used, because they are showing a computer-generated military attack employed to train the military personnel for real military fights. At about 22:20 local time, the conversations taking place at the radar of Ciampino are being recorded, because the phone handset is not properly set.

> X: Can you give me the phone numbers of the American Embassy? Can you, can you give me some data, give me some data.
> X: What is the embassy 46 64 46 64? It's ringing: let's see
> X_1: Hello?
> X: Is it the American Embassy?
> X_1: What?[61]

The conversation gets cut off but another dialogue between Colonel Guido Guidi of Ciampino and Colonel Fiorito De Falco, Guidi's direct superior and Vice-Director of Itav, demonstrates the need to call the American Embassy was not far-fetched. In fact, from the conversation it is made clear for the first time that there was a military exercise taking place. When Fiorito inquires about the drill, Guidi explains that the radars of the Defense Center had detected a few American aircrafts "scratching about."[62] Then, Marshal Bruschina from Ciampino's rescue team contacts Marshall Marzulli of Martina Franca, updating him on the events and explaining that he was given approval to get in contact with the American Embassy, as there was supposedly "very intense military traffic" of NATO aircraft in the area.[63] The primary source of such information is unknown.

Interestingly enough, as Amelio and Benedetti point out, all these conversations were "found" after 1991, and they clearly illustrated that immediately after the crash of the DC-9, officials had correlated the accident to the presence of the military planes.[64] However, during the trials, the witnesses claim that Guido Guidi had confused the computer-generated "Synadex" with an actual military drill. But various conversations demonstrate that Guidi was undoubtedly referring to an actual exercise. They also show he knew of an Italian military drill taking place earlier in the area and of the possible presence of an American aircraft carrier.[65] Moreover, Guidi is not the primary source of the information about the involvement of military aircrafts, because the first conversation, involving two anonymous figures, shows that from the beginning, officials believed that the answers to their doubts and questions could be found by talking to the American Embassy. When the American

61 *Ibid.*, p. 119.
62 *Ibid.*, p. 120.
63 *Ibid.*, p. 122.
64 *Ibid.*, p. 136-137.
65 *Ibid.*

Embassy is finally reached at about 22:31 local time, the lack of interest and emergency from the embassy's personnel is apparent. Ciampino, having tried to contact an attaché, who does not answer his calls, attempts to phone the embassy again. As soon as Ciampino mentions to the embassy's employee that the reason they are calling is that there is possible American military involvement, and that they must talk to an attaché, the employee replies that they have to wait, because he has to make a call home.[66] In the meantime, conversations between the personnel of Ciampino are recorded. Various anonymous people, later identified due to their very specific language, discuss the probable fate of the DC-9 concurring that the flight's fuel autonomy has been surpassed. But the American Embassy denies any possible military involvement from their side. During the trials, officials whose conversations were recorded while trying to contact the embassy are identified as: Chiarotti (X), Massari (X1), Grasselli (X2) and Guidi (X3).[67] From all the above-mentioned recorded conversations comes the general idea that 1) there was a scheduled military exercise planned until 15:00 local time, 2) that such a drill was an American one called "Patricia," and that 3) there is a clear distinction made between the American simulation, the Italian simulation and the American aircrafts seen on the radar. All elements support the supposition that at least the highest-ranking of the four officials had actually seen the American airplanes on the radar.[68]

On the basis of such information, Sergeant Colonelli states during the hearing of January 17, 2001, that he is "sure that military air traffic was visible" and that while approaching the radar, he observed that from the notes on the track, the simulations should have been interrupted.[69] Marshall Diamanti also deposes a very important statement, claiming he was aware that evening there were "NATO maneuvers in the Tyrrhenian Sea, between Ponza and eastern Sicily, west of the air corridor Ambra 13."[70] He also adds that the calls made to the embassy were encouraged by the fact that traces of military aircrafts had been visible even after the plots of IH 870 disappeared, and he confirms that the call was indeed made by Chiarotti because of his fluency in English.[71]

In general, much data has been gathered from the radars as well as the conversations, but the suspicion surrounding the claim that various plots could not be recorded remains. Doubt also persists as to who generated the claim that military planes were in the area. In fact, certain plots, called raw plots, usually belonging to military airplanes are very difficult to be detected. That is due to the fact that the mere characteristics of military planes, such as speed, size, and altitude as compared to commercial airplanes make it easier

66 *Ibid.*, p. 127.
67 *Ibid.*, p. 139.
68 *Ibid.*, p. 140.
69 *Ibid.*, p. 143.
70 *Ibid.*
71 *Ibid.*

for them to escape radar detection.[72] However, the most important fact is the time at which some of these external plots (plots that did not belong to the DC-9) are detected. The first trace, referred to as PR6, was detected at 20:43:20 until 20:44:22 and is composed of four consecutive plots. The second trace, PR7, is detected from 20:45:56 to 20:46:51 and is composed of five plots. At about 20:46:31, the DC9 starts to descend from 29'000 to 25'000 feet.[73] Why are these times so important? During the times that the traces of other airplanes were detected, the control tower was in direct contact with the DC9, therefore someone was staring directly at the radar screen and could not have not noticed the plots of the other airplanes. According to Amelio, at this point the picture is clear. When the DC-9 was coming down and the traces of the other planes were visible, captain Grasselli and his team were observing the radar. When the plots of the DC-9 interrupted, Grasselli discussed with Major Massari, who then decided to call the American Embassy. Together, Grasselli and Massari called the two commandants of the Itavia Company. When Colonel Guido Guidi came into the room, they relayed to him what they had seen. In turn, Guidi contacted Colonel Fiorito de Falco to update him on the possible military involvement.[74]

Now, the prosecution is ready to charge against the accused. But all suddenly, whenever witnesses are asked to provide a statement as to the presence of military planes, no one seems to remember anything. Lieutenant La Torre, who at the time of the crash was in charge of the radar sector at Ciampino, which clearly displayed the external plots parallel to the DC-9, denies having seen any traffic. After being asked by another lawyer on the basis of Diamanti's deposition that confirmed the military traffic, La Torre denies yet again.[75] Captain Grasselli, identified as X2 in the recorded conversations, also denies having seen any trace; however, he was the one who saw the PR7 trace and participated in the calls made to the American Embassy.[76] His claims, that 1) no one had talked about air traffic and 2) that the call to the American Embassy had not been his suggestion, are contradictory to the recorded conversations. Furthermore, throughout the depositions, the witnesses are able to recall very clearly past episodes not related to the Ustica mystery. Whenever the conversation gears towards the accident of the DC9, no one remembers a thing.[77] Major Chiarotti, the official who made the calls to the embassy, denies even more flagrantly that the calls were made in order to inquire about any American involvement. The prosecution points out that on a past deposition he had actually claimed that such was the reason. When, after the public prosecutor read to Chiarotti his deposition word by word,

72 *Ibid.*, p. 144.
73 *Ibid.*, p. 144-145.
74 *Ibid.*, p. 146.
75 *Ibid.*, p. 155-156.
76 *Ibid.*, p. 156.
77 *Ibid.*, p. 157.

the major still insists that those words were simply "inferences."[78] Due to his ambiguity and vagueness, even the president of the commission intervenes and obligates him to clarify. The most important turn of events comes as the prosecution asks Chiarotti if Diamanti, who had confirmed the military air traffic, was present at the moment of the crash and the subsequent calls. Trying to defend himself from the attacks of the prosecution, Chiarotti confuses himself and what transpires is that Diamanti was indeed present- contrary to Chiarotti's statements. Chiarotti had been instructed to say that Diamanti was not present, in order to crush Diamanti's deposition.[79] Major Massari instead denies having talked to Captain Trombetta at all regarding military air traffic, despite the fact that Trombetta's voice is recorded, and the lie revealed. Colonel Guidi, who had first contacted De Falco about the probable presence of American airplanes, also denies having ever heard about such an assumption, statements he made in both 1991 and 1992.[80] The prosecution then plays the recording of the conversation in which his voice, characterized by a strong "Roman" accent and very "colorful" language, is recognized by all present in the court, beside Guidi himself, who continues to refuse and just cannot seem to remember this conversation.[81] After listening to the recorded conversation, both the prosecutor's office and judges contest Guidi's statements and deem them contradictory.

On April 27, 2004 the sentencing hearing of the is held. The president of the court pronounces the verdict of the judges:

> In the name of the Italian people, the Corte di Assise di Roma, Section III, in view of the articles 254 of the legislative decree 28 July 1989 n. 271; 477 of the procedural penal code of 1930; 531 of the procedural penal code of 1989; 157 of the penal code; 530 of the procedural penal code of 1988, Declares not to proceed against:
>
> 1) Bartoluccio Lamberto, with regards to contestations of omitted referral to the political authorities the results of the analysis of the radar traces of Fiumicino/Ciampino;
> 2) Bartolucci and Ferri Franco with regards to the contestation of having provided the political authorities with wrong information excluding the possible involvement of other aircrafts in the report written December 20th, 1980;
>
> The reason being that juridically the facts listed as crime of high treason committed with the aim of troubling the attributions of the government according to art. 289 co. 2 of the penal code and 77 of the military peace code, the crime itself is extinct on the basis of prescription.

78 *Ibid.*, p. 159.
79 *Ibid.*, p. 161.
80 *Ibid.*, p. 162.
81 *Ibid.*, p. 163.

> '[The court] absolves Ferri Franco, Melillo Corrado and Tascio Xeno from the contestation above listed as number one for not having committed the fact.
> Absolves Melillo Corrado and Tascio Zeno from the contestation above listed as number two because the fact does not constitute a crime.
> Absolves Bartolucci Lamberto, Ferri Franco, Melillo Corrado and Tascio Zeno from the crime imputed to them relative to all the remaining charges because the fact does not subsist. The court is dismissed.[82]

The trial of first degree has concluded. All the accused have been absolved, despite the incoherent statements of the witnesses. After 24 years of long-awaited justice, the relatives of the victims are left with bitterness. But, as the prosecution points out, justice has been made, because even though the court has absolved the accused, Bartolucci and Ferro have been absolved on the basis of prescription. They have indeed committed the crime, but it is prescribed, because too many years have gone by, and with each year, the complete truth slips further away.[83]

Synopsis

As this research demonstrates, the mystery of Ustica is a highly complex topic of investigation. The hypotheses formulated are many, and despite all the evidence presented in the trials, there is still much confusion as to what truly happened. Even among the sources selected, the standpoints are extremely contradictory and diverse, a case which further corroborates the idea that the Ustica tragedy leaves us with only a partial truth. Too many supposed truths have been promoted, causing disorientation in the public opinion and hindering the inquiries. In order to show how complex and confusing the process of uncovering the truth of the accident is, I decided to condense and compare the standpoints of the four major authors cited in my bibliography in a single synthesized table, which can be found at the end of this paper.
Each one of the four major authors cited in the bibliography has a completely different outlook on the tragedy of Ustica, and upholds contrasting hypotheses. Such is the setting in which the investigation of the tragedy of Ustica unfolded: a highly contradictory and inconsistent environment in which every individual is convinced to be able to prove without a doubt what happened in the skies over Ustica. But as our research has demonstrated, too many truths leave us with no truth at all.

82 *Ibid.*, p. 103.
83 *Ibid.*, p. 104.

Conclusion

In our attempt to discover the truth behind the Ustica mystery, we have came across enormous amounts of information, mostly data used in the actual trial and particularly of the hearings of the latter years. Throughout our investigation, we did come across a truth, but not that which solves the mystery - rather, one about the notion of justice. We expect justice to take a certain shape, and we hope for it to arrive at a certain time. But the Ustica trials proved such an expectation completely wrong. The trials unfolded over a period of more than 20 years, and the families of the victims were expecting and demanding that someone be accused, charged and condemned. In fact, no one was charged or condemned. Through the trials, however, nearly all the pieces of the puzzle were put together. In our research, we have attempted to do the same. All the evidence described - from the missing page of the radar registry to the constant denial of conversations actually held, from the negations about the real purpose of tasks and responsibilities, to the staggering incoherence of the witnesses - demonstrates that there was indeed an utter and systematic concealment of evidence, most probably dictated by the fear of having committed a terrible mistake and of being exposed for it.
Most importantly, the conclusion of our research draws upon the fundamental question of the meaning of democracy and the scope and application of its principles at the national and international level. The Ustica tragedy is something one might have imagined to have happened in a state led by a totalitarian government - one in which justice has a very skewed implementation. But the fact that such a judicial and political mystery could (and still can) take place in a country devoted to democratic principles puts into serious question the accuracy of Italian democracy and most importantly the existence -or rather the lack- of checks and balances between the various branches of the government. In fact, after carefully reading the publication written by Amelio and Benedetti, one can infer that the judicial system was operating under some kind influence that slowed any advancement the court would attempt to make: a conclusion also advanced by Andrea Purgatori in his foreword to Carlo Casarosa's book.[84] Such a process was not only caused by the confusion created by the inconsistent depositions of the witnesses or the missing evidence. It was also caused by the quasi-omnipotence of the Ministry of Defense (and perhaps an anonymous higher power) and by the authority held by the highest officials accused, peremptorily defended from the beginning. The centrality of the tragedy of Ustica contains this reality: the mystery is a cover-up of the type that should not exist in a democratic country. The truth behind the mystery should have been revealed directly following the accident or as the investigation progressed, because that is

84 Casarosa, Carlo, *Ustica: Storia di un'indagine*, Pisa University Press, Pisa, 2006, p. 3.

what is rightfully demanded and expected in a democracy. Instead, the truth was taken apart by concealing the evidence and manipulating a rumpus of (over-) information and conjectures, creating further uncertainty and misunderstanding among the Italian people. In fact, the literature on the tragedy of Ustica is abundant, and particularly the news published in the years of the accident is highly confusing and contradictory in its attempt to reveal the truth behind the mystery - a point also clearly demonstrated by the synopsis I presented. The suppositions made are many but not all plausible. However, they result in added confusion and a step backwards in ascertaining the truth.[85]

Considering the accident from a historical and international standpoint, the idea that the mystery of Ustica is a cover-up also raises concerns regarding the respect of national security and sovereignty. In fact, at the time of the Ustica accident, the international realm was split into two factions led by adversary superpowers. One can argue that as countries decided to pledge allegiances, national sovereignty was perhaps a lesser concern than maintaining a strong alliance in those troubled times.[86] Throughout the hearings, the prosecution attempted to determine the presence of military planes in the area of the accident. The names of countries such as the USA and France were mentioned for their possible implication. Therefore, the Ustica mystery also seems to point to the influence NATO might have played in the construction of the cover-up and the resulting disrespect for national sovereignty and national security. The accident and consequent lack of justice could well be the result of irresponsibility and disrespect of national norms. In those years of international tensions, national sovereignty was secondary, and the choices of the nation subordinate to those of the superpower, even if national security was at stake. Given this, how can one ensure that something like the tragedy of Ustica will never happen again? The Cold War may be officially over, but it is disputable whether the influence of superpowers has been surpassed or continues to affect national sovereignty.

What remains from the tragedy of Ustica is that the trial has lasted from 1980 to the present, involving only the trial of first degree. This leaves the families of the victims of IH 870 few hopes, in the possibility of asking for appeal, but it certainly leaves no peace. Most of the accused are retired senior officials, so the probability that anyone will ever be charged in the future is minimal. There is also no peace, because despite the various data reported, particularly the conversations and the radar traces, and despite the fact that most of the pieces of the puzzle have been put together, no one knows who the perpetrator was, nor the reason behind such a tragedy. The mystery of Ustica is not exactly a mystery anymore. We know many of the facts and details, but in the end we are left with a partial truth, and those who know

85 Gatti, Claudio, *Op. Cit.* p. 7.
86 Guzzanti, Paolo, *Ustica: Verità Svelata*, Edizioni Bietti, Milano, 1999, p. 19.

the full truth dare not say it aloud, in light of the concatenation of mysterious suicides/homicides of various key witnesses.[87] Certainly, someone does know every single detail, which would make this partial truth whole. This would silence all conjectures that continue to be formulated. But as former President Cossiga once stated, the Ustica mystery is a truth in a drawer.[88] We know it exists, but we do not know where the drawer is or how to access it, and most importantly, we have lost the key.

Synopsis of four major authors' standpoints

Stance / Author	E. Amelio and A. Benedetti	C. Casarosa	C. Gatti	P. Guizzanti
Role in the mystery	Amelio: magistrate of the prosecution Benedetti: lawyer representing the civil side	Member of the commission of inquiry working alongside Judge Priore	Journalist and writer whose investigation was supported among others by Sen. Daria Bonfietti, sister of one of the victims and minister of the Disaster Commission	Journalist solicited by Judge Priore to interrogate President Cossiga
Hypothesis argued	None upheld but NATO involvement and missile implied	Crash due to the strong trail left by a Libyan MiG-23, being followed for recognition and interception by two non-Italian airplanes	Israeli involvement and Israeli missile	Bomb on board, as a terrorism case connected to other Italian mysteries and tragedies
Perception of highest officials of Italian Air Force	Guilty of high treason for having concealed the evidence	No stance: the purpose of the treatise is technical	Slightly suspicious of officials yet justifies them because they had no direct responsibility	Officials not guilty, because there was no fight between military planes, therefore they did not conceal evidence
Perception of the investigation and the Court	Internal to the investigation, therefore held a positive yet unobjective outlook	Everything possible was done, but there was an intent to maintain a mystery playing on the complexity of the issue	Convinced that the investigation and trial could not uncover the truth due to Israel's ability to guard its secret	Accusatory against the magistrates and the impartial functioning of the court

87 "La Strage di Ustica," *Op. Cit.*; *Le Stragi dell'estate 1980*. Avaialbe: http://stragi80.it/indice.html (last visited: 20 January 2010).
88 *Ibid*.

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Turning Page 42: The *Sheffield* Incident and the Shortcomings of the British Procurement Policy

Alexandre J. Vautravers

Head, International Relations Department, Webster University Geneva

Today, only five of the original 14 ships of the *Sheffield* class remain in service with the Royal Navy. Their story is telling of the transformation of the British defense policy – from the technological ambitions of the 1960s, to the change of strategic focus and the budgetary constraints of the 1970s, the reality check of the 1980s in the South Atlantic, the strategic expansion and US-alignment in the Global War On Terror and the budgetary cuts of the 1990s.

The Type 42 *Sheffield* destroyer has been tasked, since the early 1980s, with the protection of the fleet from air and surface threats. Despite its clean and elegant lines, it suffered from a number of limitations and was, in many ways, a makeshift scaled down version of a cancelled cruiser project (Type 82).

It was the best the British Defense establishment could produce in the context of decolonization and "Détente," given the restrictive budgetary and strategic policies of the successive Labour Governments, as well as the economic and oil crisis of that period. But was it good enough? Did it stand the test of battle? Why, of the three ships of this class sent to the South Atlantic, were two sunk –including the nameship- and the third severely damaged? What were the causes and responsibilities for this poor showing: politics, administration and finances, technology, doctrine or simply inadequate tactics?

The last Type 42 are now being retired at an accelerated rate, in order to free up budget for its replacement, the Type 45 destroyer. Has the development of these much larger and more capable ships incorporated the lessons of the 1970s and 1980s? Are they too little too late? Are they adapted to the threat scenarios of the future – too few and too expensive for the contemporary context of brushfire wars and embargoes? Is the UK still able to fund, independently, such expensive and sophisticated vessels? Their high cost will mean that only four will be built, from an original plan of eight. How will this affect, once more, the operational capabilities of the Royal Navy and British strategic policy in the next two decades?

NATO's New Deal

With the retirement of the large World War II *Prince of Wales* class battleships and with little in the way of air power or air cover, the Royal Navy of the 1960s was no longer able to fulfill its traditional tasks of naval supremacy, control of sea routes and support for counterinsurgency operations in the former colonies. The budget costs and restructuring policies imposed by the 1964-1970 and 1974-1979 Labour governments as well as the oil shock of the mid 1970s limited the technological potential, the funds and the number of ships available.

The Royal Navy was therefore obliged to increasingly rely on joint operations with NATO partners. With the US and Canadian Navies, it played a key role in NATO's sea power strategy, being tasked with the escort of the transatlantic convoys, the lifeline of USAREUR[1] and BAOR[2] intended to defend Western Europe against a Soviet invasion. In light of the relative weakness of the Soviet high seas fleet, attention was drawn away from surface warfare and focus became centered on anti-submarine warfare (ASW). The second task of the Royal Navy, within NATO, was the surveillance of the Greenland-Iceland-UK gap, known as the GIUK: the bottleneck through which Soviet attack (SSN), guided-missile submarines (SSBN) and strike aircraft must pass in order to reach the Atlantic convoys. Finally, the Royal Navy was tasked with the sea and landing operations on NATO's Northern flank: Scandinavia. For this, it regularly participated in Royal Marines and Royal Air Force deployments on the Norwegian coastline.

The downsizing of the British military forces must be seen in the context of a greater commitment to NATO, including the land defense of Western Europe. In the 1970s and 1980s, the maintenance of a substantial armored force in Germany (BAOR), the commitment to the development of a multinational Multirole Combat Aircraft (MRCA *Tornado*) required the abandonment of key capabilities, such as long range strike aircraft, as well as carrier and naval surface combat forces.

During more than half a century, Admiral Gorshkov has been the artisan behind the development of a powerful Soviet naval power. In the wake of the naval defeat at Tsushima in 1903, the Soviet Navy had been considered a supporting arm at best. But with the Soviet expansion in the Third World -many countries having become independent, anti-colonial and anti-capitalist- this changed in the 1970s. Abandoning the traditional *"guerre de course"* (raid) doctrine in the 1960s, the Soviet Navy started to build large capital ships and a number of powerful naval strike packages, intended to contest the West's

1 US Army in Europe (USAREUR).
2 British Army of the Rhine (BAOR).

US Carrier groups and challenge the West's supremacy over the sea lanes.
Due to its limited means and aims, the Royal Navy could not keep up with the Superpower's arms race at sea. Missiles were only slowly introduced in the 1960s. The modernization of the fleet was slowed down by the high number of ships that needed to be maintained.
British shipbuilding produced some excellent designs in the 1960s. 26 Type 12 M *Leander* frigates (2'962 tons full load) were built in three batches, ultimately serving in half-a-dozen navies across the world. But their small size and narrow beam limited their potential to introduce new types of weapon systems. The upgrade of the type required to remove equipments, turning them into specialized warships, equipped with either a gun armament (twin 114 mm gun turret), surface-to-surface *Exocet* missiles or surface-to-air *Sea Wolf* missiles, or anti-submarine warfare fitted with mortars, missiles and torpedoes. It is a paradox that the limited all-round capabilities of these ships required more of these to be maintained at sea.
As a result, the Royal Navy reclassified its surface combatants according to their task, and no longer to their size, as is still the case in the US or French Navies. Therefore, all anti-aircraft defense warships were renamed "destroyers" and the ASW ships renamed "frigates" regardless of their tonnage or cost. Carriers and cruisers had to be abandoned for cost and political reasons.
The result of these adaptations is that in the early 1970s, British warships were usually under-armed compared to their US and Soviet counterparts. Their air-defense capabilities were limited, aimed at deterring slow and high-flying bombers or maritime patrol aircraft. The short-range anti-aircraft artillery (AAA) so successful in World War II was considered obsolete in the day of jets and missiles, and was abandoned to reduce weight and cost. Priority went to the submarine forces and anti-submarine warfare, consistent with the commitment to NATO, which accounted for half of the Royal Navy's budget.
The Royal Navy of the 1970s was caught off guard by the technological innovations of guided cruise missiles and electronic warfare. It was ill equipped to fight a major combined arms war far away from its bases, even with a second-rate power such as Argentina in the South Atlantic.

Carriers and submarines

During World War II, the Royal Navy built a great number of aircraft carriers.[3] Several were destroyed, damaged or scrapped, so that in the 1950s only five remained in their initial role.[4] Two others were transformed into assault ships.[5] Built to service aircraft weighing five tons and flying at 300 km/h, they reached their limit when it became necessary to accommodate jets three times

3 *Colossus* class (10 built, 13'400 t), *Eagle* (2 built, 45'000 t) and *Centaur* (4 built, 18'600 t).
4 HMS *Ark Royal, Eagle, Victorious, Hermes, Centaur.*
5 HMS *Albion, Bulwark.*

heavier and faster.
Because of their limited breadth, British carriers introduced an angled deck in the 1950s, allowing an aircraft to land while others were being readied for take-off. The super-carrier CVA-01 project –derived from the American models- was meant to replace the veterans of the War. It included three heavy lifts for servicing the aircraft below deck. It was to carry 18 *Phantom* fighter-bombers, 18 *Bucaneer* strike aircraft, 4 *Gannet* Airborne early Warning Aircraft (AEW) and 5 *Sea-King* anti-submarine helicopters (HAS).[6] This was only half of the capability of contemporary American designs. But these plans were cancelled after the Labour Government's White Paper in 1966. The new defense policy, then, aimed at reinforcing the submarine-based strategic ballistic deterrence force (SSBN) to the detriment of conventional projection forces, thereby abandoning fixed-wing carrier aviation.[7]

Last cruise of the cruisers

The 1960s was definitely the "age of missiles." The experiences of the War demonstrated the vulnerability of aircraft carriers to submarines, but even more to strike aircraft and missiles. It was therefore decided in 1973 to develop an area defense missile to protect the fleet and its capital ships – in particular the carriers. The missile thus engineered was the GWS 30 *Sea Dart*. This 4.4 meter long two-stage missile is boosted by a drop-off Chow solid-fuel rocket, accelerating it to supersonic speed, when the Rolls-Royce (Bristol Aerojet) takes over, on a cruising speed of Mach 2.5+. It has a minimum range of 3.7 km (2 nm) and a maximum effective range of 55.5 km (30 nm), but can technically reach 75 km and an altitude of 10'000+ ft.[8] The missile weighs 550 kg and contains a 22 kg high explosive warhead. Originally, it was believed that the weapon would possess an anti-ship capability, but its small warhead significantly limits its effectiveness in this role.

The construction of four guided missile cruisers was launched to insure the air defense of the CVA-01 carriers. The Type 82 cruiser was to be armed with a 114 mm Mk.8 gun turret, a surface-to-air and surface-to-surface *Sea Dart* launcher with 40 rounds, as well as an anti-submarine *Ikara* system. The cruiser was also the test bed for an advanced Action Data Automation Weapons System Mk.2 (ADAWS-2) integrated with the new gun and missile systems.
In the wake of the 1966 Strategic Defence Review and the cancellation of the CVA-01 program by the British Ministry of Defence (MoD), it was decided

6 Chesneau, Roger, *Aircraft Carriers of the World, 1914 to the Present*, Arms and Armour Press, London, 1992.
7 Grove, Eric J., *Vanguard to Trident: British Naval Policy since World War II*, The Bodley Head, London, 1989.
8 http://en.wikipedia.org/wiki/Sea_Dart_missile (all websites last consulted 28.03.2010).

to complete only one of the four original Type 82 hulls, now reflagged as a destroyer. *HMS Bristol* was officially ordered on 4 October 1966, laid down on 15 November 1967 and commissioned on 31 March 1973.[9]
The lone D23 *Bristol* faced strong criticism. Firstly, the ship's "cruiser" role as a long range escort for the carriers never materialized. Secondly, the large 6'000-ton (7'100 tons full load) warship was expensive, the original 24'217'000 £ budget ending up in the 70 million range.[10] It required a complement of 397 personnel, including 30 officers, and was therefore a high maintenance asset. But the direst criticisms came from the Navy itself: such a large warship had only very limited armament – half of the contemporary American designs. The *Sea Dart* was considered to have too limited a range and a number of technical shortcomings, such as being able to fire and guide only one missile in flight at any given time; its anti-surface capability was not considered realistic against any ship of significance. Also, at a time when helicopters were taking over an increasing importance, being able to increase the range of ASW and anti-surface surveillance and combat, it seemed difficult to justify that such a large vessel would not be equipped with an air complement or helicopter.[11]
HMS Bristol suffered a major steam boiler fire in 1974, which was only repaired in 1976. She was accepted for frontline service in 1979 and participated as a flagship in exercise OCEAN SAFARI 81, then was a part of the task force in the 1982 Falklands war. She was refitted with supplementary air defense weapons in 1984. While under refit, sparked by a second boiler explosion, it received the improved Type 1022 radars and lost its *Ikara* anti-submarine system. Since 1987, D23 is used as a training ship and in 1991 was reconfigured to become a static training ship at Portsmouth.[12]

The loss of the carriers led to the reallocation of three Type 82 hulls in 1966. These were transformed into anti-submarine warfare (ASW) and task force command ships. Two competing designs were submitted: one with conventional missile armament forward and a large helicopter deck in the rear, similar to the Italian *Vittorio Venetto* or the Soviet *Moskva*; the second with an island to starboard and a through-deck on the centerline of the ship. In 1970, the second design materialized into a 18'750 ton through-deck command cruiser (TDCC). An order was placed on 17 April 1973 to adapt the second Type 82 hull, which became *HMS Invincible*, laid down on 20 July and commissioned on 19 March 1980. The model was originally to carry only helicopters, but flight tests with the Hawker P.1127 vertical take-off and landing (VTOL) prototype in 1963 were successful. The MoD authorized in

9 http://en.wikipedia.org/wiki/Type_82_destroyer
10 *Defence Estimates, 1973-74*, page XII-96, Table V: List and particulars of new ships which have been accepted or are expected to be accepted into HM service during the Financial Year ended 31st March 1973.
11 Page, Lewis, *Lions, Donkeys and Dinosaurs: Waste and Blundering in the Armed Forces,* William Heinemann, London, 2006.
12 Marriot, Leo, *Royal Navy Destroyers Since 1945*, Ian Allan, London, 1989.

May 1975 a naval version of this aircraft, called the *Sea Harrier*.[13] Up to 20 aircraft –helicopters and STOVL[14]- can be accommodated; the through-deck cruisers weigh 16'700 tons and up to 20'700 tons fully loaded. The designation of "cruiser" instead of "carrier" was not only for political reasons: it also allows these ships to cross the Dardanelles straights in conformity with the 1919 Versailles treaty restrictions.
All three remaining Type 82 hulls were eventually converted: *HMS Invincible* (R05) costing some 185'500'000 £, *HMS Illustrious* (R06) ordered in May 1976 and commissioned on 20 June 1982 costing 215'400'000 £ and *HMS Ark Royal* (R07) ordered in December 1978, commissioned on 1 November 1985 and costing 332'900'000 £.[15] Despite the considerable structural modifications, all three carriers retained the distinctive Type 909 radars and *Sea Dart* launchers of the original Type 82.

82 / 2 = 42

Because of budgetary and political discussions, a full decade had been lost and the Royal Navy was short of any air cover for its operations, having to rely on obsolete 8-ship *County* class cruiser-destroyers, equipped with the *Sea Slug* surface-to-air system. These were built between 1959 and 1967, costing between 12.6 and 16.9 million £.[16]
In order to fill the fleet air defense requirement, the Type 42 guided missile destroyer was developed in the mid-1960s. The nameship, *HMS Sheffield*, was ordered on 14 November 1968 and commissioned on 16 February 1975. These vessels were to possess the same armament and features as the original Type 82, but were built under a very strict budget envelope, under an imperative 19 million £ ceiling.
While retaining the *Bristol*'s armament features –one 114 mm canon, the *Sea Dart* surface-to-air system, Type 909 radars and integrated command center- the Type 42 was equipped with 2x3 torpedo-tubes and a helicopter deck for one *Lynx*, itself armed with up to two torpedoes or four *Sea Skua* anti-ship missiles. The original intent was to incorporate the latest naval design of a

13 Vautravers, Alexandre, "*Harrier* - un bilan mitigé," *Revue militaire suisse* (hereafter *RMS)* No.9-10, 2000.
14 Short Take-off Vertical Landing (STOVL).
15 Hansard HC Deb 23 October 1989 vol 158 cc357-8W. Hansard HC Deb 23 October 1989 vol 158 cc358-61W. Question to the Secretary of State for Defence asking him to list the Royal Navy vessels built in each of the past 15 years.
16 *Navy Estimates, 1963-64*, page 70, Table 3 (Programme): List and particulars of new ships which have been accepted or are expected to be accepted into HM service during the Financial Year ended 31st March 1963

Defence Estimates, 1964-65, page 72, Table 3 (Programme): List and particulars of new ships which have been accepted or are expected to be accepted into HM service during the Financial Year ended 31st March 1964

Defence Estimates, 1971-72, page XII-81, Table V: List and particulars of new ships which have been accepted or are expected to be accepted into HM service during the Financial Year ended 31st March 1971

high beam-to-length ratio (1:6), similar to the American *Oliver Hazard Perry* frigates, in order to give it more seaworthiness in view of its main role as a fleet and convoy escort in the North Atlantic.
The budgetary constraints were severe, and in order to comply with the financial envelope, the original 12 ships (Batch I and II) had 47 feet removed from the bow, leading to extremely poor ship handling in high seas. The original vessels were cramped, leaving little space and accommodations for the crew, but limiting also the armament carried -reducing the number of *Sea Dart* missiles from 40 to only 22- and the growth potential for the addition of any new equipment. It was necessary to renounce any close-in armament, leaving the ship defenseless under a 2-mile "blind area." This gap would have to be filled, tactically, by the employment of destroyer-frigate (42/22) teams. This shortcoming became apparent in the engagements of 12 and 25 May 1982, in the attacks against the teams of *HMS Glasgow*/*Brilliant* and *Coventry*/*Broadsword*.

Three batches of Type 42 destroyers were built between 1970 and 1980, with two ships built for sale to the Argentinean Navy: *ARA Hercules* and *Santisima Trinidad*. The first two batches measured 413 feet and weighed 4'350 tons full load, with a complement of 274. The third batch ships, sometimes referred to as the *Manchester* class, measure 466 feet, weigh 5'350 tons and have a complement of 314. The third batch have generally better handling, better crew comfort, and a 40-round magazine for the *Sea Dart*. After the Falklands war, all remaining ships have been fitted with improved electronics, including a Type 1022 search radar and two 20 mm *Phalanx* close-in weapon systems (CIWS). The third batch ships were originally to receive a launcher for short range *Sea Wolf* surface-to-air missiles, but this has never materialized and their armament is therefore similar to their smaller forerunners.

Overview of the Type 42 class

Type 42 Batch 1		**Ordered**	**Commissioned**	**Est. Cost (£)**
D80	*Sheffield*	14.11.1968	16.02.1975	23'200'000
D86	*Birmingham*	21.05.1971	3.12.1976	31'000'000
D87	*Newcastle*	11.11.1971	23.03.1978	34'600'000
D118	*Coventry*	21.05.1971	10.11.1978	37'900'000
D88	*Glasgow*	11.11.1971	24.05.1979	36'900'000
D108	*Cardiff*	10.06.1971	24.09.1979	40'500'000
Type 42 Batch 2		**Ordered**	**Commissioned**	**Est. Cost (£)**
D89	*Exeter*	22.01.1976	19.09.1980	60'100'000
D90	*Southampton*	17.03.1976	31.10.1981	67'500'000
D91	*Nottingham*	1.03.1977	22.12.1982	82'100'000
D92	*Liverpool*	27.05.1977	1.07.1982	92'800'000
Type 42 Batch 3		**Ordered**	**Commissioned**	**Est. Cost (£)**

D95	*Manchester*	10.11.1978	19.11.1982	110'000'000
D96	*Gloucester*	27.03.1979	11.09.1985	120'800'000
D97	*Edinburgh*	25.04.1979	17.12.1985	130'600'000
D98	*York*	25.04.1979	9.08.1985	118'700'000

Sources: Aldrich, Richard James *Intelligence, Defence, and Diplomacy: British Policy in the Post-War World.* Taylor & Francis, London, 1994.
Hansard: HC Deb 23 October vol 158 cc357-8W 357W. Question to the Secretary of State for Defence regarding warship costs, 23 October 1989.
Marriott, Leo *Modern Combat Ships 3, Type 42*, Ian Allan, London, 1985, p. 15.
Moore, John *Jane's Fighting Ships, 1982-83*, Jane's, London, 1982.

Poor showing in the Falklands: the sinking of the *Sheffield*

At 0500 on 4 May 1982, an SP-2H *Neptune* (2-P-112, pilot: Capitán Ernesto Proni Leston) maritime patrol aircraft took off for a radar surveillance mission south of the Falkland Islands, flying undetected as near as 100 nm from the coasts. After an hour flight time, it detected a medium size contact, a large echo and two smaller ones a few miles from the first. The radar emissions intercepted at 0814 and 0843 were identified as Type 909 air surveillance radars – the type mounted on Royal Navy carriers, as well as their Type 42 and 82 destroyer escorts.
The Argentine Navy was alerted at 0700. Bad weather would a successful bombing run, so two carrier aviation (CANA) *Super Etendard* (3-A-202 and 3-A-203, pilots: Capitán Augusto Bedacarratz and Teniente Armando Mayora) each armed with one air-to-surface AM-39 *Exocet* were prepared for flight at Rio Grande airbase at 0940, taking off five minutes later. Only six of these aircraft had been delivered, from the 14 ordered in 1979.[17] Only five missiles were available at the start of hostilities, France having placed the order of 30 under immediate embargo, at the request of the British government. The training of the pilots was theoretical, none of these weapons being actually test fired. But sources have confirmed that Aerospatiale engineers continued to work with their Argentinean clients during the embargo.[18]
After takeoff, the first 150 nm were flown at high altitude, to save fuel. Both aircraft then refueled from a KC-130H tanker at 1004, half-way to their destination. At 130 nm from the target, the two fighter-bombers descended at wave-top altitude, 70-80 feet, in order to avoid detection. Close to the tanker were two IAI *Dagger* fighters (C-437 and C-414, pilots: Capitán Amilcar Cimatti and Capitán Higinio Robles). Two other *Daggers* (C-431 and C-429,

17 Chant, Christopher, *Air War in the Falklands 1982*. Osprey, Wellingborough, 2001, p. 51.
18 http://www.britains-smallwars.com/Falklands/Exocet.html

Estival, B., Guillot, J., *L'extraordinaire aventure de l'Exocet*, Presses de la Cité, Brest, 1988, p.67-72.

Maisonneuve, Charles, Razoux, Pierre, *La guerre des Malouines*, Larivière, Rennes, 2002, p. 111.

pilots: Capitán Carlos Moreno and Teniente Ricardo Volponi) escorted the *Neptune*. Finally, an Argentinean Air Force (FAA) *Learjet* flew in the vicinity, to act as a decoy.[19]

At 1035, 110 nm from the target, the *Neptune*, popped up at 3'840 ft and confirmed the echoes' positions, transmitting them to the strike team. At 1050, both aircraft rose to 520 ft for a few seconds and switched on their *Agave* radar – without success. They reinitiated this maneuver at 1100, 25 nm further, but this time successfully: several echoes were detected, including a large vessel.[20]

The flight continued at very low altitude. At 1104, the target's coordinates were set in the missiles' computer and navigation system. The leader fired his missile 30 nm from the target. His wingman had not heard the firing order, and launched his weapon five seconds later, at 20 nm range. Immediately, both aircraft egressed to starboard and turned back, without refueling. They landed at Rio Grande at 1204 and heard of the result of their attack a few hours later, listening to the BBC.

At 1100, *HMS Glasgow*, at the head of the British destroyer air-defense screen, briefly detected the *Super Etendard* second radar emission. Chaff and countermeasures (ECM) were immediately fired, and the alarm transmitted. Four minutes later, both attacking aircraft were detected as a fleeting contact, probably as the two aircraft turned away after having fired their missiles.

The alarm warning was transmitted at the anti-aircraft coordination centre, based on *HMS Invicible*. But the lack of positive identification, as well as previous false alarms, led the command to ask for confirmation. At this time *HMS Sheffield*, on the port flank of *Glasgow*, was using its satellite communications system (COMSAT) to radio the information to London. *HMS Coventry*, on the starboard of *Glasgow*, fired a *Sea Dart* in the direction of the threat.

The first *Exocet* fell in the water, out of fuel and range, between *HMS Yarmouth* and *Glamorgan* –the second air-defense protection screen-, probably thrown off course by *Glasgow* or *Yarmouth*'s ECM. But it was already too late. After a few seconds flight, the second missile ripped through *Sheffield*'s hull amidships, two meters above the waterline. The 165 kg warhead did not detonate, but the rocket fuel remaining in the missile started fires amidships, and released thick smoke which complicated the evacuation of the lower compartments. The impact destroyed the control center, the electrical generators and severely damaged the pumps of the fire extinguishing systems. Twenty sailors were killed and another 20 wounded. After seven hours of struggle against the flames, with the Type 21 and 12 frigates *HMS Arrow* (F173) and *Yarmouth* (F101) at her side, all three highly vulnerable to subsequent air or submarine

19 http://www.fuerzaaerea.mil.ar/conflicto/dias/may04b.html
20 Fernandez, José, "La guerre aérienne aux Malouines", *Ciel de Guerre* No.15, avril/mai 2008, p. 67.

attacks, the ship finally had to be abandoned at 1751.
The *Sheffield* did not sink on 4 May 1982, but was put on tow by HMS *Yarmouth* (F101) and used as a decoy in the case of further incoming attacks. On 10 May, however, the high seas caused the ship to take on water and go down. It was the first Royal Navy vessel sunk in action in 37 years. Critiques were voiced on the fact that the threat assessment at the time of the engagement was highly focused on submarine rather than air attacks. The crew was not at battle stations at the time of the raid, and neither the commanding officer nor his deputy were at their posts. Allegedly, the air threat UHF frequency and the air surveillance radars were not manned.
A substantial investigation and official report highlighted technical inadequacies, in particular the layout and the construction of the ship, its battle damage management and firefighting equipment. Another issue identified was the replacement of nylon/synthetic clothing for the crew, which caused severe burns when melting. The report aimed no criticism at the *Sea Dart* system or the Type 909/965 radar, as it was known that neither system had been designed or was technically able to combat the threat of high subsonic sea skimming missiles.[21]

The bombing of *Coventry*

On 3 May, *HMS Coventry* and *Glasgow* engaged the *ARA Alferez Sorbal* with their two *Lynx* helicopters firing four *Sea Skua* missiles, killing one crewman, disabling the aerials and forcing the Argentinean warship to retreat. *HMS Coventry* was also the first to fire the *Sea Dart* in anger on 9 May, when two missiles were fired at reconnaissance *Learjets*, but missed. Two others were fired against C-303 and C-313 *Skyhawks* of Grupo 4 (pilots: Lt Casco and Lt Farias) near South Jason Island, but both were probably lost to the storm and bad weather and not to impact.[22]
While three Type 42 destroyers set out to the Falklands, *HMS Sheffield* was lost on 4 May. *Glasgow*, acting in cooperation with *HMS Brilliant* (F90), was attacked by Argentinean *Skyhawks* on 12 May. When her *Sea Dart* system broke down, the frigate was able to shoot down three aircraft with *Sea Wolf*. But as the second air defense system also broke down, a second wave of *Skyhawks* released three bombs, one of which hit *Glasgow* in the aft engine room, damaging the fuel systems and disabling both cruise engines, obliging the ship to return to Portsmouth for repairs. *Coventry* was therefore the only remaining air-defense destroyer, until *HMS Exeter* (D89) and *Cardiff* (D108) arrived at the end of May…

21 Office of the Commander-in-Chief, Fleet. *Loss of HMS Sheffield – Board of Inquiry*, Northwood, 28 May 1982.
22 Hart Dyke, David, *Four Weeks in May: The Loss of HMS Coventry*, Atlantic Books, London, 2007.

HMS Coventry (D118) and *Broadword* (F88), acting as a team, were tasked with decoying air attacks and protecting the approaches to San Carlos Bay, where 3 Commando Brigade had landed on 21 May. The bay was chosen as it was not heavily defended, but most importantly because the surrounding hills and mountains would protect the landing force from radar detection and missile attacks. They were, however, vulnerable to bomb runs by *Daggers* and *Skyhawks* from the FAA and CANA. Thus, the area was rightfully nicknamed "bomb alley." [23]

Coventry and *Broadsword* were to lay a protection screen for the landing force, in open waters North of Port San Carlos. On May 25, the day of the Argentinean Revolution, several raids were mounted against the landing force. Initially, the British decoy plan was successful. Three attacking FAA A-4B *Skyhawks* were shot down: C-244 of Grupo 5 North of Pebble Island by a *Sea Dart* (pilot: Capitán Hugo Angel del Valle Palaver killed), the second C-304 of Grupo 4 East of Pebble Island by another *Sea Dart* while returning from its bomb run (pilot: Capitán Jorge Osvaldo García ejected but never recovered) and another shot down by a *Sea Cat* from *HMS Yarmouth* (pilot: Ricardo Lucero, ejected and captured, in front of a British news crew).

A strike package of four *Skyhawks*, guided by a reconnaissance *Learjet*, targeted the escort ships directly, each armed with three 1'000 lb bombs.[24] At 1520, while attempting to engage the first two (pilots: Capitán Pablo Carballo and Teniente Carlos Rinke), the fire control system of *HMS Broadsword* locked down and was inoperable. One of the bombs fell short, but ricocheted off the waves and struck the landing deck, where it destroyed the *Lynx* helicopter. Small arms fire managed to inflict some damage on the second aircraft, but both managed to return to base, despite a ruptured fuel tank.[25]

The second pair of *Skyhawks* (pilots: Primer Teniente Mariano A. Velasco and Ensign Alférez Leonardo Barrionuevo) aimed for *Coventry* 90 seconds later, at a 20-degree angle to her port bow. Unable to acquire the targets flying at very low altitude (30 ft) and with clutter from the surrounding landscape, the destroyer fired an unguided *Sea Dart* in the hope of fending off the attack, and turned hard to starboard to reduce its profile. *HMS Broadsword*'s fire direction radar and *Sea Wolf* acquired both targets, but was unable to fire because of the destroyer's sharp turn, right into her line of fire. *Coventry* fired with all available weapons, including small arms, the 114 mm and 20 mm canons. The later jammed, and the ship was struck by two bombs just above the waterline on the port side. One of the bombs put the control center and nearly all senior officers out of commission. The second ripped and flooded another watertight compartment at the beam, and the ship immediately listed to port. It capsized in 20 minutes, with 19 dead and 30 injured and sank shortly

23 Leclerc, Philippe (Ed.), "Le destroyer *Coventry*, une proie de choix", *La Guerre des Malouines* No.1, 1983, p. 41-46.
24 http://www.fuerzaaerea.mil.ar/conflicto/dias/may25c.html
25 Hobson, Chris, *Falklands Air War*, Ian Allan, Hersham, 2002, p. 94-97.

thereafter. Waiting to be rescued, the crew were singing "Always Look on the Bright Side of Life" – from Monty Python's movie *The Life of Brian…*[26]

Epilogue

The Falklands war led to a sudden awareness of the effectiveness of modern missiles, the weaknesses of conventional defense systems and the cruel absence of point defense on Royal Navy ships. The Royal Navy rapidly introduced radar-directed rapid-fire Gatling Close-In Weapon Systems (CIWS) of 20 or 30 mm caliber – the American *Phalanx* and the Dutch *Goalkeeper*, despite the extra weight they added on already cramped and overweight hulls.

The radars equipping the Task Force in the Falklands showed their limitations, being unable to acquire targets below the horizon. This limitation was known to the Argentineans, who used their two Type 42 Batch I destroyers for dissimilar training before the start of hostilities, and exploited its weaknesses.[27]

Returning from the South Atlantic, all ships saw their Type 909 or 965 search radars –designed in the late 1950s- replaced by the modern Type 1022. This was an in fact only an interim design, intended to be superseded by the Type 1030, but budget cuts prevented the definitive model to enter into service.[28]

Navies also realized that the range of modern engagements required fleets to possess better over-the-horizon Airborne Early Warning (AEW) capabilities. This was lost with the retirement of the *Gannet* carrier-borne radar aircraft and the *Shakelton* long-range patrol aircraft. Only the modern *Nimrod* remained, but these few aircraft were in high demand for many diverse tasks, including ASW, surface-strike and photo-reconnaissance duties for the BLACK BUCK bombing missions. A makeshift solution was to fit the Type 909 air search radar on *Sea King* helicopters in a crash development program, but these were ready only in 1984 - too late to see action in the South Atlantic.

The last lesson learned in the Falklands was the vulnerability of modern warships to battle damage. Critiques were voiced at the budget constraints that limited the ability of the Royal Navy to stay abreast of modern threats. The limited firepower, defensive suite and growth potential of the warships available were inadequate, with potentially grave consequences in an engagement with even a second-rate opponent in a limited war. Commentators criticized the use of completely unarmored ships, made of aluminum to reduce the weight and the costs. Also, the choice of private shipbuilders in an attempt to keep the costs low, as in the introduction of the Type 21 *Amazon* frigate, was portrayed as a failure because this policy produced ships that were unfit for war conditions.

26 http://news.bbc.co.uk/2/hi/uk_news/6705387.stm
27 Vautravers, Alexandre, "20 contre 200 : Les enseignements de la guerre aérienne aux Malouines," *RMS* No.6, 2002.
28 Leclerc, Philippe (Ed.), "Les Argentins détruisent le *Sheffield*," *La Guerre des Malouines* No.2, 1983, p. 39-45.

Careful analysis of these critiques has demonstrated that the limitations of the Type 21, 22 and 42 classes were mainly attributable to budgetary constraints. The choice of aluminum, for example, despite having led to several severe fires, cannot be said to have been a decisive factor in the lack of protection of Royal Navy ships. The amount of damage sustained by the British warships – hit by high subsonic anti-ship missiles with a 165 kg warhead, or low-drag 227 and 454 kg bombs- could not have been sustained, even by strongly built steel ships of similar tonnage.

Improvements on the available frigates and destroyers would only moderately improve their performance because of their limited size. New designs had to be developed: such as the Type 23 frigate and the Type 45 destroyer. A total of 16 *Duke* class frigates were built between 1985 and 1999, weighing 4'200 tons full load, with a complement of 181. These frigates were equipped with ASW, AA and A/S armament, making them far more capable than the Type 21 and 22 frigates they replaced. Each ship cost between 112 and 143 million £.

In order to allow the Royal Navy to retire its 1960-1970s generation warships, the US State Department proposed in 1997 to lease for a symbolic cost four *Oliver Hazard Perry* frigates, equipped with the long-range SM-1 *Standard* surface-to-air missile on the condition the British later purchase fleet defense vessels armed with the SM-2 and *Aegis* command and control system. But the MoD decided to keep to its initial plans and build its own destroyers. This cost a yearly 565 million £ over the American proposal, which was then abandoned.

The replacement of the Type 42 destroyers was originally sought as a multinational solution, to achieve economies of scale. The NATO Frigate Replacement for the 1990s (NFR-90) project was launched in 1985 with eight member countries. But quickly, participants argued over the design and the armament choices. France pushed for the adoption of its *Exocet* surface-to-surface missile, while others preferred the longer-ranged American *Harpoon*. The UK resented the lack of a CIWS, while the US Navy was looking for a more multi-purpose design. Both countries opted out in 1989. France, Italy and the UK then assembled into the *Horizon* Common New Generation Frigate (CNGF) project in 1992, while the Netherlands, Spain and Germany signed a Trilateral Frigate Agreement. The later produced the German F124 *Sachsen* class (three built, 5'690 tons, 243 crew), the *LCF De Zeven Provinciën* class in the Netherlands (four built, 6'050 tons and 232 crew) and the F-100 *Alvaro de Bazán* in Spain (four built, two on order, 6'250 tons and 240 crew). These ships entered service between 2002 and 2006. They rely extensively on American technology and weapon systems. The design has been successfully transferred to Norway (four *Fridtjof Nansen* class built, one building, 5'290

tons and 120 crew) as well as Australia (three *Hobart* class on order, 6'250 tons and 180 crew).
The UK withdrew from the CNGF project on 26 April 1999, as it was pressing for Marconi and BAE Systems to become prime contractors. Disagreements over the choice of a Vertical Launch Systems (VLS) for the Principal Anti-Air Missile (PAAM *Aster* 30) and the types of missiles carried were only partially resolved. Finally, it was clear that the Royal Navy was looking for a larger fleet defense ship operating in the Atlantic, while the other two partners were developing an escort ship for their own carriers, operating in the more limited waters of the Mediterranean.[29] France and Italy developed the 7'050 ton and 174 crew *Horizon* by themselves, the first two of the four-ship class being commissioned in 2007. Four others were cancelled in 2005 in favor of the smaller and more specialized FREMM design.
The four *Daring* class destroyers weigh 8'092 tons full load and have a complement of 190 personnel. The reduction of 79 crew members over the Type 42, largely due to highly automated systems, represents a savings of 2.9 million £ a year. These were projected at 5.9 billion and the first two completed have gone over the 6.46 billion mark, after long delays. The first ship was laid down in 2003 and commissioned in 2009; the last is expected to enter service in 2013.[30]

The high expenses of the continuous military operations abroad –from the Balkans to Afghanistan and Iraq, as well as the Gulf of Aden- and the repeated budget cuts have accelerated the rationalization efforts of the British MoD. In 2000, the Defence Logistics Organisation (DLO) was created, then representing 30% of the defense budget – today reduced to approximately 20%. The organization handling the training, deployment, in-theatre training and the conduct of operations, as well as the recovery and recuperation for redeployment of the Royal Navy is the Warship Support Agency (WSA).
The budgetary cuts have led the Navy's readiness to decline from 90% in 2000 to a mere 60% in 2005, causing severe criticism. Hard measures were taken in 2003, including the early retirement of numerous vessels, causing even more criticism. At the time, General Sir Kevin O'Donoghue, Chief of Defence Logistics, had to admit that several ships had had to be "cannibalized" in order to allow the continuation of operations overseas. This set of measures was intended to progressively increase the readiness of the fleet from 2010 onward.[31]
In July 2003, a restructuring plan of the British naval forces was accepted by the MoD, reducing from 31 to 25 the number of destroyers and frigates; attack

29 Nicoll, Alexander, "National differences scupper frigate project," *Financial Times*, 27.04.1999.
30 Vautravers, Alexandre, "Frégates et destroyers européens : Appel du large ou calcul économique," *RMS* No.3, 2005.
31 Tucker-Jones, Anthony, "How Ready for Operations is the UK Fleet?" *Guide to the Royal Navy*, 2006, p.4.

submarines went from 11 to 8. Thus, three Type 42 destroyers and three Type 23 frigates were decommissioned ahead of their planned retirement date, as well as six anti-mine vessels. In 2008, supplementary cuts have reduced this number to 22: five Type 42 destroyers, four Type 22 and 13 Type 23 frigates. [32]

Since the mid 1970s, the Royal Navy has no more cruisers or conventional aircraft carriers. Since August 2005, the light aircraft carrier *HMS Invincible* –veteran of two wars- was retired and put on reserve until 2012. These financial sacrifices have been necessary to insure the construction of the future carrier (CVF). This should enable the British armed forces to keep a sizeable force projection capability.

At this juncture, the First Lord of the Admiralty, Chief of staff of the Navy Admiral Sir Alan West, warned that the threshold of 30 warships had been reached. Thus, "with only 25 ships, we are close to the impossibility (of fulfilling our mission)." Future operations will have to be conducted facing "increased risk".[33] Many ships were sold, to European and Latin American countries, in order to save maintenance and operating costs.[34] The Admiralty has had to admit that, as a result of the savings measures, two of its Type 42 destroyers –whose main task is the protection of the fleet, in particular against air threats-, were sailing without their *Sea Dart* missiles. This was to allow a reduction of six officers on each of these, the Navy having to mobilize several hundred of its personnel for rear area communications and headquarters duties in Afghanistan.[35]

The Royal Navy is confronted by a budgetary dead end, due to the numerous deployments, in particular in the Persian Gulf (Iraq), in the Gulf of Aden (Somalia) and in the Indian Ocean (Afghanistan). But the main challenge is its all-round and standalone development strategy. In the same decade, the Royal Navy has developed a new class of aircraft carrier (*Queen Elizabeth* - CVF), a new Joint Combat Aircraft (F-35 *Lightning II*), a new class of destroyer (Type 45 *Daring*), introduced a new utility helicopter (NH90) and four nuclear armed ballistic submarines (*Vanguard*).

This strategy is not consistent with the reduction in funding and the increased demands for operations, whose expenses –unlike military operations conducted before the end of the Cold War- are covered by the regular budget. The recent decision to build only one of the two planned CVF carriers, cap the Type 45 to four units and delay the introduction of a new frigate design to 2018, will mortgage the capabilities of the UK Defense policy. These new decisions, announced by the present Labour Government (1997-2010) in

32 Beedal, Richard, "2008 in Review: The Admiral has no Clothes," http://navy-matters.beedall.com/

33 "Kürzungen bei der Royal Navy", *Schweizer Soldat* No.10, 2004, p. 35-36.

34 Beedal, Richard, "Warships going cheap... Flogging off the nation's assets," http://www.savetheroyalnavy.org/articles/2007/11/warships-going-cheap-flogging-off.html

35 Vautravers, Alexandre, "Un Mer de déjà vu?," *RMS* Aviation, 2008.

the context of a financial crisis, are a cause for concern that the means have structurally been inconsistent with the aims.[36]

The cancellation of one of the 8.2 billion £ 65'000 ton CVF carriers is motivated by the soaring costs of the Lockheed F-35 Joint Strike Fighter (JSF) it needs in order to operate.[37] Worse, the ten-year ongoing debate over the cancellation of the JSF program –in which the British MoD and industry (BAE Systems, Rolls Royce) are heavily invested- could cause the entire British naval and strategic doctrine to run aground, the STOVL being presently the only fixed wing option for the future CVF.

Since 1950, the Royal Navy has been under constant pressure to reduce its budgets and its tasks. Experience shows that at each reduction, a crisis has obliged the Admiralty to find new stop-gap solutions and deal with strength reductions. How long can the British Government and MoD wait before they have to choose between a budget increase, a strategic rethinking and a stronger commitment to a supra-national alliance?

36 Boden, Nicola, "Brown admits defence budget did NOT rise every year – as he claimed to Iraq inquiry," *Mail Online*, 17.03.2010. http://www.dailymail.co.uk/news/article-1258609/Gordon-Brown-finally-admits-defence-budget-did-rise-real-terms-year.html

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37 Smith, Michael, "Navy surrenders one new aircraft carrier in budget battle," Times Online, http://www.timesonline.co.uk/tol/news/uk/article6888962.ece

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The Downing of Flight KAL 007 Over the Sea of Japan

Numa Pigelet

BA in International Relations, BSc in Finance; Webster University Geneva

Among the military incidents of the Cold War, the downing of Korean Air Lines flight KAL 007 remains certainly one of the most mysterious. On 1 September 1983, a Boeing 747 flying from Anchorage to Seoul derived from its route, penetrated into Soviet airspace, and was shot down by a Soviet interceptor jet, taking 269 lives. The number of mysteries and theories surrounding the causes and the aftermath of this event are incredible. Ranging from the possible survival of the passengers to a pilot hired by the CIA, shadowy theories pile up on each other. All these theories, along with most non-scholar work on the subject, claim to bring the "truth," the "real story" to the world by following very narrow analysis on technicalities and details.[1] The interpretation of details, coupled with the impossibility of verifying them leads theses writings to pure speculation.

This paper tries to take a different approach by looking at the elements surrounding the flight, most notably geo-political information, but also the observations on the current state of aerial surveillance, the political significance of the plane, and the opportunity that it might have represented for some countries. Theses observations lead us to ask if flight KAL 007 could have been used as a passive probe by the United States.

This paper has no intention to question the current version of the facts, nor to debate whether the plane actually crashed. We will first examine the airliner's deviation from its course. In this context, particular attention will be drawn to the crew, and especially to the captain, Mr. Chun Byung-in. The flight instruments, flight procedure and radio reports will also be examined in the form in which they are presented in the reports of the ICAO.

Next, we will gather elements about the political situation of the time - in particular, the place of Korea in Soviet-US relations. Much effort will be taken to asses the surveillance capabilities in this area at that time, which might

1 Brun, Michel, *Incident at Sakhalin*: *The True Mission of KAL Flight 007*, Four Walls Eight Windows, New York/London, 1995.

enable the United States to monitor the path of a commercial airliner. This analysis will be supported by interviews with professional pilots, describing their experiences in crossing the pacific during this period.
Finally, we examine the potential that this flight represented for the United States, the risk/return situation they were facing and how, in fact, the drift of this airliner became of real interest for the United States.

An unintentional deviation

The first undeniable evidence of this story is that the flight went off course very soon after take off. We will explain this deviation its causes. The plane took off at 13:00 GMT from Anchorage, heading to Seoul. Immediately after take-off, the captain turned on the automatic pilot, which remained engaged from four minutes after take-off until the first missile hit the plane.[2]
The flight was assigned the route "Romeo 20," which would cross the North Pacific. The onboard guidamce system was an inertial navigation system, or INS. This relies on 3 computers, in which waypoints are entered and followed during the flight.
For the Anchorage-Seoul route, there were a total of nine waypoints. They were as follows: BET (Bethel), NABIE, NEEVA, NIPPI, NOKKA, NOHO, IFH (Inkfish), MXT (Matsushima), and GTC (Niigata).[3] Each INS unit (two of which were actually used for navigation, the third serving as a reserve) used gyroscopes and accelerometers. The airliner never followed "Romeo 20."[4] The deviation from the course started at a very early point in the flight, roughly ten minutes after take-off.[5] The air controller on duty that night apparently failed to report the first deviation. This moment was crucial in the flight, but what seems even more strange is that captain Chun Byung-in reported over waypoint Bethel at 13:49 GMT that he was on the correct route, although he was already 12.6 miles off course. Considering the very small likelihood of a simoultaneous failure of all three INS computers, the crew must have been very careless about monitoring their precise position.
The airliner started its deviation about ten minutes after takeoff, drifting northeast of its assigned route, Bethel. The ICAO assumed a technical error. They figure that the INS system was never operational, meaning the airplane relied purely on the heading mode, which is a pure magnetic heading. This heading was set on a very approximate basis and was only to be used for the first minutes of the flight, after which point the crew should switch on the

2 International Civil Aviation Organization (ICAO), "Report of the completion of the fact-finding investigation regarding the shooting down of Korean Airlines Boeing 747 (Flight KE007) on 31 August 1983," 1993, p. 15, section 2.8.1. [hereinafter ICAO Report]
3 Doerner, William R. and Magnuson, Ed, "Atrocity In the Skies: KAL Flight 007 Shot Down by the Soviets," *Time Magazine*, 12 September 1983. Available: http://www.time.com/time/printout/0,8816,926169,00.html (all websites last accessed: 4.04.2010)
4 The accelerometers detect changes in the aircraft's motion (any direction) in reference to the gyroscopic lines.
5 ICAO Report, *Op. Cit.*, p. 5.

INS system. The ICAO postulated that if the INS was ever engaged, the plane would have drifted even further.

KAL 007 continued its night journey, ever increasing its deviation: 60 nautical miles off course at waypoint NABIE, 100 nm at waypoint NUKKS, and 160 nm at waypoint NEEVA,[6] until it penetrated Kamchatka's borders at 15:51 GMT.[7]

A nagging, unsettled question about the now-understood navigation and control errors that led to KAL 007's course deviation (2'460 magnetic without INS capture), is how a veteran captain such as Chun, who had crossed the pacific more than 80 times, could have overlooked this. Why did he not avail himself of the other possible navigational cross-checks? What made him so sure that he was on course and safely headed for Seoul? Was he really so grossly negligent?

An idea occurred that might contribute to this mystery. Perhaps the answer to Chun's false and fatal sense of confidence, his inadequate "situational awareness," has been in front of us all the time. Moreover, it was not such a superficially stupid error.

Chun must have felt he was on course, because he was in continuous radio contact with his colleagues on another flight, KAL 015, following close behind him.[8] These radio conversations, which occurred intermittently over the course of the entire flight, could have been accepted as obvious reassurance that his own plane was exactly where he thought it to be, 10-15 minutes ahead of, and 2'000 ft below the other airliner. The logic of this concept is that both planes would never make the same navigation error. If both planes were this close, then both planes must have been on course. The fact that radio contact was being maintained as the distance between them increased was not evident, since there was no anomalous degradation or interruption of the signals. KAL 015 was the navigational base on which Chun decided he was ok. This feeling would be reinforced by the periodic reading from the INS indicator panel of the time and distance to the next waypoint. Only in the case that the waypoint passage light went out would either KAL 007 pilot really have a reminder to look at the display. Had they taken the extra trouble to compare actual latitude/longitude to the flight plan's predictions, they would have seen a discrepancy. But the parameters they did read and report per radio were not off by enough to worry them. However, there is clear indication both from the Cockpit Voice Recorder (CVR) and from the KAL 015 captain's recollections that something was weighing on the mind of KAL 007's pilot. The wind directions and speeds were quite different between the two aircrafts. These differences were discussed over the radio. Chun, grudgingly attributed it to the altitude

6 *Ibid.*, p. 45, section 2.8.1.
7 *Ibid.*, p. 15, section 2.8.1.
8 Wyler, Fred. Individually and as a Personal Representative of the Estate of William Paul Wyler, Deceased, for the Benefit of Himself and Helen C. Wyler, et al., Appellants v Korean Air Lines Company, Ltd., et al', (United States Court of Appeals, District of Columbia Circuit 1991-04-03).

difference but did not dig deeper into possible causes. He missed a chance to use this minor anomaly to question and correct his false situational awareness. During the entire flight, no other mental inputs were sufficiently dissonant with this wrong interpretation of reality. Radio troubles with Anchorage were easily understood as typical. However, the absence of ground beacons was never noticed. The weather radar was probably never used. Chun must have thought he had good reasons to be confident he was where he was supposed to be. He never was worried enough to cross check. In summary, all earlier assessments of what Chun (or any other competent pilot) needed to have done to ensure the proper course are based on the "single airplane" model in which a plane is flying alone through the dark, relying purely on its own resources to verify its course. Captain Chun was not flying alone that night however, and the presence of KAL 015 on the radio lurred him into the false impression that he was flying exactly where he should have been: ahead of KAL 015, along "Romeo 20" bound for Seoul.

There was one last navigational aid to warn the crew. With consoles at the knees of both pilot and co-pilot, the plane's weather radar could have alerted them to the fact that they were no longer flying over water, as they ought to have been.[9] The weather radar had two modes. There is land mapping for clear weather in which it would be possible to look down and see water, landmasses, or contours of coast line. There is also weather surveillance mode for cloudy weather in which it is necessary to "see through" clouds in order to detect dangerous thunderstorms. In land mapping mode, KAL 007 had only to make sure that the landmass of Kamchatka and the Island string of the Kurile chain would remain to the right. That night, however, KAL 007's weather radar was probably not in land mapping mode, for the weather was inclement. The International Civil Aviation Organization's meteorological analysis would conclude that "there was extensive coverage of low, medium, and high level clouds over southern Kamchatka, associated with an active cold front."[10] ICAO's analysis of KAL 007's weather radar functioning would state "It was concluded that the radar was not functioning properly or that the ground mapping capability was not used."[11]

It seems in no way, shape or form that the pilot intended to deviate from the course. Chun was assured to be on the right track when in fact, his poor scrutiny over the controls led him to a location of which he remained unaware. The CVR recordings recount a very relaxed atmosphere onboard - the pilot and co-pilot making jokes. In the case of an intentional deviation, Captain Chun must have been a highly trained undercover agent, and moreover, the United States services would have voluntarily engaged the 270 lives aboard, including a congressman. However unintentional this deviation was, we will

9 KAL 007's Bendix radar had a maximum range of 200 NM with a 180° scan capability.
10 ICAO Report, p. 9, section 1.7.1.
11 *Ibid.*, p. 45, section 2.9.1.

see now that it surely was not ignored.

A monitored flight

This period of the Cold War was characterized by a return to an ideological clash between the two blocs, and is referred to by some scholars as "The Second Cold War."[12] This name was given in part due to the fact that both parties engaged in a final burst of military technology research - in a way, the last sprint before an end that was just around the corner. The military budgets of the two superpowers during this period were immense, especially the budgets the United States poured into the DARPA[13] and NORAD. One of the biggest aspects of this conflict was definitely surveillance. Given the nature of the Cold War conflict and the impossibility of direct confrontation between the United States and the Soviet Union, surveillance and intelligence were key. Furthermore, it is safe to say that the Cold War represented the golden age of spying, as it was the weapon of choice of both blocs. Methods of surveillance involved border watching, as well as air and space surveillance. The goal was to map as precisely as possible the enemy's defense systems. Indeed, knowing your enemy is a core mission in warfare: "So it is said that if you know your enemies and know yourself, you will fight without danger in battles."[14]

The airspace of the 1970s and 1980s was literally scanned continuously by US and Soviet reconnaissance planes and satellites, in order to monitor every movement on the other side. An important detail is that the Bering Strait is the closest point between the United States and the former USSR with just three kilometers separating the two superpowers. Would it not seem crucial to watch over the closest border you have with your enemy, however remote that place may be?

Despite Alaska and Kamchatka being remote places on the face of the earth, there is absolutely no doubt that both blocs were very closely monitoring this part of the world, including any civilian activity that might take place in this area.

Many experienced civilian pilots who flew across the pacific in the 1980s testify that they were on almost all occasions followed by surveillance aircraft, if not interceptors of the Soviet and US Air Forces. Many radio contacts were held with civilian airliners requesting identification and destination. Experienced pilots describe what common practice of interceptor jets was at the time, namely a pursuit technique that consisted of tracking planes from bellow, so that the tracker-aircraft would not appear on the screen of the airliner. The

12 Halliday, Fred, "Cold War." *The Oxford Companion to the Politics of the World*, Oxford University Press, Oxford (UK), 2001, p. 2e.
13 Defense Á Research Project Agency (DARPA).
14 Sun Tzu, *The Art Of War*, Translated by Lionel Giles, El Paso Norte Press, El Paso, 2005, p. 10-13.

ground controlers would, however, eventually discover the interceptor jet and transmit the information to the pilot.[15]
In the case of the Korean Airline flight, it would seem very improbable that the flight was not monitored by the United States surveillance systems, especially considering that 61 American citizens were onboard, including congressman Lawrence McDonald.

An opportunity

In this period of the early 1980s, the United States was spending a lot of time testing Soviet radar capabilities on their Pacific coast. The largest exercise held in the North Pacific to date was undertaken by the United States.[16] Squadrons of RC-135 electronic reconnaissance planes flew in and out of the Kamchatka and Sakhalin borders in a figure eight flight pattern.[17] This clever maneuver was an exercise to determine how often and to what extent the Soviet defense system would be triggered, in order to precisely assess Soviet radar capabilities and collect the maximum amount of information regarding these systems. This series of exercises provided a lot of information to the United States, but only in a few dozen kilometers of border. They had no information deeper than that.

Both the Soviet Pacific border and the Alaskan border had substantial numbers of land based radars, as well as air and space surveillance. We know that the USAF radar stations at Cape Newenham and Cape Romanzoff in Alaska not only had the capability to track all aircraft heading toward the Russian Buffer Zone, but also they were required to do so.[18] They were furthermore required to warn the straying aircraft on emergency frequency and to warn the pertinent air traffic control centers, so that they too could attempt to warn them before an incident took place. Flight KAL 007 was well within range of these radar sights, as it had veered directly toward Kamchatka.
There were also powerful land and sea radars that could well have tracked KAL 007 as it approached and entered Soviet airspace. These include "Cobra Judy," aboard the *USS Observation Island* (then off the coast of Kamchatka), and Shemya Island's "Cobra Dane," which was a line of sight radar with a maximum range of 28'000 miles and the capability of tracking an airplane at an altitude of 30'000 feet through an area covering 400 miles.
The principle of "spheres of influence" in this cold conflict is perhaps the

15 Personal interview with Dominique Mure, professional pilot and instructor for Air France since 1979, who has flown over the North Pacific numerous times.
16 Johnson, Richard William, *Shootdown: Flight 007 and the American Connection*, Viking Press, New York, 1986, p. 55.
17 Richelson, Jeffrey T., *A Century of Spies*, Oxford University Press, New York, 1997, p. 385.
18 The Cape Newenham and Cape Romanzoff radars monitored at the NORAD Regional Operations Command Center were but two of twelve comprising the United States Alaskan Distant Early Warning/Aircraft Control and Warning (DEW/ACW) System.

most relevant. Indeed, most skirmishes and conflicts took place in "third party" or "proxy" zones. The two big players were very alert of what was going on in their respective "backyards," and the use of third parties was prominent in order to have an indirect shot at the other bloc. Of course, any action undertaken by one bloc on one of the satellite states of the other would represent amazing potential for political use and propaganda, but also retaliation in one form or another.

Focusing on our case, we should now demonstrate how this lone and lost airliner represented a godsend opportunity for the United States. Indeed, as previously mentioned, the US armed forces were on a quest to map and evaluate the Soviet radar cover and defense system. This occasion developed even better in the very nature of this plane, as it is a third party. South Korea corresponds perfectly to the third-party country under the protection of a bloc (Western in that case) that would serve as a pretext for action if ever attacked by the Soviets. The presence of 61 American nationals onboard and of course Senator Lawrence McDonald gave a heavy political weight to this plane. These features gave the plane a certain "untouchable" status; this plane was a real "political bomb" if ever to be troubled by the Soviet authorities.
All these factors combined turned this plane into the perfect probe for the United States. We cannot dismiss that all theses factors became too tempting for the US services, and taken on a risk/return basis, the airliner was about to deliver an extraordinary amount of information about how the Soviets would respond to a penetration of their airspace. The decision of the United States not to prevent this aircraft from entering a dangerous zone, and thus endangering the lives of those onboard, was a grave decision. However, the return was determined to outweigh the risk. The 747 was never contacted by anyone before being intercepted by a Sukhoi Su-15, the Soviet interceptor that would shoot it down.
Another point worth mentioning are the headlines of major US daily newspapers, which showed a strange correlation on their front pages on 1 September 1983, the morning of the tragedy. *The New York Times*, as well as many other daily newspapers, reported that the aircraft had "Landed safely on Sakhalin" and "May have been forced to land."[19] When asked later by investigators why such tittles were published just hours after the drama, editorialists answered that they received memos from the US government itself. We might proceed and think that the United States were expecting many different reactions from the Soviets, but never a brutal and cold missile attack. When interviewed in 1991, the pilot of the Soviet jet, Major Osipovitch recalled clear identification of the aircraft: "I saw two rows of windows and knew that this was a Boeing. I knew this was a civilian plane. But for me this

19 Habermans, Clyde, "May Have Been Forced to Land, but Its Loss Is Also Called Possible," The *New York Times*, 1 September 1983, p. A1. ProQuest Historical Newspapers *The New York Times* (1851 - 2005).

meant nothing. It is easy to turn a civilian type of plane into one for military use."[20] However, we will not come back to the debates over the downing of the plane.

Conclusion

Trying to answer the question whether flight KAL 007 could have been used as a passive probe by the United States, we have brought together three elements. The first one rests purely in the accidental nature of the drift that the airliner took from its assigned course. By this, we meant to discourage the idea that the drift was intentional. The second element was to show that for obvious reasons this area of the globe (the North Pacific) was under tight surveillance by both superpowers, and that there was no possibility that the drifting plane remained unnoticed as it headed towards Soviet airspace. We backed up this element by testimonies of professional pilots, explaining how often during a trans-Pacific flight, they were monitored, followed, and constantly contacted by radio. This leads us to believe that KAL 007 was indeed under close surveillance. The final element resides on political grounds. We looked at why the United States would use this plane, even though Americans were onboard, to fulfill military objectives. We clearly demonstrated how the commanders, never thinking of a direct takedown, did not warn the crew of their direction, and adopted a "wait and see" attitude.
It is tragic to realize that 26 years after such an event, the entire truth is far from having been revealed, but what we must hope is that situations of war do not lead governments to gamble with innocent lives for a few spots on a radar.

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20 Witkin, Richard, "Soviet Pilot Insists Downed Korean Jet Was Spy Plane," *The New York Times,* 19 May 1991, p. 12.

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The Bofors Scandal: Who is not Corrupt?

Annie E. Scott

Global MA in International Relations, Webster University

We can't have it both ways. We can't be both the world's leading champion of peace and the world's leading supplier of arms..
Former US President Jimmy Carter, presidential campaign, 1976

Corruption is all too common to the practice of weapons procurement. In developing nations, patterns of misconduct related to the arms trade industry are historic and likely the result of the distorted ambitions of Western institutions born during the Cold War partnered with the susceptibility of new post-colonial governments to weapons squandering.[1] India serves as one of the top recipients of arms dealing transactions, illustrating that developing nations are one of the primary focuses of weapons suppliers - an unfortunate model that developed during the mid-20th century.[2] The lack of arms transfer regulation and the influence of states' political agendas contribute to the corruption and bureaucratic leverage found within the weapons industry, as demonstrated by the 1986 Bofors scandal in India.

The fundamental means by which military capacity diffuses throughout the international system is the arms trade.[3] World military spending and arms trade constitute the greatest portion of global expenditures and have approximated over one trillion dollars annually, since 2003, comparable to previous Cold War levels.[4] For decades throughout the duration of the Cold War, the foreign policy plans of various governments, especially those of the United States, the former USSR and their allies, included the pursuit of

1 Henriksson, Emma, *Corruption in the Arms Trade - Undermining African Democracy*, International Peace Bureau, Geneva, 2007.
2 Grimmert, Richard F., "CRS Report for Congress: Conventional Arms Transfers to Developing Nations 2000-2007," Congressional Research Service, October 2008. Available: http://www.fas.org/programs/ssp/asmp/factsandfigures/government_data/2008/RL34723.pdf. Grimmert is a specialist in International Security, Foreign Affairs, Defense, and Trade Division of the Congressional Research Service.(all websites last visited: 4.04.2010)
3 Kinsella, David, "Rivalry, Reaction, and Weapons Proliferation: A Time-Series Analysis of Global Arms Transfers," *International Studies Quarterly*, No. 46.2, 2002, p. 209-230.
4 Stockholm International Peace Research Institute (SIPRI), "Military Expenditure," *SIPRI Yearbook 2007*. Available: http://yearbook2007.sipri.org/files/YB0708.pdf.

conventional weapons supply to non-industrial nations: most notably those in the Middle East, Africa, and Asia. As stated pragmatically by John Stanley and Maurice Pearton regarding the dichotomy of international arms trade, "Those who can, manufacture, and those who cannot, purchase."[5] States wanted to invest in their capacity to produce weapons for themselves, but it proved too difficult to overcome the financial and technological hurdles while at the same time attending to the national security threats that were quickly developing. In the wake of decolonization, internal and regional conflict was becoming endemic and the demand for weaponry remained high and sometimes urgent. The dependence of some regions on importation from outsiders emphasizes the proliferation that took place from the weapons suppliers that gained strength during the cold war, to the new post-colonial governments, in order for an effective national defense framework to be implemented.

The growth in arms supply to the then-termed "third world" nations during this time was of course due quantitatively to industrial expansion creating opportunity for the exporters, but also, qualitatively due to an increase in the technological sophistication of the weapons. As weapons science was being drastically approved upon, surpluses of inferior or obsolete weaponry was being promoted and sold to the less-developed nations.[6] In order for suppliers to maintain an advanced position in the defense industry, it is argued that they were indiscriminate, dealing with any buyer country that could afford the weapons.[7] Examples of this indiscriminateness can be seen in the significant influx of weapons by external suppliers during and after the Cold War to countries in the midst of hostile conflicts, such as India and Pakistan, Ethiopia and Somalia, Egypt, Israel, and Syria, Iran and Iraq: all regional rivalries.

"When the Superpowers did stop to think, their arms-transfer policies were guided first and foremost by a desire to gain advantage in their global chess game, and not by the true interests of their clients, particularly those in the Third World, where their supplied weaponry was most often put to use and where the consequences were most felt."[8] Henriksson argues, in reference to the basic economic rules of supply and demand, that although if the *demand* for arms were to disappear arms transfer would diminish, equally, if there were no *offer* of arms, arms transfer would diminish. The competition among superpowers and other Western supplier states was extended further to the non-industrialized nations as military aid and arms sales became a powerful means of courting potential allies in an international struggle for influence.[9]

5 Stanley, John and Pearton, Maurice, *The International Trade in Arms*, Chatto and Windus for the International Institute for Strategic Studies (IISS), London, 1972, p. 7.
6 Peleg, Ilan, "Arms Supply to the Third World - Models and Explanations," *The Journal of Modern African Studies*, No. 15.1, 1977, p. 91-103.
7 *Ibid*.
8 Kinsella, David, *Op. Cit.*
9 *Ibid.*

Thus, this movement of weaponry became a distinct pattern.
This competition continued to increase after the end of the cold war rivalry. The rearrangement of the world order from bi-polar to uni-polar created a sharp decrease in defense spending, which concerned former weapons suppliers greatly, leading to major competitiveness for new arms deals.[10]/[11] Already, however, the international system of weapons trade included a framework with a highly politicized lattice of business throughout the world.
Political influence, although near impossible to measure quantitatively, is an evident factor in weapons supply deals.[12]

> Different methods can be used by a supplier of weapons in order to influence the behavior of the recipient: inter alia, a total embargo, the limitation of spare parts or ammunition, and the conditioning of supply by one or more formal obligations. Whatever the method, influence can be directed towards both the internal and external policies of the recipient, and moreover can be used in order to encourage or to prevent certain political moves. Equivalently, various mechanisms can be used in order to reward or to punish.[13]/[14]

Roeber argues that Britain and France, both of whom impose frequent embargoes and supply limitations, maintain exports simply because the existence of a military-industrial base is necessary for political independence. This may seem obvious, but it illustrates that political considerations are of prime importance to suppliers. Another example of this political importance can be seen in "the revolving door syndrome" or the movement of people between corporations and government agencies, providing extreme bias in policy formulation and regulation enforcement. Combined with Cold War military competition, this has been very damaging to government processes. Additionally, national institutions as well as private companies have been challenged with the resultant trend of personal greed and incivility shown towards governments.[15]
With political posturing and the protection of a lucrative arms industry both acting as essential elements in the arms decision-making process, there

10 This transition affected the former Soviet Union the most, resulting in the termination of military aid grants to the third world nations with which the Soviet Union was aligning itself. This led to further internal conflict among these nations (contributing to current asymmetrical warfare conditions), and Russian pursuit to create an arms supply relationship with India.
11 Grimmert, Richard F., "Conventional Arms Transfer to the Third World, 1985-1992," *The DISAM Journal* Fall 1993, p. 65-82. Grimmert is a Congressional Research Officer at the Library of Congress.
12 Peleg, Ilan, *Op. Cit.*
13 *Ibid.,* p. 100.
14 According to Peleg, however, a paradox exists between supplier and recipient, whereas the dependence of the recipient upon the supplier for future arms needs could be seen as negated with the increase in political maneuverability gained by the recipients' weapons procurement.
15 Neild, Robert, *Public Corruption: The Dark Side of Social Evolution*, Anthem Press, London, 2002.

has been little international effort to create arms trade regulation.[16] With a few exceptions, most countries do however have some type of import and export control system in place that usually requires firearms dealers and manufacturers to obtain government authorization, typically in the form of complex licensure procedures. For example, the United States began regulating arms brokering in 1996 by requiring brokers via The Arms Export Control Act to register with the Office of Defense Controls within the US State Department. The International Traffic and Arms Regulations (ITAR) implements the provisions of The Arms Export Control Act by providing official definitions of the terms "broker" and "broker activities" and outlining the laws of broker registration. The purpose of the ITAR is, essentially, to prevent the export of defense-related items and technology to unapproved governments or persons. The ITAR does this by requiring strict approvals (licensing) and notifications by and to the US State department. The US ITAR instrument is relevant to examine here in view of the fact that while other similar examples of national export regulation do exist, proponents for stricter international arms export measures recommend this US system as a model of replication. The ITAR's purpose of preventing export *to* unapproved governments or persons however, may not effectively prevent the export to approved governments and persons *in an unapproved manner*. The ITAR requires the registration and approval of brokered arms transfers but within the definition of brokering activity, allows the arrangement of weapons contracts in return for agent commissions and fees. This surely is a sound *foundation* for monitoring what is being exported and where, but it still enables a pretext for bribery. In addition, these regulations apply to all US citizens *excluding* employees of the US government, foreign governments, employees of "international organizations acting in an official capacity, or 'persons exclusively in the business of financing, transporting, or freight forwarding, whose business activities do not also include brokering defence articles or defence services.'"[17] In addition, states generally favor the act of distributing licenses as it stimulates employment and the national economy. There is still no prevailing and judicially enforceable set of regulations that move brokering and other common arms transferring activities into the jurisdiction of a national or international monitoring authority.[18]

> The only framework in place for arms trade at present consists of diverse guidelines, which lack decent implementation. Some of these are the *UN Guidelines for Conventional Arms Transfers (1996)* agreed upon by the General Assembly, the *EU Code of Conduct for Arms*

16 Kinsella, David, *Op. Cit.*
17 Foreign Affairs and International Trade Canada, *Small Arms Brokering: Impact, Options for Controls and Regulation: Current Brokering Regulation*, 8 November 2008. Available: http://www.international.gc.ca/arms-armes/isrop-prisi/research-recherche/conventional-conventionnelles/coflin2000/section07.aspx.
18 *Ibid.*

Transfers (1998) and the *Principles governing Arms Transfers agreed by the Forum for Security cooperation of the Conference for Security and Cooperation in Europe (CSCE) (1993),* the *ECOWAS Convention (2006), Nairobi Protocol (2006)* etc.[19]

This proves to be an extensive list of guidelines, which may direct arms policy to an eventual official system of controls, but in the absence of implementation mechanisms, their effect remains insignificant. State accountability is, at the moment, only present under state obligation to international conventions on human rights and other corrupt practices, such as those under the United Nations Charter.[20] Political will still remains in the way of making sure the limited measures that are currently in place, actually work and work effectively.

The arms trade industry was, and still is, peppered with surreptitious practices. Deals tend to be confidential and surrounded by secrecy, making it difficult to acquire accurate figures with reference to weapons sales, but according to Emma Henriksson's International Peace Bureau report on disarmament, it is estimated that 50% of all worldwide corruption within legal trade is connected to arms transactions. Arms deals are often more based around bribes than strategic need. "In fact, bribery is often regarded as an integral part of arms deals, with 'commissions' constituting between 10 and 50% of the value of the actual transaction."[21]

There is very little literature that recognizes corruption in the arms industry as a material factor. Most experts believe that bribery does not affect the final procurement decision, as it is commonly thought that budgetary margins and strategic need are priority in defense policy dealings.[22] Some bribes are relatively small; however, as ambitious competitors become accustomed to inducement methods in an effort to level the arms trade playing field, sales commissions increase, as does their importance. Roeber quotes the account of a 1960's British arms export strategist, who "reported to the government that 'a great many arms sales were made not because anyone wants the arms, but because of the commission involved en route.'"

A noteworthy incident exemplifying the use of non-strategic decision-making in an arms deal is the Bofors-India corruption scandal of 1986. The seemingly endless Bofors case was one of India's most dramatic scandals resulting in the discrediting of the Indian government and many high-ranking officials in India and Sweden. The Central Bureau of Investigation charged several government officials of accepting bribes through secret Suisse bank accounts, including former Indian Defence Secretary S.K. Bhatnagar, an Indian arms agent, and an Italian businessman that frequently brokered deals between

19 Henriksson, Emma, *Op. Cit*., p. 14.
20 *Ibid.*
21 *Ibid.*
22 Roeber, Joe, "Hard-Wired for Corruption," *Prospect*, 2005, p. 52-56.

large companies and the Indian government. The A.B. Bofors firm was accused of paying approximately 50 million dollars USD in kickback bribes in order to secure a 1.5 million USD contract for the sale of 155 mm field howitzers between the Swedish Bofors company and the Indian Army against significant international competition.[23] Swedish executives heading the Bofors company were also accused of being involved in the scandal, as was Indian Prime Minister Rajiv Gandhi. Gandhi, who was charged with accepting bribes, provided the connection between the Indian government and the above-mentioned Italian businessman, a close friend of the Gandhi family. He was later assasinated due to an unrelated issue and was never sent to trial.[24]/[25] Additional co-conspirators were involved on various levels, characterizing the Bofors scandal as a legal and political whirlwind with a large consortium of actors and investigative bodies involved. The case was politically damaging for the Indian Congress, as it became evident that Rajiv Gandhi, who vowed to wipe out government corruption and render deal brokers powerless, did accept illegal payment from Bofors, leading to the defeat of his national Congress Party.[26]

Official investigative records show that the Indian Military was in search of 155 mm howitzers to meet defense operational requirements for what was described as an "urgent" military need. In 1982, the howitzer providers were shortlisted to four companies, which were subsequently narrowed-down further in 1985 to two: Sofma of France and Bofors. Records also show that over this course of time, the Indian Army did at least seven evaluations of the quality of the howitzer systems of both bidders, with the Sofma howitzers chosen as the preferred gun in the first six evaluations. Sofma was also recorded to have the more economical bidding cost.[27]

With disregard to the urgency of the army's strategic requirements, the Indian government, headed by Gandhi, awaited the retirement of Army General A.S. Vaidya before abruptly deciding to award Bofors the contract, and in the process, reversing a preceding succession of professional judgements that had opposed the Bofors award. The Letter of Intent to Bofors and the official approval of the contract proceeded and was finalized almost instantaneously. Bofors became a symbol and metaphor for political unscrupulousness and profiteering in connection with a military decision and has served to stimulate public recognition of corruption. In commenting on the misuse of finanacial resources, Henriksson states:

> Considering the enormous circulation of military equipment, the

23 Subramaniam, Chitra, *BOFORS The Story Behind The News*, Viking, New Delhi, 1993.
24 Ram, N., "Know Your Bofors: The facts, the issues, and what lies ahead," *Frontline* No. 16.24, 1999, p. 10-21.
25 Resource authors for Bofors information N. Ram and Chitra Subramaniam worked together in an investigative manner throughout the Bofors scandal case.
26 Ram, N. *Op. Cit.*
27 *Ibid.*

> result is very substantial amounts of financial resources ending up at unknown destinations in offshore bank accounts. In theory, the extraordinary sums of money circulating outside the contracts, i.e. in the black economy, (not to mention the sums spent on the military equipment itself) could instead be utilized for reducing poverty.[28]

Corruption in India is not new. The emergence of high-level corruption cases were supposed to be reduced with the new economic policies in 1991 that ushered in liberalisation. However, the "exploration and development of oilfields, private power projects and franchises for cellular and basic telephone services, all provided ample opportunity for profiteering."[29] In India and many other developing nations, the patronage system that comprises the government make-up creates a difficulty in uprooting corruption. Politicians deliver favors to relatives, friends, supporters, etc., thus spreading and becoming accustomed to a certain level of comfort and flexibility in their government roles. "The practice of kickbacks was earlier considered safe given Indian politicians' immunity to prosecution. However, this is no longer the case."[30] Illicit practices have become commonplace however, especially among telecom and other multinational deals, and this has resulted in the conception that those who opt for honesty may lose business and money. This has been a standard phenomenon in many developing nations.[31]
Foreign investors, mostly western countries, labor the point of needed transparency; however, they still partake in questionable contract dealings. Transparency in government procurement is extremely importanat when discussing corruption in arms trade. Transparency International (TI), an international non-governmental organisation charged with addressing corruption and most noteably political corruption, also works to specifically prevent fraudulence in arms trades projects.[32] In 2004, industry officials along with government and civil societies joined to address the issue of corruption in the arms trade by creating a report "endorsing a strategy of creating a 'no-bribes' level-playing field in the official arms trade broadly through:

- Promoting the use of anti-corruption pledges in international defence procurement
- Harnessing industry's enthusiasm to fight corruption to create an international defence industry anti-corruption consortium and associated code of conduct and
- Exerting pressure for stronger anti-corruption requirements in the

28 Henriksson, Emma, *Op. cit.*
29 The Economist Intelligence Unit Limited, "India's spreading blight," *Business Asia* No. 29.2, 1997, p. 1-2.
30 *Ibid.*
31 *Ibid.*
32 Transparency International. *Transparency International: The global coalition against corruption*. Available: http://www.transparency.org/.

global regulatory framework.

This document is part of a series of background notes designed to assist Transparency International, defence companies, government and other stakeholders in their efforts to achieve a 'no-bribes' level playing-field in the arms trade."[33] TI's 2005 report on "Preventing Corruption in the Official Arms Trade" explores the concept of defense offsets as enabling corruption. Put simply, offsets are deal programs that obligate the arms exporter to reinvest ("offset") the arms sales proceeds back into the economy of the purchasing country. "The World Trade Organization (WTO) describes offsets as: measures to encourage local development or improve the balance-of-payments accounts by means of domestic content, licensing of technology, investment requirements, counter-trade or similar requirements."[34]
The risk of offsets emerges because the weapons supplier country is able to, based on the WTO Agreement on Government Procurement, negotiate the offset conditions and possibly fashion the conditions in order to qualify for a sought-after contract rather than to simply participate in the procurement process.[35] This analysis illustrates the continuation of the developed nation and developing nation polarity that still exists in the weapons industry. With little oversight of the process, offsets can be seen as a channel for bribery with the weapons supplying states empowered by the leverage and sense of authority gained with the power of negotiating the offset conditions to their advantage.[36] TI has defined corruption as "the misuse of entrusted power for private gain."[37] This further epitomizes the western states' distorted influence over profuse weapon sales to the developing nations and the arms fields' predisposition to varying acts of bribery.
Since most of the weapons producers are countries in the Western world, much of this corruption can be rightly associated with western business behavior. The weapons recipients however, are often officials in the underdeveloped countries, accepting kickback payments at the expense of their country. In this sense, we must concede to the misconduct of both the bribers and those being bribed.[38] Henriksson points out,

> Corruption will lead to preferential treatment of the bribers, even though it does so in an artificially manipulated way. Bribers and receivers create a mutually beneficial relationship, which clashes with internationally established democratic values, e.g.

33 Transparency International, "Preventing Corruption in the Official Arms Trade," Offsets: Background Notes. TI (UK), 2005.
34 *Ibid.*
35 *Ibid.*
36 Offsets also summon other economic concerns regarding market restraints, but they are unrelated to this subject argument of corruption.
37 Henriksson, Emma, *Op. Cit.*
38 *Ibid.*

> defined in human rights instruments. Thus, it is without difficulty one recognizes a negative correlation between democracy and corruption, however this relationship remains unsatisfactorily defined.[39]

Henriksson's study considers the negative correlation between corruption and civil liberties in African countries and goes on to explain that democracy impedes upon unrestrained power. Unrestrained state power can be directly associated with little transparency and inadequate accountability measures. This cycle seems to disseminate further corruption, interestingly linking democratization as a counterpoise to corruption.[40]
The lack of regulation surely contributes to corruption and dishonesty in the weapons industry, but can it also as a result, distort the international movement to spread democracy and establish peace? Can it interfere with some of the basic developmental goals of those nations striving for democracy and peace?

> Small arms availability and misuse can significantly jeopardize sustainable development and represent key impediments to the development aspirations of many donors, governments and NGOs. They represent also a serious obstacle for the achievement of the MDGs. For this reason small arms trade and control cannot be treated exclusively as a commercial issue, or even solely as a security/disarmament issue, but rather as a challenge for all those involved advancing meaningful security and sustainable development worldwide.[41]

Government and parliamentary bodies in the exporting countries play an immensely important role when they can control and supervise the acquisition of exporting licenses effectively. Many countries act in accordance with the principle of not selling arms to nations where democracy is under threat.[42] Un-strategic arms purchases certainly undermine good governance. As for the role of government bodies in the recipient countries,

> …the bidding procedures should be clarified. The regulation of bids should be coherent, not modified along the way, only to some states' knowledge. Bids should be announced publicly to avoid the secrecy surrounding arms deals. Consulting with independent national or international experts, not involved in the arms deal, could further enhance transparency in the arms trade. The importance of

39 *Ibid.*, p. 18.
40 *Ibid.*
41 *Ibid.*
42 *Ibid.*

> establishing reviewing mechanisms in national parliaments is vital, since if there is no institution supervising government action, the risk of unsound, unaccountable practices increases.[43]

The inadequacy of international measures to enforce additional arms trade regulation is evident, as mentioned above, but there are, in supplement, instruments that exist against corruption. The most comprehensive of treaties is the United Nations Convention against Corruption, which entered into force in 2005. In addition, can be found the African Union Convention against Corruption, the Council of Europe Civil and Criminal Law Conventions on Corruption and the Organisation for Economic Cooperation and Development Anti-Bribery Convention. These instruments are applicable in arms trade, as they are in separate and varying forms of commercial business. The initial steps to creating these conventions took place shortly after the Cold War in order to organize state effort to design "measures for prevention, criminalisation and enforcement; measures for international cooperation between law enforcing authorities; and asset recovery."[44] Some of these conventions, the African Union Convention against Corruption in particular, incorporate the relationship of corruption and the aims of the convention to principles of democracy, the promotion of human rights, and development. The bodies of these conventions are comprised of a similar framework that all serve to do the following:

> …*facilitate international cooperation* in the control and sanctioning of corruption in order to address a cross-border phenomenon; *provide internationally agreed reference points*, useful for reforming governments, citizens and donors; *create peer pressure on governments*, especially when bolstered by an effective review process; *provide civil society with a tool* for holding their governments accountable; *promote collective pressure on the private sector*; *provide for a fora* [forum] in which governments, and in some cases non-governmental actors, can meet *to discuss corruption issues*, align concepts and review anti-corruption efforts.[45]

TI (UK) has created a team in order to- among other things- strengthen the laws against corruption and increase the effectiveness of these instruments.
As noted, there is an abundance of effort made to create discussion regarding corruption and increase attention of corruption in arms trade in the form of creating pacts, developing codes of conduct, etc. In review of these efforts made by way of corruption conventions however, responsibility could be extended further, mainly to the weapons producing countries. With effective

43 *Ibid.*
44 *Ibid.*
45 *Ibid.*

scrutiny and increased regulation of the measures taken when providing arms transfers, occurrences of corruption acceptance on the side of the recipient would likely diminish. "After all, the bribers are commonly those from textbook example democracies. Their host countries, thus, in comparison to developing countries, have major capabilities in fighting this problem." Industrialized countries must make further effort to apply regulation and launder the sales process before developing countries can be compelled to clean up the buying process.

This could include the adoption of a set of comprehensive international arms export regulations that effectively supplement the arms trade treaty and incorporate the control of specific broker activity, not just broker involvement, along with the current controls of movement in arms. As a progressive measure based on the example of the AU convention, the impact on human rights, the economy of developing nations, and the effect on world development programs will need to be taken into consideration. "The arms trade is interesting because it is where foreign policy concerns such as security, human rights, and international order interact most directly with economic concerns such as trade, jobs, and profits. Explanations of the trade that emphasize just economics or just politics must be unsatisfactory; both matter."[46]

"The world around us may crumble, but the arms industry will never be out of business or money. They will even ensure that there is a steady demand for their wares."[47] Patterns of corruption are as much the fault of the Western colonial powers as it is the fault of the bribed government agents and officials of the developing nations.[48] The assignment of arms export control should become a significant area of government activity, where the flow to particular regions could also be monitored in whole. Relationships between arms suppliers and recipients continue to evolve in response to changing political, military, and economic circumstances. The principal motivation for arms sales by foreign suppliers should be to support foreign and security policy objectives; however, motivations appear too often to be based upon economic and political positioning as well as personal gain. The developing world, as an equally fragile and volatile circle, continues to be the primary focus of foreign arms exporters, making the policy of arms trade increasingly important within the international system.[49]

46 Levine, Paul and Smith, Ron, "Arms Export Controls and Proliferation," *Arms Export Controls and Proliferation* 44.6 (2000): 885.

47 As stated by Chitra Subramaniam's confidential source identified by the name "Sting" in a conversation with Subramaniam regarding Bofors, the economy, greed and the nature of power.

48 Peleg, Ilan, "Arms Supply to the Third World - Models and Explanations," *The Journal of Modern African Studies*, No. 15.1, 1977, p. 91-103.

49 Neild, Robert. *Op. Cit.*

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The *USS Stark* Incident

Alexandre J. Vautravers and Jubin M. Goodarzi

Head, International Relations Department, Professor, Webster University Geneva

One of the most notable political-military incidents to have occurred in recent history is the case of the *USS Stark* in 1987. Although it received much attention and publicity at the time, certain aspects of the incident are still clouded with secrecy and controversy. This article is intended to provide an overview of the causes and consequences of the incident, based on available sources. Towards this end, it is necessary to address the complex political environment – marked by the Iranian Revolution, the Iran-Iraq war and the US Middle East policy in the wake of the Cold War. The incident will be specifically addressed, and its subsequent political and military ramifications will be analyzed. All these pieces together will shed new light and provide a better understanding of the *USS Stark* attack.

On the night of 17 May 1987, the escort frigate *USS Stark*, on patrol in the Persian Gulf during the Iran-Iraq conflict (1980-1988), was accidentally hit by two *Exocet* missiles fired by an Iraqi *Mirage* F-1 warplane. This incident resulted in the death of 37 American sailors, and was the only successful missile attack against an American warship.[1] While under normal circumstances, such an incident may have had grave repercussions on US-Iraqi relations, in this instance, it did not. In order to understand why this was not the case, one needs to understand the historical background and political context of the incident.

The Iran-Iraq and the Tanker War

By 1987, the Iran-Iraq war was entering its seventh year, and both parties were intensifying their attacks on shipping in the Gulf. The expansion of the hostilities beyond the border regions of the Iran-Iraq frontier into the waters

1 Cordesman, Anthony H. & Wagner, Abraham R., *The Lessons of Modern War* Vol. 2: *The Iran-Iraq War*, Westview Press, Boulder, Colorado, 1990, p. 289.

of the Persian Gulf had actually started in 1984, when Baghdad decided to escalate the conflict into the waterway by attacking ships, particularly tankers carrying Iranian oil. The rationale for Iraq's "Tanker War" was four-fold:

1. to cripple the Iranian military machine by denying Tehran vital oil revenues needed to finance the war effort;
2. to internationalize the conflict and draw world attention in order to rally outside support against Iran, particularly in view of its refusal to accept a negotiated settlement to the war;
3. to persuade Iran's main Arab ally, Syria, to reconsider its stance once Arab diplomatic pressure was brought to bear, and the flow of Iranian oil to Syria was disrupted; and
4. to utilize air power as an offensive instrument against the Iranians, due to their inability to conduct any effective ground and naval operations. [2]

Overall, from Baghdad's standpoint, it made perfect political, economic and military sense to expand the conflict into the waters of the Gulf. While Iraq focused its attacks on vessels transporting Iranian oil, Iran retaliated by targeting ships destined for the ports of Iraq's Gulf Arab supporters -most notably Kuwait and Saudi Arabia- who were financing Baghdad to the tune of almost one billion USD per month for some time.[3] The onset of the Tanker War initially raised some concern internationally, regarding the disruption of oil exports from the Gulf region and a marked increase in oil prices on international markets. At the time, only 7% of US oil supplies came from the Gulf, but Europe and Japan were dependant on these resources at a height of 25 and 60% respectively.[4]

In response to this seemingly ominous development, Washington bolstered its naval presence in the area, in order to demonstrate its commitment to the Gulf security, to ensure the free flow of oil to world markets, and to prevent the Soviet Union from interfering in the region. It was in this context that the *USS Stark* was deployed to the Persian Gulf in 1984, with five other warships.

The Tanker War went through three distinct phases. From May 1981, Iraq declared all ships going to or from Iranian ports in the northern zone of the Gulf would be subject to attack. These raids were carried out mainly with the French-purchased AM39 *Exocet* air-to-surface missile, fired from MiG-23 *Flogger* fighter-bombers and *Super Frelon* helicopters. This semi-active radar homing (SARH) cruise missile flies at Mach 0.9 2-3 meters above the water, and has a range of up to 50 or 70 km when launched from low or high altitude

2 Goodarzi, Jubin M., *Syria and Iran: Diplomatic Alliance and Power Politics in the Middle East*, I.B. Tauris, London, 2006, p. 109-110.
3 *Middle East International*, 15 May 1982.
4 http://eightiesclub.tripod.com/id344.htm (all websites last consulted: 4.04.2010).

respectively.

From 1984 onward, Iraq received deliveries of six batches of French-built *Mirage* F-1EQ: 93 single-seat and 15 dual-command but combat capable fighter-bombers.[5] These purpose-built strike aircraft, with the ideal combination of range, stealth and potent *Cyrano* IV radar, increased both the range and the rhythm of Iraqi air operations. In this phase, Iran responded with makeshift tactics, using short-range air-launched anti-tank missiles such as the American-designed AGM-65 *Maverick* (range: 13 km) and French-built AS.12 (range: 7 km) to interdict shipping in the Gulf.[6]

In 1987, Iran procured Chinese built HY-2 *Haiying* –literally "Sea Eagle" but known by NATO and in the press as CSSC-2 *Silkworm*- surface-to-surface missile, with a range of 200 km and a warhead of 513 kg. These were fired both at merchant shipping and at land-infrastructure in Kuwait.[7]

Chronology of the Tanker War (Abstract)

Date	Event
7.10.1980	Iraq declares that Gulf water along the Iranian coast north of 29.03 N is a prohibited war zone.
30.05.1982	*Atlas I*, a Turkish oil tanker, becomes the first tanker to be hit during the war. While loading oil at Kharg Island, it is damaged by Iraqi bombs.
18.12.1982	Greek tanker, *Scapmount*, is hit by an Iraqi *Exocet*, and becomes the first tanker to become CTL in the Tanker War.
01.1984	Iraqis escalate their naval war effort and Iran responds by beginning their naval war effort.
14.02.1985	*Neptunia*, a Liberian tanker, is hit in the engine room by an Iraqi *Exocet*. The tanker sinks three days later due to an explosion, the first tanker to sink in the Tanker War.
1.11.1986	Neutral Kuwait appeals to the International Community to protect its shipping interests in the Gulf, resulting in the "re-flagging" of Kuwaiti tankers. The USSR is the first nation to respond, and the US leads the international effort in order to minimize the Soviet role in the Gulf.
7.03.1987	The United States announces its decision to re-flag Kuwaiti tankers.
24.07.1987	Operation EARNEST WILL, US protection of Kuwaiti owned oil tankers.
14.04.1988	USS Samuel B. Roberts hits a mine.
18.04.1988	Operation PRAYING MANTIS, US retaliation attacks on Iranian ships and oil platforms in the Persian Gulf.
3.07.1988	Iran Air Flight 655 shot down over the Strait of Hormuz by *USS Vincennes*.
8.08.1988	Iran and Iraq agree to a cease-fire.

Source: The Robert S. Strauss Center for International Security and Law, "Straight of Hormuz Tanker War," University of Texas at Austin, http://hormuz.robertstrausscenter.org/tanker_war

5 Cooper, Tom, Bishop, Faraz, "Persian Gulf War, 1980-1988," Air Combat Information Group, http://www.acig.org/artman/publish/article_205.shtml

6 The Robert S. Strauss Center for International Security and Law, "Straight of Hormuz Tanker War," University of Texas at Austin, http://hormuz.robertstrausscenter.org/tanker_war

7 "US Flag Tanker Struck by Missile in Kuwaiti Waters; First Direct Raid," *The New York Times*, 17 October 1987.

By this time, the Tanker War had raged on for three years and more than 200 vessels had been attacked by the two combatants. This actually constituted only about 1% of Gulf shipping during this period. Consequently, it had had a minimal impact on the flow of oil and its price on international markets. However, the prolonged stalemate in the land war prompted both Iraq and Iran to intensify their attacks on Gulf shipping though, leading to renewed fears about regional instability and international oil security. Iran, for its part, concentrated on punishing Iraq's staunchest Gulf Arab supporter, Kuwait. In the closing months of 1986, some 15 Kuwaiti vessels were attacked. Consequently, in January 1987, Kuwait approached both Moscow and Washington, requesting their assistance to protect Kuwaiti oil tankers. The Kremlin was the first to respond favorably, agreeing to lease three Soviet tankers to Kuwait. In view of the fact that the Cold War was still raging, and the conservative Republican administration of Ronald Reagan had a tendency to look at matters through the prism of US-Soviet rivalry, it did not want to be outmaneuvered by the Soviets and felt compelled to respond favorably, by agreeing to re-flag eleven Kuwaiti tankers.[8]

As part of the Kremlin's moves in the region, in late April 1987, Soviet deputy Foreign Minister Vladimir Petrovsky visited Kuwait and also toured other neighboring states to underline Moscow's commitment to maintain security in the Gulf and strengthen bilateral relations with the Arab sheikhdoms. Only a week later, following on the heels of the Petrovsky's mission, US assistant Secretary of State Richard Murphy arrived in the region to prevent the Soviet Union from overshadowing the United States and, moreover, to mend US-Arab relations which had been severely strained by the revelations regarding Iran-Contra affair in the winter of 1986-1987.

It should be underscored that the Iran arms scandal had plunged Washington's relations with moderate Arab states into crisis. Indeed, by early 1987, relations were at their lowest point since the 1973 Arab-Israeli conflict and the subsequent Arab oil embargo against the United States. Many Arab governments had been dumbfounded to learn that the Reagan administration had covertly supplied arms to Iran during 1985-1986 in order to secure the release of a number of American hostages held by pro-Iranian elements in Lebanon, while at the same time, since 1983, it had ostensibly been leading in a worldwide effort to stem the flow of arms to Iran (Operation STAUNCH). This was interpreted as duplicitous conduct and even, by some, as a cynical attempt to prolong the Iran-Iraq war by aiding both sides.

Hence, after these revelations, the Reagan administration was determined to recoup its position and restore its credibility in Arab eyes by taking a more

8 Ramazani, R. K., "Iran's Resistance to the US Intervention in the Persian Gulf," in *Neither East nor West: Iran, the Soviet Union and the United States*, Yale University Press, New Haven, CT, 1990, p. 37.

active role in the Persian Gulf, to assist the Gulf Arabs by bolstering its military presence, and to contain Iran by assisting Iraq through various means, in order to ensure that Iran would not win the war, and the conflict would end on terms favorable to Washington and its allies in the region. Therefore, the decision to deploy additional US warships in the Gulf must be understood in this overall context – particularly the need to restore trust and reinvigorate Arab confidence in US leadership.

In parallel to the policy of increasing its military presence in the Gulf, Richard Murphy informed the Iraqi leadership during his visit to Baghdad on May 10 and 11 that besides the re-flagging effort in the Gulf, Washington would introduce a resolution regarding the Iran-Iraq war in the UN Security Council favoring Iraq. It would urge the two sides to cease hostilities and to withdraw their forces to their international frontiers – meaning that Iran would in effect have to give up all its territorial gains in Iraq. To give the resolution teeth, any party that failed to abide by it would be subject to international sanctions. The re-flagging and the proposed UN resolution were part of an overall package of US plans and assistance to prove that Iran-Contra had been an aberration in US policy and that Washington was going to use all tools at its disposal to cow Iran into submission.[9]

Subsequent to his meetings with Iraqi president Saddam Hussein and foreign minister Tareq Aziz, at a press conference prior to leaving Baghdad, Murphy confidently asserted that "understanding had prevailed in his talks without exception."[10] The growing US activity in the Gulf to prop up Iraq and its Gulf Arab allies was such that even the inadvertent attack on the *USS Stark* just six days after Murphy's visit to Baghdad had minimal impact, if any, on US-Iraqi relations.[11] Interestingly, it is claimed that the *USS Stark* and *USS Coontz* were responsible for gathering and relaying information on Iranian vessels to Iraqi warplanes searching for targets in the Gulf during this period.[12]

The US Navy in the 1980s

The Vietnam War required substantial budgets to operate a large number of forces and conduct large-scale operations, drawing away from the development and acquisitions of new technology and ships. The end of the war then saw a considerable reduction in budgets. In the late 1970s, the Soviet Navy had made considerable progress and, using former US naval ports made available in Vietnam, was able to sail on all seven seas – even into the Gulf of Mexico.[13] These developments, the continuing arms race, the

9 Sick, Gary, "Slouching Toward Settlement: the Internationalization of the Iran-Iraq War, 1987-1988," in *Neither East nor West: Iran, the Soviet Union and the United States*, Yale University Press, New Haven, CT, 1990, p. 224-225
10 BBC/SWB/ME/8565/i, 12 May 1987.
11 Sick, Gary, "Slouching Toward Settlement," *Op.Cit.,* p. 225.
12 Simpson John, *From the House of War*, Arrow Books Ltd., London, 1991, p. 44.
13 "Soviet Naval Vessels Found in Gulf of Mexico," *The New York Times*, 5 October 1981.

1979 Iranian Revolution and the US Embassy hostage situation, as well as the "Détente" initiated by the Carter administration, sparked the rearmament policy of the 1980s.
The Reagan presidential campaign advocated for a strong remilitarization. The Navy was the main pillar of this strategy, with a plan for a "600-ship Navy."[14] In order to strengthen the capacities, four steps were taken:

1. recommissioning the four World War II 45'000-ton *Iowa* class battleships (BB);
2. keeping older ships in service longer through Service Life Extension Programs (SLEP);
3. introduce large new construction programs, in particular the *Ohio* class nuclear ballistic missile submarines (SSBN) and *Aegis*-equipped *Ticonderoga* cruisers (CG);
4. stepping up the production of nuclear powered 103'000-ton *Nimitz* class aircraft carriers (CVN).

The plan allowed the creation of 15 carrier battle groups and four surface action groups, with over 100 attack submarines. These groups were able to project and concentrate forces around the world, insuring naval supremacy against the Soviet Navy. But they were only one part of the sea power doctrine of the 1980s.

The Reagan administration also stepped up the strategic and conventional forces intended to match the Soviet capabilities in the high intensity European front. This called for the overdue modernization of American and Allied mechanized forces based in Germany,[15] the rapid mobilization of large units in Continental USA (CONUS) and the rapid deployment of these forces over the Atlantic. This doctrine was referred to as the Return of the Forces to Germany (REFORGER). For this to happen, two competing models existed: the first was the reintroduction of escorted merchant convoys; the second was the "sea lane" concept.
Convoys, used in both World Wars, have inherent limitations. Firstly, they require all ships to sail at the speed of the slowest ship in the group. Secondly,

Marolda, Edward J., "The US Navy in the Cold War Era, 1945-1991," Department of the Navy, Naval Historical Center, Washington DC, http://www.history.navy.mil/wars/coldwar-1.htm

14 Congress of the United States, Congressional Budget Office (CBO), *Building a 600-Ship Navy: Costs, Timing and Alternative Approaches,* Washington DC, March 1982. http://www.cbo.gov/ftpdocs/53xx/doc5336/doc13b-Entire.pdf

Congress of the United States, Congressional Budget Office (CBO), *Manpower for a 600-Ship Navy: Costs and Policy Alternatives*, Washington DC, August 1983. http://www.cbo.gov/ftpdocs/50xx/doc5070/doc21a.pdf

15 Vautravers, Alexandre, "Les bataillons lourds américains," *Revue militaire suisse* (hereafter *RMS*) No.1, 2010.

Vautravers, Alexandre, "L'histoire de la cavalerie commence après la fin du cheval," *RMS* No.2, 2010.

they require a large number of escort groups, which need to either follow the convoy from one end of the Atlantic to the other, or "handover" the convoy at different pre-set meridians and areas of responsibility. Thirdly, when a ship is attacked or crippled, others may not stop to assist it, but most continue at the same speed. The rhythm of supply posed logistical as well as operational challenges, as military operations would be subject to the calendar of arrival of the cargo, and were therefore predictable to the opponent. Finally, when the convoys arrive, they cannot offload their cargo simultaneously and precious time is lost at bay.

The sea lane doctrine called for a large number of ships to maintain two sea routes open at all times. Merchant shipping would then flow without interruption, providing the military forces in Western Europe with constant and –hopefully- regular resupply. But this called for a more capable class of warships than the traditional escorts available. The 100+ frigates then available, most built in the 1940s and 1950s, would need to be replaced.

The FFG-7 Class

The "Patrol Frigate" (PF) program began in May 1973, with a budget of 94.4 million USD for the lead-ship signed in October, construction commencing in March 1975 and delivery of the nameship, *USS Oliver Hazard Perry* (FFG-7), in November 1977. A contract for 11 further ships was signed with Bath (Maine) Iron Works and Todd Shipyard Corporation (Los Angeles, California) was signed in February 1976.[16]

The 1973 50-ship program was estimated at 3.2 billion USD, with an average unit cost of 63.8 million. Another estimate of 30 September 1978 put the cost of the then 52-ship program at 10.1 billion, each unit costing 194 million USD, due to the improvement of on-board equipment and higher than anticipated shipbuilding costs.[17]

In order to field enough ships to fill the escort role, strict budget limits were topped the project. This meant resorting to aluminum panels for the superstructure, to save weight and labor. The armament remained light for a hull this size, in exchange for the performance and stand-off distance of using two armed helicopters. Sacrifices had to be made in four areas:

1. the selection of the short-range AN/SQS-56 hull-mounted sonar;
2. the decision to include only minimal space, weight and stability margins for modernizing the ship;
3. operation and maintenance of the ship;
4. ship survivability.[18]

The second point caused the most controversy. Indeed, for a ship of this size, 150 tons should have been kept for future modifications and the incorporation

16 http://www.globalsecurity.org/military/systems/ship/ffg-7.htm
17 *Ibid.*
18 *Ibid.*

of new equipment. With only 50 tons of margin, any new introduction would mean the removal of an existing system. The lifecycle of a ship (20-25 years) is substantially longer than that of its equipment (7-10 years), and the life expectancy of these warships was therefore reduced. [19]

The *Oliver Hazard Perry* (OHP) class frigates were primarily designed as anti-submarine escorts, but were made to be capable of anti-air and anti-surface autonomous operations. They were intended to provide open-ocean escort in moderate threat environments, escort and protect aircraft carrier battle groups, amphibious landing groups, underway replenishment groups and merchant ship convoys, as well as surveillance of illegal drug smugglers, maritime interception operations and exercises with other nations.
The first 30 ships measured 136 meters (Flight I), later increased to 138 meters (Flight III: FFG-8, 28, 29, 32, 33, 36-81). The initial batch still in service were later modified, to accommodate the larger SH-60 *Seahawk* LAMPS III instead of the original and less capable SH-2 *Seasprite* LAMPS I helicopter. They weigh 4'200 tons full load, and have a complement of 15 officers and 179 crewmen – later reduced to 176 through increased automation. They were armed with a single-arm Mk.13 Mod.4 missile launcher equipped with a 40-round magazine, containing Raytheon RIM-66A *Standard* SM-1MR anti-air and Boeing RGM-84A *Harpoon* anti-ship missiles, capable of ranges of 170 and 140 km respectively. Two triple Mk.32 ASW torpedo tubes were fitted on the sides. One OTO Melara 76 mm/62 automatic canon and one eight-barrel 20 mm *Phalanx* CIWS point-defense system were fitted in the center and aft of the superstructure, able to fire at rates of 90 and 3'000 shots a minute respectively.[20]
55 ships were built in the USA between 1975 and 2004. 51 were introduced in the US Navy, while four others –as well as two built in Australia- were commissioned in the Royal Australian Navy (RAN) as the *Adelaide* class. One ship (FFG-24) was donated to Bahrain and renamed the *Sabha*. Egypt received four OHP, known as the *Mubarak* class. Seven were sold to Pakistani Navy. Poland received two frigates in 2002 and 2003. The Republic of China (Taiwan) built eight ships as the *Cheng Kung* class, with different armament. Spain built six *Santa Maria* class, with improved hull. Turkey modernized eight former US OHP as the *G* class. 30 long-hull OHP frigates are still in service with the US Navy and 10 are in reserve;[21] all Mk.13 launcher have been removed in 2003.

17 May 1987

USS Stark (FFG-31), the 23rd ship of the OHP class, was laid down on 24 August

19 *Ibid.*
20 http://www.owlnet.rice.edu/~nava201/VCS/Stark.htm
21 Defence IQ: military Defence Information, http://warfare.ru/?!linkid=2058&catid=288

1979 at Todd Pacific Shipyards, in Seattle (Washington). It was commissioned on 23 October 1982 and deployed to the Middle East Force between 1984 and 1987. Under the command of Captain Glenn R. Brindel, it was tasked with the escort of shipping and tankers in the Persian Gulf, as well as discouraging the Soviet Navy from moving into the area.

At 2000 on 17 May, an Iraqi Air Force *Mirage* F-1EQ fighter-bomber took off from Shaibah military airport, heading south into the Gulf, flying along the Saudi Arabian coastline. The aircraft was immediately detected by an E-3 *Sentry* Airborne Warning and Control System (AWACS) jointly manned by Saudi and American officers. Through the Link 11 network, all US warships in the region were instantly informed, including the command-ship *USS La Salle* (AGF-3), then at port in Bahrain.[22]

At 2043, the aircraft appeared on *USS Coontz*'s radar, at a range of 120 nm, bearing 285 relative to *USS Stark*. The aircraft was also detected by the crew of *USS Stark*, contact number 2202 at 200 nm, aimed 4 nm off the port beam, flying at 5'000 ft and 550 mph. Earlier in the day, Iraqi jets had fired missiles and disabled a Cypriot tanker. But general quarters were not sounded, indicating the captain and crew were aware of the aircraft's mission and did not feel threatened by the contact.

At 2102, the aircraft's *Cyrano* IV radar was briefly switched on. At 2105, it banked directly at the US warship. Consistent with the operating procedures, Captain Brindel ordered a radio message flashed at 2209 on the emergency distress frequency of 243 MHz: "Unknown aircraft, this is US Navy warship on your 078 for twelve miles. Request you identify yourself." There was no answer to this, and to a second similar message. The crew was still not alarmed.

At 2110, both the AWACS and the ship radar operators noticed the aircraft had banked suddenly and was now heading north, towards its home base. A first AM39 *Exocet* missile was fired at a range of 22.5 nm, and a second 20 seconds later at 15.5 nm. Flying at close to the speed of sound and at a height of 3-8 meters, the air-to-surface missiles were undetected. The total flight time was approximately five seconds.

The first missile penetrated 2 meters above the waterline, in the post office and the ship's store, piercing through the ship's quarters. The 165 kg warhead failed to detonate, but 150 kg of flaming rocket fuel immediately started a major fire, which incinerated the command and information center (CIC) and striped the ship of all electrical supply. The second missile hit 2 meters forward and exploded in the crew quarters and the radar room, tearing out a 3 by 4 meter hole under the bridge. 29 sailors were killed instantly, two of whom were ejected from the ship; eight died later, five were badly and another

22 Estival, B., Guillot, J., *L'extraordinaire aventure de l'Exocet,* Editions de la Cité, Brest, 1988, p.95.

16 lightly injured. This incapacitated one quarter of the ship's complement. Without communications, the remainder of the crew fought gallantly to put the fire under control, through the night. A distress signal was transmitted through a portable radio, and *USS Waddell* (DDG-24), a *Charles F. Adams* class destroyer, arrived at 0134 on 18 May, to provide medical and damage control supplies.[23] A Bahraini helicopter also assisted in the salvage effort, recuperating bodies from the Gulf waters during the night.[24]

The airborne command and control crew in the AWACS immediately requested that two airborne Saudi F-15C *Eagles* pursue the Iraqi *Mirage*. But the ground controllers at Dhahran airbase went to request higher authority. And the attacker had already returned to base by that time.[25]

The crippled *USS Stark*, listing to port as it had taken on water, was towed to Bahrain, where temporary repairs were made by the tender *USS Acadia* (AD-42), in order to make it seaworthy. It returned to the Florida under its own power, where it underwent extensive repairs at Ingalls Shipbuilding in Mississippi.[26] A C-141B *Starlifter* transport aircraft carried the 35 bodies to the ship's home base at Mayport, Florida.[27]

The ship returned to service in the Standing Naval Forces Atlantic Fleet (STANAVFORLANT) in 1990 and returned to the Middle East in 1991 and back in the Atlantic in 1997. She was decommissioned on 7 May 1999, and scrapped on 7 October 2005 as part of the OHP early retirement program and fleet reduction measures.[28]

Enquiry and Disputes

A US Naval enquiry cited "lapses in training requirement and lax procedures." Captain Glenn R. Brindel and Lieutenant Basil E. Moncrief, the Tactical Action Officer, were relieved and recommended for court-martial. Both later received non-judicial punishment and opted for early retirement, while Lieutenant Commander Raymond Gajan Jr., the Executive Officer, was detached for cause and received a letter of admonition.[29] In response to the slow reaction of the Saudi command, deliveries of F-15Cs to Saudi Arabia were delayed.

While official US Navy reports claimed that the Iraqi pilot was court-martialed and sentenced to death, an ex-Iraqi Air Force commander has since then stated that he was not punished, and still alive.

23 http://eightiesclub.tripod.com/id344.htm
24 Estival, B., Guillot, J., *L'extraordinaire aventure de l'Exocet, Op.Cit.,* p.96.
25 *Ibid.*
26 http://navalwarfare.blogspot.com/2007/05/20th-anniversary-of-attack-on-uss-stark.html
27 http://eightiesclub.tripod.com/id344.htm
28 Naval Vessel Register, http://www.nvr.navy.mil/nvrships/details/FFG31.htm
29 Cushman, John H., "Navy Forgoes Courts-Martial for Officers of Stark," *The New York Times*, 28 July 1987, http://www.nytimes.com/1987/07/28/world/navy-forgoes-courts-martial-for-officers-of-stark.html

The inquiries left several questions unanswered. Firstly, why was the ship not alarmed? The *Phalanx* CIWS was still in standby mode, and the Mk.36 SRBOC[30] countermeasures were not armed. When making course directly towards the aircraft, it came into the blind spot of the Mk.92 STIR[31] fire-control system and its associated defensive suite.[32]

Finally, the greatest controversy surrounds the attacking Iraqi aircraft. Indeed, 300 nm separate the Iraqi airbase from its unintended target, meaning that the total flight was 600 to 1'000 nm. However, the *Mirage* F-1 carries 4'100 l of internal fuel and its maximum ferry range is 1'160 nm, unencumbered by external stores, and far less at combat speeds when loaded with high-drag stores. A typical combat loading range would be 229 nm. This would have obliged the *Mirage* to buddy-refuel with another aircraft, or run out of fuel before returning to base. Of course, it could have been loaded with external fuel tanks: up to two 1'160 l underwing drop tanks with 927 kg of fuel or 157 nm extra range, or one centerline 2'200 l drop tank with 1'837 kg of fuel for 310 nm extra range.[33] But this would have compromised the aircraft's ability to carry ordnance.[34]

The US investigation failed to explain how the attacking *Mirage* could have simultaneously carried two AM39 missiles, each weighing 660 kg, when these aircraft were designed to carry only a single example on the centerline. It is also disputed that the aircraft switched on its radar, implying that the weapons could have been fired "blindly," in a self-acquisition mode. The probability of scoring two consecutive strikes would therefore be remote.

From these facts, it therefore seems highly probable that the Iraqi aircraft was not a *Mirage*, but a *Falcon* 20 commercial jet, modified in France with a *Cyrano* IV radar in the nose, intended for aircrew training. Such aircraft have been used by armed forces, in particular the US Coast Guards, known as the HU-25 *Guardian*. Their range is 1'500 nm and they are able of carrying two missile pylons under the wings, as well as electronic countermeasures.[35] The fact that in 1990, the Royal Navy conducted training with *Exocet* fired from a leased *Falcon*, as well as the 1988 shooting down of a commercial Iran Air Airbus A300, argue in favor of this interpretation.

30 Super Rapid Blooming Offboard Chaff (SBROC): a short-range mortar system intended to launch chaff or infrared decoys, http://www.fas.org/man/dod-101/sys/ship/weaps/mk36-srboc.pdf
31 Separate Target Illumination Radar (STIR).
32 Levinson, Jeffrey L., Edwards, Randy L., *Missile Inbound: The Attack on the Stark in the Persian Gulf*, Naval Institute Press, Annapolis, 2004.
33 Federation of American Scientists, "Mirage F-1," http://fas.org/man/dod-101/sys/ac/row/mirage-f1.htm
34 http://fr.wikipedia.org/wiki/Discussion:USS_Stark
35 Sadik, Ahmad (Brig. Gen.), "Les Dassult 'Mirage' F1 dans la force aérienne irakienne: Les Mirage' de Bagdad," *Le Fana de l'Aviation* No.434, January 2006, p.19-27 and No.435, February 2006, p.64-74.

Consequences of the Incident

Immediately after the incident, officials in both Washington and Baghdad took steps to contain the situation and ensure that it would not damage bilateral relations. US defense Secretary Caspar Weinberger described the attack as a "single, horrible error on the part of the Iraqi pilot," an "unintentional incident," and asserted that in spite of this mishap, the US would maintain its military presence in the Gulf.[36] For his part, Iraq's leader Saddam Hussein promptly sent a letter of apology to Ronald Reagan and offered to pay compensation to the families of the dead US servicemen and for the damage to the *USS Stark*. Iraq paid the families, but eventually never paid the 142 million USD repairs to the ship.[37]

Both sides wanted the incident to pass quickly as a brief hiccup in their vital and ever-expanding ties. Although some members of Congress raised questions about the wisdom of the US military presence in the Persian Gulf and the need to invoke the War Powers Act, the administration would have none of it. It took decisive measures, mustered enough support to silence critics and to proceed with the increase in its naval forces in the region as part of the re-flagging effort which was due to commence by the summer. The US naval presence in the Persian Gulf was increased from six to nine warships, protected by a carrier battle group south of the Straight of Hormuz. Convoys were closely escorted every ten days. And the Rules of Engagement were modified, to allow "US warships to fire on any aircraft that came within 20 nm of it, on the authority of the captain."[38]

The Tanker War, using modern standoff weapons against civilian shipping, led to a major rethink of naval tactics and strategy. A study conducted by the Robert S. Strauss Center[39] outlined the following four major lessons learned:

1. 80% of the attacks on commercial shipping were conducted by anti-ship cruise missiles;[40]
2. 61% of the ships attacked during the Tanker War were oil tankers; but due to their size, they proved very resilient to damage: only 55 of the 239 oil tankers hit (23%) were sunk or declared CTL, compared with 39% of bulk carriers and 34% of freighters;[41]
3. the international oil market adapted to the disruption of oil shipping; after an initial 25% drop in shipping and a close to 50% rise in the price of crude oil, the transit quickly resumed and the disruption thereafter

36 *Time Magazine*, 1 June 1987.
37 http://navalwarfare.blogspot.com/2007/05/20th-anniversary-of-attack-on-uss-stark.html
38 http://eightiesclub.tripod.com/id344.htm
39 The Robert S. Strauss Center for International Security and Law, "Straight of Hormuz Tanker War," *Op.Cit.*
40 Hughes, Wayne P., *Fleet Tactics and Coastal Combat,* Naval Institute Press, Annapolis, 2000.
41 Navias, Martin S., Hooton, E.R., *Tanker Wars: The Assault on Merchant Shipping During the Iran-Iraq Conflict, 1980-1988*, I.B. Tauris, London, 1996, p.183.

never impacted more than 2% of the shipping; furthermore, Iran had to lower its prices to offset higher insurance premiums on shipment, thereby lowering the real global price of oil;[42]

4. Iran has little incentive to close the Strait of Hormuz, as it is itself dependent on the sea-lanes for vital oil exports.[43]

To this, one must add the reintroduction of the convoy escort system, and the rediscovery of the importance of low-technology threats, such as gunboats and sea mines. Both have had a marked impact on the conduct of asymmetric naval operations in the 1991 and 2003 Gulf Wars, as well as the more recent Somali piracy issues.

Efforts were made to pin the blame for the incident on Iran, not Iraq. Two days after the attack, Reagan stated that Iraq had never been hostile towards the US and that "Iran was the real villain in the piece."[44] He and other administration officials asserted that they would stay the course in order to prevent Iran and the Soviet Union from making further headway in the region. This was clearly articulated by Ronald Reagan several days later when he declared that "the use of the vital sea lanes of the Persian Gulf will not be dictated by the Iranians. These lanes will not be allowed to come under the control of the Soviet Union."[45]

So much emphasis had been placed on air attacks that other threats were neglected. On 24 July 1987, an escort tanker was damaged when it hit a sea mine. At the time, the US Navy only had three operational sea-going minesweepers in service, and it had to call its allies for support. On 21 September, a US Navy SEAL team raided an Iranian vessel, the *Iran Ajr*, while it was laying mines (Operation PRIME CHANCE). Another engagement between Iranian gunboats and the *USS La Salle* was adverted by Saudi warplanes "buzzing" the aggressors. The destroyer *USS Kidd* (DDG-993) was engaged by an Iranian warship's radar shortly thereafter. On 8 October, Iranian gunboats fired at a US helicopter, leading to a counterattack by two AH-6 gunships, sinking one and damaging two others. Iran responded by firing *Silkworm* missiles at the US-owned Liberian supertanker *Sungari* and the reflagged Kuwaiti tanker *Sea Isle City* on 15 October, wounding 18 sailors.[46] On 14 April 1988, the OHP class frigate *USS Samuel B. Roberts* (FFG-58) struck a mine which broke its keel, destroyed the gas turbines and initiated a fire, wounding 10 sailors.[47] This was the signal for the launch of operation PRAYING MANTIS on 18 April 1988, a one-day campaign against Iranian ships and oil platforms in

42 Blair, Dennis, Lieberthal, Kenneth, "Smooth Sailing: The World's Shipping Lanes Are Safe," *Foreign Affairs*, vol. 86, No.3, May-June 2007, p.7.
43 GlobalSecurity.org, "Iran-Iraq War (1980-1988)," http://www.globalsecurity.org/military/world/war/iran-iraq.htm.
44 *The Washington Post*, 20 May 1987.
45 *The Washington Post*, 29 May 1987.
46 http://eightiesclub.tripod.com/id344.htm
47 Peniston, Bradley, *No Higher Honor: Saving the USS Samuel B. Roberts in the Persian Gulf*, Naval Institute Press, Annapolis, 2006.

the Gulf, sinking one frigate, a gunboat and three speedboats, damaging one frigate and two platforms.[48]

The irony of an inadvertent Iraqi attack on an US naval vessel being blamed on Iran was not lost to many observers, but Tehran did not help its own cause subsequent to the event when it called the incident a "divine blessing," and Prime Minister Mir Hossein Musavi gloated that the "Great Satan" was becoming entangled in the region.[49] Furthermore, in the days and weeks that followed, reports about Iranian *Silkworm* missile emplacements near the Straits of Hormuz, and a rise in Iranian attacks on Gulf shipping reinforced the perception that Iran was the main threat. The *USS Stark* incident faded into oblivion and behind the scenes, concrete steps were taken to strengthen US-Iraqi cooperation against the Iranian menace. A US liaison officer was assigned to Baghdad to ensure a similar mistake would not be repeated, while the US Navy provided information and navigational assistance to Iraqi warplanes searching for Iranian targets in the Gulf. In the words of one US naval officer, we became "the forward air controllers for the Iraqi air force."[50] By the end of the summer of 1987, the re-flagging operation was in full swing and the US Navy had bolstered its presence in the area to about eighty vessels. Within a year, Iraqi victories in the land war and US-Iraqi actions in the waters of the Gulf would force Iran to finally accept a UN-sponsored ceasefire, thereby ending the longest and bloodiest war in modern Middle Eastern history.

48 Hutchthausen, Peter, *America's Splendid Little Wars: A Short history of US Engagements from the Fall of Saigon to Baghdad*, Penguin, New York, 2004.

International Court of Justice, Oil Platforms (Islamic Republic of Iran vs. United States of America), http://www.icj-cij.org/docket/index.php?sum=634&code=op&p1=3&p2=3&case=90&k=0a&p3=5

Marola, Edward J., "The US Navy in the Cold War Era, 1945-1991," Naval History & Heritage Command, Department of the Navy, http://www.history.navy.mil/wars/coldwar-1.htm

Perkins, J.B. (Captain), *The Surface View: Operation Praying Mantis,* Proceedings, US Naval Institute 66, May 1989, http://www.strategypage.com/militaryforums/8-8434/page3.aspx

Wise, Harold Lee, *Inside the Danger Zone: The US Military in the Persian Gulf 1987-1988*, Naval Institute Press, Annapolis, 2007.

49 *The Guardian*, 10 May 1987 and *Time Magazine*, 1 June 1987.

50 Lando, Barry M., *Web of Deceit: The History of Western Complicity in Iraq from Churchill to Kennedy to George W. Bush*, Other Press, New York, 2007, p. 79.

A Review of the 3 July 1988 Aerial Incident in the Persian Gulf

Mohammad Taghi Hosseini

Counsellor, Permanent Mission of the Islamic Republic of Iran to the UN, Geneva.

On 3 July 1988, the *USS Vincennes* shot down Iran Air Flight 655 (IR655) on the Bandar Abbas – Dubai air route. This event resulted in the loss of life of 290 innocent civilians. There were passengers from six nations, including 66 children on board. Thirty-eight of the passengers were from countries other than Iran. At the beginning, the US forces claimed to have targeted an Iranian F-14 fighter. It did not take long to realize that the reality was absolutely different. The images of the airplane's debris and a significant number of bodies of Iran Air Flight 655, east of Hengham Island, close to the bases of US forces in the Persian Gulf, were very soon dispatched and shocked the world opinion. The US then admitted the tragedy and declared that the *USS Vincennes* shot down a civilian Iranian airliner "in self-defense at what it believed to be a hostile Iranian military aircraft."[1] The tragedy is a unique one in many aspects. Iran called it a "criminal act," an "atrocity" and a "massacre,"[2] but the US insisted to call it "a proper defensive action."[3]

The incident had many consequences. In one aspect, it manifested the gravity of the situation in the region at the time, due to the presence of foreign forces and the unpredictability of the events. The US forces had gradually become involved in supporting Saddam Hussein in his war against Iran. Before this time, the US and many other major powers, including the Soviet Union and some European countries, were supporting Saddam Hussein with intelligence and a flow of advanced weapons. At this stage, the US forces had gone much further and became active in military operations against Iranian targets. American attacks on Iranian targets, such as the Iranian offshore oil platforms

1 *Public papers of the Presidents of the United States: Ronald Reagan 1980.*, Federal Register Division, National Archives and Records Service, General Services, Washington D.C., 1990, p. 468.

See also the 6 July 1988 letter by Permanent Representative of the United States to the United Nations to UN Security Council.

2 Statement by Iranian Foreign Minister Ali Akbar Velayati before the Security Council (15 July 1988).

3 Statement by President of the United States Ronald Reagan (3 July 1988).

of Resalat and Reshadeat on 18 April 1988, Nasr, Salman, and Mobarak in October 1988, are examples of the deep US involvement in the war.

Following the aerial incident on 3 July 1988, the role of international organizations became a focus. Iran raised the issue in the Security Council. It was the first time since the beginning of the war in 1980 that Iran brought an issue to the attention of the Security Council.[4] Iran also raised the matter with the International Civil Aviation Organization (ICAO) and the International Court of Justice (ICJ).

In search of the root cause of the event, I would like to raise a few questions. I will review the event and the developments related to it. The argument I would like to make in this article is that the US gradually became deeply involved in the war against Iran, substantially affecting its behavior in the region. This event was not the sole incident between Iran and the US, but is one of many other hostile acts to occur between the two countries.

Factual Context

In September 1980, shortly after the Iranian revolution, Iraqi military forces under Saddam Hussein invaded Iran, triggering an eight-year war. The invasion aimed to overthrow the new government in Iran. For this, Saddam had received direct or indirect support from the major powers, including the United States. Since relations between Iran and the US turned to a deteriorated situation, particularly after the US Embassy in Tehran was stormed by Iranian students, the US was counting on a dramatic military incursion to inflict a lethal blow to the revolutionary government in Tehran. Therefore, though the US declared that it would refrain from "any interference or involvement"[5] in the war between Iran and Iraq, keeping to a position of "strict neutrality"[6] or a stance of "impartiality,"[7] in practice, the US government lent any kind of support possible to Saddam's regime in the war against Iran. In some cases, US forces even entered into direct action against Iran. At the final stage of the war, US forces in the Persian Gulf became extremely present, resulting in some catastrophic events. The aerial incident on 3 July 1988 is such an example.

The conflict was initially limited to a land war between Iran and Iraq. Given the inconclusive war on land, in 1984, Iraq decided to spread the war to the Persian Gulf and began attacking ships on their way to and from Iranian ports, in an attempt to disrupt Iran's oil exports.[8] The purchase of French

4 Parsons, Sir Anthony, "Iran and the United Nations, with particular reference to the Iran-Iraq war," in Ehteshami, Anoshirvan and Varasteh, Mansur (eds.), *Iran and the International Community*, Routledge, London, 1991, p. 22.

5 *Public Papers of the Presidents of the United States: Jimmy Carter 1980 – 1981*, Federal Register Division, National Archives and Records Service, General Services, Washington D.C., 1982, p. 1900.

6 *Ibid.*, p. 1906.

7 De Guttry, Andrea and Ronzitti, Natalino (eds.), *The Iran – Iraq War (1980 – 1988) and the Law of Naval Warfare*, Grotius Publications Ltd., Cambridge, 1993, p. 111.

8 Bekker, Pieter H. F., "Oil Platforms (Iran V. United States), ICJ, November 2003," *The*

EXOCET missiles in 1983 provided Iraq with a credible ship attack capability.[9] Iraq attacked commercial vessels in the northern part of the Persian Gulf.[10] These were nearly all tankers and cargo ships calling at the Iranian ports of Bandar Imam Khomeini and Bushehr. Later on, Iraq extended this action to announce a "total blockade" of Kharg Island, warning that any ship found in the area would be treated as hostile and would be liable to attack on sight.[11] This started a new phase of the war, generally known as "the Tanker War." Besides damaging Iran's economy, the Tanker War was also initiated by Iraq with the specific objective of involving outside forces in the conflict.[12]

Since there were no Iraqi tankers in the Persian Gulf at the time, Iran retaliated by striking tankers in 1984 to prevent war supplies from reaching Iraq. Iranian attacks were considerably less frequent than those of Iraq, and were mainly intended warn the two countries against supporting Iraq too overtly and to push Saudi Arabia and Kuwait[13] to pressure Iraq to cease the Tanker War.[14] This inevitably attracted adverse criticism and led to a formidable armada of foreign warships. But there was no specific international condemnation of the Iraqi attacks and no serious attempt made to persuade or coerce Iraq into desisting from them. This was the case in spite of the fact that all members of the international community must have realized that if Iraq stopped attacking shipping, Iran would follow suit immediately.[15] This imbalance in the international response, as exemplified by the United Nations Security Council (UNSC) resolution 552 (1984), persisted.[16] In 1987American, French, British, Soviet, Italian, Dutch and Belgian warships in the region increased to over seventy.[17] The decision by the US, in response to a request of Kuwait to reflag Kuwaiti tankers, seriously involved the US in the conflict.[18] Saddam Hussein's strategy of involving outside forces in the conflict was effective. This decision by the US to reflag the tankers, particularly when considered

American Journal of International Law, No. 98 (3), July 2004), p. 551.

9 United States Department of Defense, *Formal investigation into the Circumstances Surrounding the Downing of Iran Air Flight 655 on 3 July 1988*, 19 August 1988.

10 De Guttry, Andrea and Ronzitti, Natalino, *Op. Cit*., p. 61.

11 *Ibid*., p. 61.

Also see: Kissing's Contemporary Archives, Vol. 28, 1982, p. 31,850.

12 Gamlen, Elizabeth and Ragers, Paul, "US Reflagging of Kuwaiti Tankers," *The Iran – Iraq War: The Politics of Aggression*, Rajaee, Farhang (ed.), University Press of Florida, Gainesville, 1993, p. 123-151.

13 Saudi Arabia and Kuwait funded Iraq's war. According to independent sources, Saudi Arabia spent more than 70 billion USD, and Kuwait spent more than 45 billion to support Saddam Hussein's war against Iran. For further study, see the following sources:

Sheikholeslami, Reza, "Saudi Arabia and the United States: Partnership in the Persian Gulf," *The Iran – Iraq War: The Politics of Aggression*, Rajaee, Farhang (ed.), University Press of Florida, Gainesville, 1993, p. 103-122.

McNaugher, Thomas, *Pipeline and Power in the Gulf: Shifting Balances*, Energy Research Associates, Cambridge (MA), 1986.

14 Gamlen, Elizabeth and Ragers, Paul, *Op. Cit*., p. 145.

15 Parsons, Sir Anthony, *Op. Cit*., p. 19.

16 *Ibid*., p. 19.

17 *Ibid.*, p. 21.

18 De Guttry, Andrea and Ronzitti, Natalino, *Op. Cit*., p. 121.

in the context of its other actions, can reasonably be considered partisan. It seriously constrained Iran's ability to conduct the war. Iraq was able to continue attacking tankers with impunity, while severe penalties were increasingly imposed on Iran.[19]

The US had a particular interest in the Persian Gulf, and considered it as an important region in the context of energy geopolitics. In the view of the US decision makers and according to its traditional Cold War policy, the Soviet Union was the major threat in the Persian Gulf Theater. They were of the view that a chain of events, including the withdrawal of the British forces from the region in 1971, the 1979 Iranian Revolution, which toppled the pro-American regime of the Shah, and the Soviet occupation of Afghanistan in December 1979, had resulted in a vacuum of power in the region, which might lead to more unforeseen events. They were concerned that the Soviets may be tempted to assert their presence in the Persian Gulf. The so called "Carter Doctrine" noted the Persian Gulf's importance to the flow of oil and stated that any attempt "by any outside force to gain control of the Persian Gulf region" would be regarded "as an assault on the vital interest of the United States of America, and will be responded by any means necessary, including military force."[20]

US military bases were already present in the region. In the 1980s, its forces in the Indian Ocean and the Persian Gulf were reinforced, and assigned with new objectives. This was intended to escort Kuwaiti oil tankers registered under the American flag, limit Iranian marine activities, and tighten the US imposed embargo on Iran.

On 3 July 1988, on the day the Iranian Airbus was targeted by *USS Vincennes*, there were three other US warships around the Strait of Hormuz: the *USS Sides* and the *USS Elmer Montgomery*. The later was on patrol in the northern portion of the Strait of Hormuz, while the former was "approximately 18 miles to the east and became involved in the evolving tactical situation."[21] This accumulation of forces in the Persian Gulf was by its nature destabilizing for the region. Due to this substantial military build up, the situation was ripe for an incident to occur.

Course of the incident

Iran Air Flight 655 (IR655) left Bandar Abbas at 10:17 AM on 3 July 1988, 27 minutes after its scheduled departure time of 9:50 a.m. It would then have needed 28 minutes longer than expected to reach its destination, Dubai Airport.

19 *Ibid*., p. 147.

20 *Public Papers of the Presidents of the United States: Jimmy Carter 1980 – 1981,* Federal Register Division, National Archives and Records Service, General Services, Washington D.C., 1982, p. 346.

21 United States Department of Defense, *Formal investigation into the Circumstances Surrounding the Downing of Iran Air Flight 655 on 3 July 1988*, 19 August 1988.

Captain Mohsen Rezaian would pass over the Strait of Hormuz, where the *USS Vincennes* was escorting Kuwaiti oil tankers. At this time, the US Navy guided missile cruiser was stationed 40 miles north of its required position in the Strait of Hormuz.[22] Rather than being stationed in international waters, it was inside Iranian territorial waters, and lay directly in the airplane's path.

Flight 655 took off on runway 21, was directed by the Bandar Abbas tower to squawk IFF, mode III, code 6760, and began a normal climb to the assigned altitude of 14'000 feet. The flight lasted a total of seven minutes before the plane was hit by missiles from *USS Vincennes.* The pilot remained within the Amber 59 air corridor (twenty miles wide, ten miles each side of centerline), made a routine position report to Bandar Abbas departure control at approximately 0654Z, and was ascending to 12,000 feet at a speed of approximately 380 knots when he made his report.[23] At approximately 0654Z, the missiles fired from the *USS Vincennes* impacted the aircraft at an altitude of 13,500 feet, approximately eight miles from the warship, still while in the assigned air corridor. Debris from the aircraft and a significant number of bodies were found 6.5 miles east of Hengham Island at 26-37.75'N/56-01'E.[24]

According to US government reports, the cruiser mistakenly identified the Iranian airplane as an attacking military fighter. The *USS Vincennes*, it was reported, identified the flight profile being flown by the A300B2 as being similar to that of an Iranian Air Force F-14A Tomcat during an attack run. The same report stated that the *USS Vincennes* had tried more than once to contact Flight 655, but that it received no acknowledgement. The official ICAO report stated that these attempts to contact Iran Air 655 were sent on the wrong frequency and addressed to a non-existent "Iranian F-14."[25] At 10:24 AM., Captain Rogers, the Commanding Officer of the *Vincennes* ordered to fire two SM-2ER anti-aircraft missiles at the assumed F-14 fighter jet. A few seconds later, with the Airbus still on its assigned climb and slightly to one side, but well within air corridor Amber 59, was intercepted by one or both of the missiles at a range of eight nautical miles and an altitude of 13,500 feet. Flight 655, with some 290 people on board, tumbled in flames into the Gulf. The entire incident, from takeoff to impact, had taken less than seven minutes. There were no survivors. By noon that day, Iranian helicopters and boats began to search the area and recover bodies. It was not until later in the day that the officers and men of the *Vincennes* would learn that what they had shot down was not an Iranian F-14 but a civilian, commercial flight.[26]

22 Saltus, Richard, "A Tragic Error Led to New Insights on Behavior in Crises," *Boston Globe,* 28 February 1994.

23 United States Department of Defense, *Formal investigation into the Circumstances Surrounding the Downing of Iran Air Flight 655 on 3 July 1988,* 19 August 1988.

24 *Ibid.*

25 ICAO Report, p. A-3 (Nov. 7 1988), cited in Department of Defense, *Formal investigation into the Circumstances Surrounding the Downing of Iran Air Flight 655 on 3 July 1988*, 19 August 1988.

26 The *Washington Post* reported on 30 April 1990 that the Legion of Merit, the U.S. armed forces second highest award, was presented to Captain Rogers and Lieutenant Commander Lustig (the weapons officer) for meritorious conduct and "heroic achievement" on July 3,

The US Administration finally admitted "the human tragedy of Iran Air 655."[27] The investigation by Rear Admiral William M. Fogarty in Bahrain revealed that "mistakes were made on board *Vincennes* that day."[28] But he added that "in itself it is not surprising to anyone who understands the stress of hostile action in a life or death situation. No military combat operation is flawless, even when there is a successful outcome.[29] Therefore, Admiral Fogarty's investigation recommended that "no disciplinary action should be taken against any US Naval personnel associated with this incident."[30]
While issuing notes of regret over the loss of human life, the US Administration has, to date, neither admitted its responsibility in this tragedy, nor apologized, but continues to blame Iranian hostile actions for the incident. It cited that "The error followed not from the presence of the US or other Western navies in the Persian Gulf, but rather from the war itself."[31] Denying its responsibility, the US announced that on a purely voluntary basis, it would offer *ex gratia* payments to families of civilian victims, noting that the gesture was "not on the basis of any legal liability or obligation."[32]

International organizations proceedings

The issue of the aerial incidents in the Persian Gulf has come under the consideration by the UN Security Council, the ICAO, and the ICJ. During the war, Iran had boycotted the Security Council, because it was regarded as not impartial. In many instances, the Council, or its influential members, sided with Iraq.[33] However, Iran chose to ignore the Council and instead worked directly with the Secretary General.[34] For the first time since the war began, in mid-July 1988, the Iranian government took the initiative of calling a meeting of the Security Council. In requesting a meeting of the Security Council, Iran

1988. The citations did not mention the downing of the Iran Air flight 655 at all.
27 Statement by US Vice-President George H.W. Bush before the UN Security Council, 14 July 1988.
28 Statement by Chairman of the Joint Chiefs of Staff William Crowe, 19 August 1988.
29 *Ibid.*,

See also *American Foreign Policy: Documents, 1988*, 1989, Doc, 259.
30 Statement by Chairman of the Joint Chiefs of Staff William Crowe, 19 August 1988.
31 Statement by US Vice-President George H.W. Bush before the UN Security Council, 14 July 1988.
32 Statement by Assistant to the President for Press Relations Marlin Fitzwater, 11 July 1988.
33 Iran had many arguments for its approach towards the Security Council. For instance: (i) Iraq invaded Iran on 22 September 1980, but the Council convened its meeting one-week after the invasion on 28 September 1980, which was a reward for the invader. At that meeting, the Council did not act under Chapter VII of the Charter and did not establish that the peace and security had been threatened (Compare this with the Iraqi invasion of Kuwait; the Council convened within hours and acted under Chapter VII of the Charter). (ii) During the war, Iraq used chemical weapons largely against Iranian civilians in addition to military personnel. The Council never explicitly condemned Iraq for this act. (iii) In regards to both the "Tanker War" and the "War of the Cities," the actions by the Security Council were not impartial.
34 Picco, Giandomenico, *Man Without a Gun*, Times Books/Random House, New York, 1999, p. 81.

expected the Council to condemn the United States,[35] and that a fair decision on this issue would melt the ice between Tehran and the Security Council.[36]
The Security Council convened on 14 July 1988. Foreign Minister Velayati represented Iran at the meeting, and Vice-President George H. W. Bush represented the US government. Velayati called the action an "inhuman massacre of innocent civilian."[37] He gave a detailed report of this event and specified that regardless of whether the incident happened deliberately or by mistake, the incident was the result of the large-scale presence of US forces in the Persian Gulf and the US policy of siding with one party to a conflict (i.e. Iraq). On his part, George Bush insisted that "the *USS Vincennes* acted in self-defense" and put the blame on Iran for continuing the war.[38] There was neither remorse nor guilt in the US response. The finger of blame was pointed to the airliner and the course it took, instead of those who lunched the missiles.
After a few days, the Council adopted the Resolution 616 (20 July 1988), which did not contain a condemnation of the United States. The Security Council, while expressing distress at the downing of a civil airliner during its scheduled flight by a missile fired from an American warship, and profound regret over the tragic loss of innocent lives, welcomed the decision by the ICAO to institute an immediate fact finding investigation in that regard. The Security Council remained dormant as far as matters of accountability were concerned.
Iran had raised the issue initially before the ICAO and subsequently before the ICJ. Immediately after the destruction of the airliner, Iran "urgently requested that this grave matter be tabled in the ICAO council as a matter of urgency." Iran alleged *inter alia* American violation of the Chicago Convention (1944) and Montréal Convention (1971) and requested the ICAO Council to condemn the shooting down of IR655 by US military forces in the Persian Gulf as a crime of international character in breach of international law and legal duties of a contracting state to the ICAO, while seeking compensation from the US for moral and financial damages.[39] Though the case was more relevant for consideration under Article 84 of the Chicago Convention, the ICAO Council considered it under Articles 54 and 55. The reason given by the Council was that the Islamic Republic of Iran, in its request, had not made reference to Article 84.[40] The Council of the ICAO expressed profound regret over the loss of 290 lives and deplored the use of weapons against

35 Statement by Iranian Foreign Minister Ali Akbar Velayati before the Security Council, 15 July 1988.
36 Picco, Giandomenico. *Op. Cit.*, p. 81.
37 Statement by Iranian Foreign Minister Ali Akbar Velayati before the Security Council, 15 July 1988.
38 Statement by US Vice-President George H.W. Bush before the UN Security Council, 14 July 1988.
39 Letter from Secretary General of the ICAO Philippe Rochat to the registrar of the International Court of Justice, 4 December 1992, containing the observations of the ICAO Council on the Aerial Incident of 3 July 1988.
40 *Ibid.*, Para. 4.

a civilian aircraft, but it avoided to mention the US by name or condemn the *USS Vincennes*' attack on the aircraft.[41] The Council established a fact-finding investigation to determine all relevant technical aspects that led to the destruction of the aircraft.[42]
Iran also brought the case to the International Court of Justice. But before the court had reached the point of adjudication on the merits of the issue, the case was withdrawn. In February 1996, both Iran and the US notified the Court of a settlement agreement and their decision to discontinue the case with the International Court of Justice.[43]

Self-defense or act of aggression

The US administration described the action taken by the *USS Vincennes* in shooting down IR655 on 3 July 1988 as an act of self-defense. In the view of the US administration, the *USS Vincennes* fired on the IR655 "to protect itself against possible attack"[44] and "Capitan Rogers did what he had to do to protect his ship and the lives of his crew, since as a military commander, his first duty and responsibility was to protect his men and his ship."[45] Iran of course rejected the argument and described it as an act of aggression.
There are established rules in the international community to differentiate between an act of self-defense and an act of aggression. In accordance with Article 51 of the Charter of the United Nations, only a state which is subjected to an armed attack is entitled to resort to force in order to defend itself.[46] The key element in defining self-defense is the existence of an attack, which in this case is absolutely out of the question. In other words, the use of force in self-defense can only be initiated in response to a prior armed attack.
Even with the new interpretation of the right of self-defense extended to preemptive measures before occurrence of an armed attack, which is debatable and a non-consensus doctrine in international law, in this particular case, the US cannot justify its act in destruction of a civil aircraft as a preemptive measure of self-defense. Bearing in mind that the civilian airliner "did not even have the potential of launching an attack," how can its destruction be justified under the terms of self-defense or even a preemptive measure?[47] The US, through its other actions, such as the attacks on Iranian oil platforms, vessels, and particularly by the destruction of IR655, had become a cobelligerent

41 Statement by President of the ICAO Council Assad Kotaite approved at the Extraordinary Session of the Council held on 13 and 14 July 1988.
42 *Ibid.*, Para. 4.
43 Settlement Agreement countersigned by Representatives of Iran and the US on the case concerning the aerial incident of 3 July 1988 before the International Court of Justice (February 1996).
44 Statement by US President Ronald Reagan (3 July 1988).
45 Statement by Vice-President George Bush before the US Security Council (14 July 1988).
46 Statement by Iranian Foreign Minister Ali Akbar Velayati before the Security Council (15 July 1988).
47 *Ibid.*

in the war.[48] All these actions by the US bear the characteristics of an act of aggression as defined in the UN's resolution on the Definition of Aggression. The same resolution explicitly sets out that included among acts constituting acts of aggression is "the use of any arms by one State against the territory of another State."[49] These facts, together with the US policy of supplying arms and other forms of support to the Iraqi regime, supports the Iranian point of view of the US as a co-belligerent.[50]

Although the case was withdrawn from the International Court of Justice before the court reached the point of adjudication on its merits, had it had remained before the Court for substantive consideration, it would have been impossible for the US to justify its act under the guise of self-defense.

There are other cases to support this argument. The Court also considered the US attack on Iranian oil platforms, which the US also argued came under the rule of self-defense. The US Navy attacked the offshore oil platforms of Resalat and Reshadeat on 18 April 1988, and Nasr, Salman, and Mobarak oil platforms in October 1988. Iran filed the case with the International Court of Justice. The case is known as "oil platforms" (Iran v. United States). On November 6th 2003, the ICJ ruled that "the US attacks on the Iranian oil platforms constituted recourse to armed force that did not qualify, under the United Nations Charter and the customary international law, as acts of self-defense (and) were not justifiable as measures necessary to protect the security interests of the United States."[51] The court also concluded that the US had not submitted sufficient evidence to indicate Iranian responsibility for any claimed attack, including a missile attack on the *Sea Isle City*, and thus, to justify the US attacks as acts of self-defense. The evidence was mostly circumstantial. The United States had been unable to produce direct physical evidence that the *Sea Isle City* had been struck by a certain type of missile claimed to be used by Iran.[52] The Court also agreed that evidence of Iranian responsibility for the *USS Samuel B. Roberts* incident, in which it struck a mine, was inconclusive.[53] This ruling can also be applied to the case of the destruction of the IR655. Evidence provided by US was insufficient and could not justify the act as self-defense. Furthermore, the US had a responsibility to

48 On different occasions, US forces in the Persian Gulf were involved in the war either by direct attacks on Iranian vessels and oil platforms or by placing its facilities at the disposal of the Iraqi Regime and providing a safe corridor for Iraqi jets to attack Iranian tankers. For instance on 14 May 1988, Iraq targeted several tankers close to the Larak Island Terminal. The US Navy contributed to this attack by jamming the communications network of the Iranian warships. Doc. S/19885, 16 May 1988.

49 Resolution 3314 (XXIX) of 14 December 1974.

50 Momtaz, Djamchid, "The Inherent Right of Individual Self-Defense in the Iran-Iraq War," *The Iran – Iraq War: The Politics of Aggression*, in Rajee, Farhang (ed.), University Press of Florida, Gainesville, 1993. 183-190.

51 Judgment on Oil platforms (Iran v. United States), Merits, Para. 125 (ICJ Nov. 6, 2003), 42 ILM 1334 (2003).

52 *Ibid.*, Para. 58-64.

53 *Ibid*., Para. 72. See also:

Bekker, Pieter H. F., "Oil Platforms (Iran V. United States), ICJ, November 2003," *The American Journal of International Law*, No. 98 (3), July 2004, p. 550-558.

observe the fundamental principle of refraining from resorting to the use of weapons against a civilian aircraft.

Causes and Contributors

Several critics and analysts tried to explain the causes of the tragedy. Most of them emphasized the technical failures or human errors. A multitude of factors, including human and technical error due to the human/system interface, poor decision-making, erroneous assumptions, and other psychological factors were considered in explaining the cause of the incident.[54] Human errors were directly caused by deficiencies in the *USS Vincennes*' automated "Aegis" battle management system, in addition to a lack of training, which led to faulty interpretation of data. The Fogarty report placed a particular emphasis on the psychological factors. It expressed that the most reasonable explanation was that Capitan Rogers's behavior was induced by a combination of physiological fatigue, combat operations, stress, and tension, which can adversely affect performance and mission execution. The result of these factors, according to the report, was that the American captain had no doubt that the aircraft was an Iranian F-14, which was headed toward his ship, and which had failed to acknowledge repeated warnings.[55]

More attention to emergency signals than computer analysis display, tension, lack of time, fog and friction of war were among the factors accounting for the *USS Stark* incident, which was severely damaged a year earlier by an Iraqi fighter jet. These are all technical factors, which may or may not have contributed to the course of action. Beyond all these, another important factor, deserves to be carefully taken into account, more political rather than technical: the United States gradually became involved in the regional conflict and had become a co-belligerent in supporting the regime of Saddam Hussein in its invasion of Iran. The US and its forces in the region therefore had a psychological hunger for action against Iran. In that situation, irrational acts were to be expected. On several occasions, the US forces commenced attacks against Iranian targets, simply acting on false hypotheses. For instance, in October 1987 after the Kuwaiti tanker *Sea Isle City*, reflagged as a US vessel, was hit by a missile near a Kuwaiti harbor, the US attacked and destroyed the Iranian oil platforms of Resalat and Reshadat in the Persian Gulf, asserting that the they were being used as a staging facility for attacks by Iranian forces

54 See the following sources:

Bower, Bruce, "'Human Factors' and Military Decisions," *Science News,* No. 134 (16), 15 October 1988, p. 245.

Morrocco et al., "Iranian Airbus Shoot down," *Aviation Week and Space Technology,* 11 July 1988.

Saltus, Richard, "A Tragic Error Led to New Insights on Behavior in Crises," *Boston Globe,* 28 February 1994.

55 United States Department of Defense, *Formal investigation into the Circumstances Surrounding the Downing of Iran Air Flight 655 on 3 July 1988*, 19 August 1988.

against shipping in the Persian Gulf. Also, in April 1988 as part of "Operation Praying Mantis," US forces attacked the Iranian oil platforms of Nasr and Salman, after the *USS Samuel B. Roberts* was struck mines laid in the Persian Gulf. The US military authorities concluded that the mines were laid by Iran and therefore, this justified their attack on Iranian oil platforms.

Both incidents took place based on a false hypothesis and perhaps misleading information. Later on during the deliberations of the International Court of Justice in The Hague, it became clear that Iranian forces had not conducted any of these attacks against US forces. Iran provided evidence that the mine that struck *USS Samuel B. Roberts* had been laid by Iraq.[56] No evidence could be found by the US to support the claim that the *Sea Isle City* had been struck by a certain type of missile said to be used by Iran.[57] This demonstrates that Iraq was successful in deceiving US forces in various ways, to gradually engage them in the war. At that time, due to the hostile policy of towards Iran, it was too easy for US forces to conclude that Iran, as an "evildoer," would have a hand in every one of these event. It provided a good opportunity for the Iraqi regime and its supporters in the Persian Gulf to mislead US decision makers.

The policy of supporting Saddam's regime by the US resulted in more tragic events, including a foreign policy disaster. Many years passed until the US authorities realized the gravity of the country's narrow-minded policy during the Iran-Iraq war. In March 2000, Secretary of State Madeleine Albright pointed out that "aspects of US Policy towards Iraq, during its conflict with Iran appears now to have been regrettably shortsighted, especially in light of our subsequent experiences with Saddam Hussein."[58] Saddam's invasion, subsequent occupation, and looting of Kuwait in addition to threats made against Saudi Arabia rang the alarm bell for the US and its allies. From 1990 to this day, the US has been involved with this issue. A long and expensive war (three trillion dollars), numbering hundreds of thousands of deaths among Iraqi civilians and US soldiers, finds its roots in the mistaken policies of the past.[59]

Conclusion

The destruction of IR655 by the *USS Vincennes* is a tragic incident with many consequences. It can be viewed from different perspectives, and is important for various reasons: political, legal, organizational, military technology,

56 The Judgment on Oil platforms (Iran v. United States), Merits, Para. 125 (ICJ Nov. 6, 2003), 42 ILM 1334 (2003), Para. 70.
57 *Ibid*., Para. 58-64.
58 Remarks by Madeleine Albright before the American – Iranian Council, 17 March 2000.
59 Stiglitz, Joseph E. and Bilmes, Linda J., *The Three Trillion Dollar War: The True Cost of The Iraq Conflict*, Penguin Books Ltd., London, 2008.

strategic, and moral. Each may have different explanations for the occurrence of this event: technological failure, psychological factors, fatigue, human error, lack of training, stress, tension, scenario fulfillment, more attention to emergency signals than computer analysis display, lack of time, fog and friction of war, and a long list containing many other factors may be discussed in this regard. There is no question that each played a role. However, none can justify such a tragedy, caused by a responsible state and an advanced and disciplined military force. This act was a violation of international law and human standards. Even in terms of military strategy, it provided neither victory nor pride.

The gradual involvement of the US in the conflict, its hostile attitude towards Iran at that time and its questionable support of Saddam's regime in its war against Iran were the main causes of such events, bearing grave consequences. The US involvement gradually became deeper, which adversely affected the military judgments of the US forces. The destruction of IR655 is an example of misjudgment and bad decision-making by these forces. Attacks on oil platforms and Iranian vessels in the Persian Gulf, largely based on false hypotheses, are examples of a chain of mistaken policies that finally resulted in long lasting dilemma for US foreign policy.

The destruction of IR655 has become a case before international organizations, such as the Security Council and the Council of the International Civil Aviation Organization. Both international bodies, although expressing profound regrets over the innocent passengers' loss of life, failed to condemn the attack. Yet they acted differently in previous but similar cases. For example, in the case of the shooting down of a Korean aircraft Boeing 747 on September 1st 1983 by the former Soviet Union, both bodies took a strong position in condemning the attack. Although the Soviet Union, as a permanent member of the Security Council, vetoed the resolution, it did cause Moscow embarrassment for having violated the safety of civil aviation and underlined the lack of resolution by the Security Council. In the case of the destruction of IR655, the Security Council and the ICAO Council remained dormant as far as matters of accountability were concerned. Their avoidance to condemn the attack was interpreted as a case of double standard.

The incident re-emphasized the need to strictly observe the basic principles of international law and protection of civilians in cases of tension and conflict, including the full observation of the safety and security rules of civil aviation. This principle obligation of states should not be compromised under any circumstances. In this regard, not only should the rules be further strengthened, but also their observation. The magnitude of the event is so high that it deserves the establishment of as strong of rules as possible.

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The Cermis: A Military Incident, a Political Innuendo.

History and Legal Aspects of the 1998 Cavalese Cable-car Disaster Incident

Oreste Foppiani

Adjunct Professor, Webster University Geneva

History of an Accident-Incident[1]

In the early afternoon of 3 February 1998, a US military airplane struck the cables supporting a ski gondola in Cavalese, Trento Province, after flying low through the valley at more than 500 mph. Undoubtedly, the air-cowboys acted like hyperactive adolescents zigzagging on motorbikes on a city street. Unfortunately, for a then-presumed training reason, they were playing this "exciting" game with an EA-6B *Prowler*, an electronic warfare aircraft belonging to VMAQ-2 of the US Marine Corps (USMC),[2] which was deployed at the NATO and USAF air base in Aviano.[3]

1 The Italian word *incidente* can mean either accident (e.g., a car crash) or incident (e.g., a diplomatic incident).

2 The Marine Tactical Electronic Warfare Squadron 2 (VMAQ-2) is a US Marine Corps electronic warfare squadron consisting of EA-6B *Prowler* jets. The squadron is based at USMC Air Station Cherry Point, North Carolina and falls under the command of Marine Aircraft Group 14 (MAG-14) and the 2nd Marine Aircraft Wing (2nd MAW). In March 1996, they were sent to Aviano, Italy, in support of Operation DECISIVE ENDEAVOR. This operation tasked VMAQ-2 with several assigned Combined Air Operations Center (CAOC) missions over Bosnia and Herzegovina. Specifically, VMAQ-2 provided Suppression of Enemy Air Defenses (SEAD) support to British *Harriers* performing reconnaissance flights over weapons containment sites in these two areas of operation. In 1997, VMAQ-2 once again deployed to Aviano. However, this time it was in support of Operation DELIBERATE GUARD. VMAQ-2 was tasked with flying missions over Bosnia to cover the Bosnian elections. In February 1999, VMAQ-2 received the order to deploy once more to Aviano in support of Operation NOBLE ANVIL and possible subsequent combat operations against the Federal Republic of Yougoslavia. After diplomatic attempts to resolve the Kosovo crisis failed, Operation Allied Force began. VMAQ-2 launched day and night sorties to provide jamming and HARM support to US and NATO missions. VMAQ-2 also provided support for armed reconnaissance missions, day and night Battlefield Air Interdiction strikes, and Combat Search and Rescue efforts of downed allied aircrew. When Operation ALLIED FORCE came to an end, VMAQ-2 had flown 2151.5 combat hours, 464 combat sorties, and fired 57 High-speed Anti-Radiation Missiles (HARM) against the Federal Republic of Yugoslavia. See the official websites of the USMC (www.marines.mil) and USN (www.navy.mil). (all websites last consulted: 4.04.2010)

3 Aviano Air Base, also known as Maurizio Pagliano and Luigi Gori Airport, is located at the base of the Dolomites, at the northern end of the Po Valley, seven miles north-northwest of

As a consequence of this reckless cat-and-dog chase in the sky of the Dolomites, the funicular car's cable was severed and twenty people in the cabin plunged over eighty meters to their deaths. The airplane had minor wing and tail damage, but was able to return to its base. While in Italy the incident and/or massacre is known as the "Cermis Disaster,"[4] in the United States and abroad it is known as the "Cavalese Cable-car Disaster."

The pilot of the *Prowler*, Captain Richard J. Ashby, and his navigator, Captain Joseph Schweitzer, were put on trial in the US and were found not guilty of involuntary manslaughter and negligent homicide. Later, they were found guilty of obstruction of justice and conduct unbecoming an officer and a gentleman[5] for destroying a videotape recorded from the plane and were dismissed from the USMC.

This event and the acquittal of the pilots put pressure on the international relationship between the United States and Italy, where the military incident is known as the *Strage del Cermis*.[6] Those killed, 19 passengers and one operator, were all European nationals: eight Germans, five Belgians, three Italians, two Poles, one Austrian and one Dutch citizen.[7]

Italian prosecutors wanted the four marines to stand trial in Italy, but an Italian court recognized that NATO treaties gave jurisdiction to US military courts. Initially, all four men on the plane were charged, but only the pilot, Captain Richard J. Ashby, and his navigator, Captain Joseph Schweitzer, actually faced trial, charged with twenty counts of involuntary manslaughter and negligent homicide. Ashby's trial took place at USMC Camp Lejeune, North Carolina. It was determined that the maps on board did not show

Pordenone, and about fifty miles north-northeast of Venice. The host wing at Aviano is the 31st Fighter Wing (part of the US Air Force in Europe), which maintains two F-16 fighter squadrons to conduct regional and expeditionary operations under NATO, SACEUR or national tasking. In 2005, the US base and aerodrome celebrated its 50th anniversary among street protest and pacifist indignation, mainly due to the cable-car disaster and the desire of a large part of the Italian population of getting rid of any US military presence on the Peninsula.

4 After the Alpe Cermis ski resort in the Fiemme Valley, between Bolzano and Trento, at an altitude that varies between 860 to 2'267 metres above the sea level: Cavalese and the Alpe Cermis are connected by a cable-car and they are well known among international skiers.

5 Conduct unbecoming an officer and a gentleman (or conduct unbecoming for short) is an offence subject to court martial defined in the punitive code, Article 133, of the US Uniform Code of Military Justice (UCMJ), enacted at 10 USC/933. See the website of the Legal Information Institute at Cornell University Law School (http://www.law.cornell.edu/uscode/10/933.html).

6 Not to be confused with the 1976 Cavalese cable-car disaster, where on March 9, 1976, on the very same spot of the 1998 tragedy, forty-two people including fifteen children died when the steel cable of their gondola broke. It was the worst cable-car disaster ever.

7 The victims were: Hadewich Antonissen (24, Belgium), Stefan Bekaert (28, Belgium), Dieter Frank Blumenfeld (47,Germany), Rose-Marie Eyskens (24, Belgium), Danielle Groenleer (20, the Netherlands), Michael Pötschke (28, Germany), Egon Uwe Renkewitz (47, Germany), Marina Mandy Renkewitz (24, Germany), Maria Steiner-Stampfl (61, Italy), Ewa Strzelczyk (37, Poland), Filip Strzelczyk (14, Poland), Annelie Wessig-Urban (41, Germany), Harald Urban (41, Germany), Sebastian Van den Heede (27, Belgium), the cable-car operator from Cavalese, Marcello Vanzo (56, Italy), Stefaan Vermander (27, Belgium), Anton Voglsang (35, Austria), Sonja Weinhofer (22, Austria), Jürgen Wunderlich (44, Germany), Edeltraud Zanon-Werth (56, Italy). See the *Comitato 3 Febbraio* website (the association of the families of the victims of the 1998 disaster): www.valdifiemme.it/comitato3febbraio/vittime.htm.

the cables and that the EA-6B was flying somewhat faster and considerably lower than allowed by military regulations. The restrictions at that time required a minimum flying height of 2'000 feet (610 meters); the pilot said he thought they were flying at 1'000 feet (300 meters). The cable was cut at a height of 360 feet (110 meters). The pilot further claimed that the height-measuring equipment on his plane had been malfunctioning and that he had been unaware of the speed restrictions. In March 1999, as already specified, the jury acquitted Ashby, outraging the European public. The manslaughter charges against Schweitzer were then dropped.

The two men were court-martialed a second time for obstruction of justice and conduct unbecoming an officer and a gentleman, because they had destroyed a videotape recording from the plane on the day of the accident. They were found guilty in May 1999; both were dismissed from the service and the pilot received a six-month prison term. Ashby was released after four and a half months for good behavior. Schweitzer made a plea bargain agreement that came to light after the military jury deliberated upon sentencing. His agreement prevented him from serving any prison time, but it did not prevent him from receiving a dismissal.[8]

In late 2007, Ashby and Schweitzer asked for a re-examination of their trial and clemency, challenging their dismissals in order to be eligible for military benefits. On this occasion, they claimed that during the first trial the prosecutor and the defense secretly agreed to drop the involuntary manslaughter and negligent homicide charges, but to keep the obstruction of justice one in order to satisfy the requests coming from Italy. The appeal of Schweitzer was denied in November 2007.

By February 1999, the victims' families had received 65'000 USD per victim as immediate help by the Italian Government (a sum that was immediately paid out by the autonomous Trento Province), which was reimbursed by the US Government. In May 1999, the US Congress rejected a bill that would have set up a 40 million USD compensation fund for the victims.[9] In December 1999, the Italian legislature approved a monetary compensation plan for the families (1.9 million USD per victim). NATO treaties obliged the US Government to pay 75% of this compensation, which it did.

The 1951 London Agreement: A Flawed Legal Instrument

According to Article VII, paragraph 3, sub-paragraph *a*, of the "Agreement between the parties to the North Atlantic Treaty regarding the Status of their Forces (SOFA)" signed in London on 19 June 1951, the offence, although

8 Wald, Matthew L., "Jury Sentences Marine in Ski-Lift Incident to Dismissal," *The New York Times*, 3 April 1999, p. A 10.

9 Farkas, Alessandra and Martirano, Dino, "No ai risarcimenti per il Cermis," *Il Corriere della Sera*, 15 May 1999, p. 16. See also Latella, Maria, "D'Alema-Clinton: l'ombra del Cermis," *Il Corriere della Sera*, 5 March 1999, p. 2.

committed by US military during an official mission fell under the jurisdiction of the United States.[10] In fact, in the case where the right to exercise jurisdiction is concurrent:

> The military authorities of the sending State shall have the primary right to exercise jurisdiction over a member of a force or of a civilian component in relation to (i) offences solely against the property or security of that State, or offences solely against the person or property of another member of the force or civilian component of that State or of a dependent; (ii) offences arising out of any act or omission done in the performance of official duty.[11]

However, Article VII, paragraph 3, sub-paragraph *c*, contemplates the hypothesis of the Primary Jurisdiction State's renunciation. In fact, the then Italian Justice Minister, Giovanni Maria Flick, addressed this kind of request to the US Government, explaining to Washington that the need of conducting the trial in Italy was due to the havoc, and consequent mistrust, spread among the Italian population. Notwithstanding the above-mentioned request, on March 13, 1998, the US officially informed Italy that it would not renounce its jurisdiction over the *Prowler*'s pilots and crew responsible for the disaster.
The following May, the US Navy Judge Advocate General (JAG),[12] charges only the pilot, Captain Ashby, and the co-pilot and/or navigator, Captain Schweitzer, freeing the other two crew members, Captain Seagraves and Captain Raney, of all charges. Ashby's trial, where he is charged with twenty counts of involuntary manslaughter and negligent homicide, and with two counts of destruction of private and federal property, starts on February 9, 1999 in front of JAG. On 9 March 1999, Ashby is acquitted. Only the reimbursement and reparations for the victims remains open. In fact, Article VIII, paragraph 5, sub *e*, of SOFA states that:

> Claims (…) arising out of acts or omissions of members of a force or civilian component done in the performance of official duty, or out of any other act, omission or occurrence for which a force or civilian component is legally responsible, and causing damage in the territory of the receiving State to third parties, other than any of the Contracting Parties, shall be dealt with by the receiving State in accordance with the following provisions (…): (e) The cost incurred in satisfying claims (…) shall be distributed between the Contracting Parties, as follows: (i) *Where one sending State alone is responsible, the*

10 Status of Forces Agreement (SOFA), Official Document Collection, NATO e-library. Available: www.nato.int/cps/en/natolive/official_texts_17265.htm.
11 *Ibid*.
12 The Judge Advocate General's Corps (JAG) is the legal arm of the US Navy (http:// www.jag.navy.mil).

> *amount awarded or adjudged shall be distributed in the proportion of 25 per cent chargeable to the receiving State and 75 per cent chargeable to the sending State* (emphasis is mine).[13]

Yet, the lack of a criminal court and/or trial in Italy, blocks the possibility for the families of the victims to ask for damages (as an active subject of the legal *iter*). This leaves them only the possibility of a civil trial. Moral impact and political consequences aside, we have to put Captain Ashby's acquittal into a legal context.

The proceedings followed the London Agreement to the letter (Article VII). Yet, one can notice how the USA tried to exercise its jurisdiction not only for the military personnel flying on the Prowler but also for one of the air base officers investigated in a second phase. The latter, responsible for Aviano Airport's flight schedule and air control, was accused of false testimony.[14] It seems impossible that this offence (false testimony) can be committed only while on an official mission. Yet, historically, Italy had always had a soft-touch attitude vis-à-vis the USA, especially for the definition of the pertinence or not of the state of duty.[15] This attitude has been corroborated by the 1957 Italian Defence Departmental Order No. 786/357, where the "determination of the circumstance is made by the command on which the military depends, an authority that will have to send an official and specific declaration to the judicial authority in order to state the above-mentioned circumstance."[16] Additionally, nothing prevents the activation of the procedures for the revision of SOFA. In fact, Article XVII, states that a request addressed to the Atlantic Council is sufficient.[17]

Article VII, paragraph 9, contains a clear enunciation of the unalienable rights of the accused person on trial in the receiving State:

> Whenever a member of a force or civilian component of a dependent is prosecuted under the jurisdiction of a receiving State he/she shall be entitled:
>
> a. to a prompt and speedy trial;
>
> b. to be informed, in advance of trial, of the specific charge or

13 Status of Forces Agreement (SOFA).

14 The charge against the officer was dismissed before a preliminary JAG court, and he was fully acquitted.

15 The rule of the exclusive pertinence of the sending State's authority concerning the qualification and definition of the activity of the military undergoing criminal proceedings answers undoubtedly to logical criteria and to protect the internal organization of the armed force. Yet, the prevention of possible abuses is also logical. Hence, many States abide by this tendency. See Paolo Foppiani's JD thesis, *Le basi militari all'estero. La NATO e il SOFA: giurisprudenza e dottrina* (Piacenza: Università Cattolica del Sacro Cuore di Gesù, 1999), p. 105.

16 *Ibid*.

17 In 1999, MP Valdo Spini, Chairman of the Italian Low Chamber Defence Committee, suggested to give the receiving State the priority right in the exercise of its jurisdiction on a military or civilian, in case of civilian accidents (e.g., a car crash) or, however, in those not related to national security. See also Umberto Rosso, "Italia-Usa: ecco gli accordi," *La Repubblica*, March 12, 1999.

charges made against him;
c. to be confronted with the witnesses against him;
d. to have compulsory process for obtaining witnesses in his favour, if they are within the jurisdiction of the receiving State;
e. to have legal representation of his own choice for his defence or to have free or assisted legal representation under the conditions prevailing for the time being in the receiving State;
f. if he considers it necessary, to have the services of a competent interpreter; and
g. to communicate with a representative of the Government of the sending State and when the rules of the court permit, to have such a representative present at his trial.[18]

The above paragraph has been conceived to standardize different legal systems such as the Anglo-Saxon, Common Law system and the Civil Code continental one. These principles, such as that of a prompt and speedy trial, are known in all democracies and they are often enunciated in other documents such as, for example, the 1950 European Convention on Human Rights. Instead, paragraph 8 of the very same article, firmly points out the famous concept *ne bis in idem*; i.e., the defendant, tried according the definitions given in Article VII, if he/she has been acquitted or is serving or has already served a term in prison after having been sentenced, he/she cannot be tried and sentenced again in the very same territory and for the very same crime by the authorities of the other (receiving or host) State.

The main idea on which Article VIII of the London Agreement is based is the renunciation of all member States, in all their reciprocal relationships, to the right of reparation for damages caused to their own goods/properties by the activity of the allied armed forces, and the substitution in the relationships with the damaged party, of the receiving State with the sending State of the armed forces re: the damages caused to third parties[19] during the carrying out of official duties.[20]

However, the above-mentioned renunciation, according to paragraph 2, in case of damage caused or arising from as stated in paragraph 1 to other property owned by a Contracting Party and located in its territory, "the issue of the liability of any other Contracting Party shall be determined and the amount of damage shall be assessed, unless the Contracting Parties concerned agree otherwise, by a sole arbitrator selected in accordance with sub-paragraph *b* of this paragraph. The arbitrator shall also decide any counter-claims arising out of the same incident."[21]

18 SOFA.
19 Be they persons or companies/organizations.
20 As for controversies regarding contractual damages, paragraph 5 explicitly excludes them from the discipline of Article VIII.
21 *Ibid*.

It is so necessary to thoroughly circumscribe the cases in which this special arbitrator applies: the damaged/receiving State will be able to obtain reparation from the sending State of the responsible armed forces, not only in the hypothesis in which the reimbursable damages concern goods not used by the receiving State's goods, but also those goods located in its territory, which although used by its own armed forces are not caused within the condition framework of paragraph 1, subs *a* and *b*.[22]

The above arbitrator has an international character. The arbitrator is selected by agreement between the Contracted Parties concerned amongst the citizens of the receiving State, who hold or have held high judicial office or in absence of such agreement, by the Chairman of the North Atlantic Council Deputies. Additionally, the arbitrator decides both on the responsibility of the convened State for the reparation and on the *quantum* to be reimbursed, and his/her decision is binding and conclusive upon the Contracting Parties.[23] Yet, re the quantum, also the arbitrator abide by the general rules on the distribution of the reparation of the damage established by paragraph 5, sub *e*: 25 percent chargeable to the receiving State and 75% chargeable to the sending State.[24]

Generally speaking, and outside the SOFA sphere of competence, what does or should happen, in time of peace, to a company or person who has been damaged by the illegal action of a military serviceperson belonging to a foreign armed force while on duty in the receiving State? Public International Law, basing itself on the principle that exempts the sending State from civil jurisdiction, at least for *jure imperii* actions, does not guarantee any protection by the judicial power of the very same receiving State (and the State of citizenship/residence of the damaged person or company). The only way to obtain protection is to institute diplomatic protection: every citizen can ask her/his country to take up on her/his behalf her/his damage/justice request as the State may judge most plausible, even to the point of creating an international controversy.

The solution is easier if the damage caused by the foreign power, and its personnel, on national soil remains in the exclusive sphere of its private capacity, notwithstanding its official duties. Of course, if this is the case, the jurisdictional immunity does not apply. Yet, another exception exists, again very disenchanting for the victims of the foreign power offence or crime: the prohibition of any executive action towards the member of the foreign power's armed force.

SOFA Article VIII tried to modify the regimen of extra-contractual damages caused in time of peace by the foreign military to persons or companies.

22 For instance, the damages caused by an off-duty military serviceperson belonging to a foreign, armed force or by a vehicle/aircraft/ship of the same force used outside NATO missions, until it does not result in the contrary.

23 Foppiani, Paolo, *Le basi militari all'estero. La NATO e il SOFA: giurisprudenza e dottrina*, Università Cattolica del Sacro Cuore di Gesù, Piacenza, 1999, p. 107.

24 This is valid only if one sending State is responsible. Paragraph5, sub *e*, establishes also the case in which the responsibility is shared by more than one State.

In fact, the norm distinguishes two hypotheses: 1) Claims[25] arising out of acts or omissions of members of a force or civilian component done in the performance or official duty, or out of any other act, omission or occurrence for which a force or civilian component is legally responsible (par. 5); 2) Claims against members of a force or civilian component arising out of tortuous acts or omissions in the receiving State not done in the performance of official duty (par. 6) or arising out of the unauthorized use of any vehicle of the armed services of a sending State.[26]

In the first case, par. 5's procedure involves the division of the damage claims between sending State and receiving State as stated *supra*.[27] The damaged citizen can sue/act in the case the sending State is implied, not against the latter, rather against the receiving State. The responsibility of the receiving State applies, and incurs the debt towards the victim, but maintaining the right to be reimbursed by a quota of the paid sum. Among other things, par. 5, sub *c*, states that such payment, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of the receiving State, or the final adjudication by such a tribunal denying payment, shall be binding and conclusive upon the Contracting Parties; i.e., the sending State must reimburse the receiving one.

On the other hand, in case the damage results from extra-functional activity or off-duty actions of the foreign armed force personnel or from the unauthorized use of the latter's vehicle, the responsibility falls solely on the single member of the armed force. Consequently, the victim could sue just this person and bring her/him to a national court of the receiving State. Yet, Article VIII, par. 6, provides that the sending State may offer the victim a spontaneous and kind offer of claim for damages that, if accepted with full satisfaction, prevents the victim's subsequent judicial request for other indemnities. It is noteworthy that in paragraph 9, where the single members belonging to the foreign armed forces, as far as their private life and acts committed when

25 Claims, other than contractual claims, and those to which paragraphs 6 or 7 of Art. VIII apply.

26 Additionally, Art. VIII, par. 8, states that if a dispute arises as to whether a tortuous act or omission of a member of a force or civilian component was made while performing official duties or, as to whether the use of any vehicle of the armed services of a sending State was unauthorised, the question shall be submitted to an arbitrator appointed in accordance with par. 2, sub *b*, of this Article, whose decision on this point shall be final and conclusive. Yet, this arbitrator is different from that mentioned in par. 2, because she/he has different tasks. There is indeed an unsolved controversy on the nature of this arbitrator. According to one theory, she/he is an international arbitrator as that of par. 2; another theory affirms that this kind of arbitration has to be considered in the framework of the internal judgment suggested by a third Party to ask for reparation and so subjected to influence directly on the above-mentioned judgment by the means of the preliminary question concerning the functional nature of the offence/crime and its consequent passive legitimization of the receiving State vis-à-vis the legal action of the victim. However, this arbitration (an arbitration that can always be avoided by agreement of the two States) eliminates all chances for the victim to defend her/his own interest to affirm the responsibility of the receiving State both before a national judge (subject to the arbitrator) or an arbitration committee. N. B. Here, one sees the incompatibility of SOFA with the Italian Constitution, whose Article 24 guarantees to all the right to defence.

27 In short, 25% to be paid by the receiving State and 75% to be paid by the sending State.

off-duty, cannot appeal for immunity from the national jurisdiction of the receiving State. In fact, par. 9 states that the Contracting Parties:

> Shall not claim immunity from the jurisdiction of the courts of the receiving State for members of a force or civilian component in respect to the civil jurisdiction of the courts of the receiving State, except to the extent provided in paragraph 5, sub-paragraph *g* of this Article.[28]

Yet, this norm does not apply in case of the hypotheses stated in paragraph 5, sub *g*, where one reads that:

> A member of a force or civilian component shall not be subject to any proceedings for the enforcement of any judgment given against him in the receiving State in a matter arising from the performance of his official duties.[29]

In conclusion, the formal admissibility of the legal action of the victim or Third Party, does not always correspond to a substantial protection of the latter's own right to obtain the effective compensation for damages and, most importantly, to assert one's right and interest to state the responsibility, towards her/him, of the receiving State. The limits of a judicial sentence are a self-evident truth without any enforcing element.

Among the other SOFA Articles, we must turn our attention to another important one, Article XVII, concerning the revision of the London Agreement, because many political actors, from Leftist to Rightist parties, felt the need to ask the revision of SOFA, especially the notorious Article VII:

> Any Contracting Party may at any time request the revision of any Article of this Agreement. The request shall be addressed to the North Atlantic Council.[30]

However, this article does not block a partial revision of the treaty by the means of multi-lateral agreements between the Contracting Parties, as established in SOFA preamble. The revision is, indeed, different from a denunciation of the treaty.[31] And this possibility is well regulated by Article XIX, although up to the present days SOFA denunciation has been a purely academic hypothesis. France, which withdrew from NATO in the 1960s, never started the denunciation proceedings provided for by Article XIX. Charles de

28 SOFA.
29 *Ibid*.
30 Ivi.
31 This denunciation is possible only after a period of four years, following the implementation of the London Agreement, by means of a written notification to be submitted to the US Government.

Gaulle's "Empty-chair Policy" applied both to the EC and NATO, because France Chief Executive wisely chose to go into exile without abdicating his privileges within the Trans-Atlantic and European organizations.

A Political Innuendo

Cermis, a despicable and bloody episode, indeed, caused another setback to US-Italian relations, in a period where the then Italian PM, former Communist Massimo D'Alema, was trying to earn a reliability passport within Washington and the Atlantic Alliance. Besides, the Cavalese incident added fuel to the already tense relations between Washington and Rome, a tension that began to rise after another air (military) incident: the Ustica Massacre.[32] This tension has not ended yet, because another military incident, this time on the ground, occurred recently in Iraq, where miscommunication, Italian Secret Service

32 On June 27, 1980, at 8:59 PM CET, Aerolinee Itavia Flight 870, a civilian airplane, went off in the sky above the Tyrrhenian Sea near Ustica Island (Palermo Province), 80 miles southwest of Naples. All 81 people on board were killed (Captain Domenico Gatti, First Officer Enzo Fontana, two flight attendants, and 77 passengers). The ill-fated McDonnell Douglas DC-9-15 left Guglielmo Marconi Airport, Bologna bound for Punta Raisi (and Giovanni Falcone and Roberto Borsellino) Airport, Palermo, at 8:08 PM CET- two hours late. Two Italian Air Force (AM) F-104s were scrambled at 9:00 PM CET from Grosseto Air Force Base (Southern Tuscany) to locate the accident area and to spot any survivors, but they failed due to lack of visibility. After years of investigations, no official explanation or final report, has been provided by the Italian Government. In 1989, the Parliamentary Commission on Terrorism, headed by Senator Giovanni Pellegrino, issued an official statement concerning the disappearance of Flight 870, which thus became known as the "Ustica Massacre" (*Strage di Ustica*). The definitive sentence asserted: "The DC9 incident occurred following a military interception action, the DC9 was shot down, the lives of eighty-one innocent citizens were destroyed by an action properly described as an act of war, real, undeclared war, a covert international police action against our country, which violated its borders and rights." The perpetrators of the crime remain unidentified. The court, unable to proceed further, declared the case closed. However, major sources in the Italian media have alleged over the years (e.g., in the pages of the weekly magazine *L'Espresso* and in those of the daily newspaper *La Repubblica*) that the plane was shot down during a dog fight involving Libyan, US, French, and Italian, Air Force fighters in an attempted assassination by NATO members of an important Libyan politician, possibly Colonel Muammar al-Gaddafi who was flying in the same airspace that evening. Gaddafi has always denied being in the area of the accident that evening. Yet, in 1999, prosecutor Rosario Priore supported this version of the facts. The latter's concluding report stated that the investigation had been deliberately obstructed by the Italian military and secret service agents in compliance with NATO requests. The media also reported that radar monitoring released in 1997 by NATO showed that at least seven fighter aircrafts were in the vicinity when the jet plunged into the sea. According to these sources, the radar shows one or two Libyan MiG-23s had tried to evade detection by flying close to the airliner. Three Aeronautica Militare F-104S, one US navy Air Force A-7 *Corsair II*, and one Armée de l'Air *Mirage* F1C-200, pursued the Libyan MiG-23, and a battle ensued. On July 18, 1980, according to eye-witness and official reports, three weeks after the disaster, a Libyan MiG-23 crashed on the Sila Mountains (Castelsilano, Calabria). Media speculation implying that the plane may actually have been discovered at that time, and that the pilot's body was decomposed, caused allegations that the MiG-23 may have been shot down at the time of the Flight 870 incident. On June 23, 2008, Rome prosecutors reopened the investigation into the crash after former Italian President Francesco Cossiga said that the aircraft had been shot down by French warplanes. On July 7, 2008, a claim for damages was served to the French President.

See Babington, Deepa and Elgood, Giles, "Italy reopens probe into 1980 plane crash-media," *Reuters*, June 22, 2008 (http://uk.reuters.com/article/idUKL2264892420080622).

See also McMahon, Barbara, "The mystery of flight 870," *The Guardian*, July 21, 2006, and the online dossier published by *La Repubblica* on 1 September 1999 (http://www.repubblica.it/online/fatti/ustica/giudizio/giudizio.html).

pride, US arrogance and stubbornness, and a fatal error, caused the death of an Italian agent and the injury of another: the Calipari Case.[33]
These two episodes should be analyzed not only under a vassal-and-prince relationship, where the US always has its way with the Italians, but also with a sort of political innuendo that the Cermis case's outcome was a barter between the then PM Massimo D'Alema and President Bill Clinton concerning the extradition of convicted (presumed) terrorist Silvia Baraldini.[34]
The release of Ms. Baraldini, in connection with the NATO summit for its 50th anniversary, Clinton-D'Alema talks, and the release of the Prowler's pilot, Captain Ashby, fueled the suspicion of an agreement to settle the Cermis matter on a *quid pro quo* basis.

In conclusion, since the unfair 1947 Peace Treaty, which officially ended the Italian reckless adventure in World War II at the expense of the Italian citizens living in Istria and Dalmatia, and since the implementation of the European Recovery Programme, the relations between Rome and Washington have always been characterized by a US Big-Brother attitude. If one excludes the 1985 episode where PM Bettino Craxi raised his voice (literally and broadly speaking)[35] with President Ronald Reagan to stop a US commando operation in Sicily to arrest Palestinian terrorists,[36] post-war Italy has always been

33 On March 4, 2005, Italian SISMI officer and Police Major General Nicola Calipari, deputy director of the Italian military intelligence and director of overseas operations, was killed by US Army/NY National Guard Sergeant Mario Lozano in Baghdad while crossing a road block aboard a civilian automobile, having just rescued the journalist Giuliana Sgrena, who had been kidnapped by Iraqi terrorists the previous month. The driver, SISMI officer, Carabinieri Major Andrea Carpani and *The Manifesto* journalist were injured. SOFA protection system applied here too and Sgt. Lozano was put on trial in the US, but the Italian Government could send a military-diplomatic duo to attend the trial as mere auditors. Actually, Minister Plenipotentiary Cesare Ragaglini and Alpine Brigadier General Pierluigi Campregher were officially part of the US-Italian investigative committee, but with a limited status. See RAI history programme, *La Storia siamo noi* by Gianni Minoli on Calipari's death (www.lastoriasiamonoi.rai.it/puntata.aspx?id=146).

34 In 1983, Silvia Baraldini, an Italian-American political activist of the 1970s and 1980s and member of the extreme left movement's *19th May* and *Black Panther Party*, was sentenced to a total of 43 years in prison for assisting the evasion of a terrorist, subversive association, two attempted hold-ups, and contempt of court. The sentence was indeed very hard. In 1999, thanks to the intervention of PM D'Alema, she was extradited to Italy, where she was finally pardoned on 26 September 2006. Her return to Italy caused many polemics, especially in light of what happened after the Cermis Disaster, because the Italian Government had to guarantee that the Italian Court of Appeals would have fully accepted the US sentence not to shorten Baraldini's term. So, Baraldini was not judged in Italy for crimes committed in the US, but only extradited to Italy to serve her prison term in the Boot.

See the US Department of Justice's statement on Baraldini's extradition dated 24 August 1999, (www.justice.gov/opa/pr/1999/August/375crm.htm).

35 See Foppiani, Oreste, "I segreti della politica estera: l'Italia e gli altri. Intervista al senatore Giulio Andreotti," *Il Politico*, Anno LXVI, January-April 2001, No. 1, Issue 196, p. 79-84.

36 On 7 October 1985, four members of the PLF (Palestine Liberation Front) hijacked the Italian cruise liner *Achille Lauro* as she was sailing from Alexandria to Port Said. Holding the passengers and crew hostage, they headed to Tartus, Syria and asked for the release of fifty Palestinians- then in Israeli prisons. After being refused permission to dock at Tartus, the hijackers murdered a disabled US-Israeli passenger, Leon Klinghoffer and threw his body overboard. The ship headed back to Port Said, and after two days of negotiations, the hijackers agreed to abandon the liner in exchange for safe passage and were flown towards Tunisia aboard an Egyptian commercial airliner. Yet, President Reagan, after knowing of the murder of a US citizen on October 10, ordered that the plane be intercepted by F-14 *Tomcats* of Carrier Air Wing 17 based on the aircraft carrier *USS Saratoga* and

subjugated to its Atlantic partner and provider of military security.
The Ustica, Achille Lauro, Cermis, and Calipari cases are only the tip of the iceberg; that is why a thorough reform of the organizations conceived after World War II and during the Cold War (i.e., North Atlantic Treaty and United Nations Organizations), is necessary in light of a renewed and strengthened Trans-Atlantic partnership between the EU and the US.

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directed to land at Naval Air Station Sigonella, a NATO base in Eastern Sicily (Catania Province), where the hijackers were arrested by the Italians after a clash between Rome and Washington. The other passengers on the plane (possibly including the leader of the PFL commando group, Abu Abbas) were allowed to continue on to their destination despite strong protests by the United States. PM Craxi claimed Italian territorial rights over the NATO base. Consequently, Italian Air Force and Carabinieri troops lined up facing the US Navy SEALs (which had arrived with two C-141s) running the risk of shooting each other. It was the gravest diplomatic crisis between Italy and the US since the end of World War II and was resolved five hours later. Craxi won over Reagan, but for once, the latter's Big-Brother policy failed.

See Heymann, Philip B., *Terrorism and America: A Commonsense Strategy for a Democratic Society*, MIT Press, Cambridge (MA), 2001.

See also Berman, Daphna, "Klinghoffer daughters recall personal tragedy at commemoration of terror victims outside Israel," *Haaretz*, 24 December 2006.

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The Downing of President Habyarimana's Plane

Lt Col (GS) Hans-Jakob Reichen

Swiss Armed Forces General Staff School

On 6 April 1994, Rwanda's President Juvenal Habyarimana and Burundi's President Cyprien Ntaryamira were returning to Kigali aboard a Dassault *Falcon 50* business jet, piloted by a French crew. They had attended a conference in Tanzania, concerning the situation in both countries. During the approach to Kigali International Airport at 8:20 PM, at least two missiles struck the plane. The aircraft exploded and crashed, killing all on board.
The next day, most of the moderate Hutu politicians were killed in addition to ten Belgian peacekeepers. The peacekeepers had been guarding Prime Minister Agathe Uwilingiyimana, who was killed later in the day. A few days thereafter, a military Junta led by Colonel Theoneste Bagosora seized power from a crisis committee, which had been hastily assembled.
Three months later, over 800'000 Tutsis were dead. Six months later, the Rwandese Patriotic Front (RPF) was in power and over a million Hutu refugees had fled to the Congo (then Zaire), destabilizing the region to this day. Although it is accepted that the genocide was planned years in advance, both the perpetrators of the attack as well as their intentions remain unknown.

Background

Rwanda, a small, densely populated country has had a troubled history. Its population is split ethnically between the Hutus (approximately 85% of the population) and the Tutsis (approximately 15%). Belgium, the colonial power, based its rule on the Tutsis minority, who were considered "racially" superior. In 1960 a Hutu, Grégoire Kayibanda, took power. Hundreds of thousands of Tutsis were forced into exile in the neighboring countries. In 1973, Juvénal Habyarimana seized power. In the late 1980's, the Tutsi Diaspora was thoroughly organized and had helped Uganda's Yoweri Museveni come to power in his country. The end of the Cold War, the slumping economy

and calls from France for greater democracy in Francophone Africa increased ethnic and political tension in the beginning of the following decade.
On 1 October 1990, the RPF, a Tutsi rebel group, attacked Rwanda from bases in Uganda. Later during the offensive, Paul Kagame took over leadership of the RPF. The president of Rwanda, Juvénal Habyarimana, immediately asked France and Zaire for support. The attack was eventually repelled with the support of French troops. Fighting continued until a cease-fire was signed in Arusha in July of 1992. Political talks began in September of the same year. However, President Habyarimana was under constant pressure from all sides: moderate Hutus and Tutsis demanded faster democratization, the RPF wanted more political power handed over, extremist Hutus refused power sharing with the Tutsis, and the President's own clan wanted to retain power for as long as possible. In October 1993, the United Nations (UN) established its peacekeeping mission under the command of Canadian Lieutenant General Romeo Dallaire.

In 1993, violence, virulent propaganda and political maneuvering continued to widen ethnic divisions. In late October, the Tutsi-led army murdered the Hutu president in neighboring Burundi. Tens of thousands of Burundians died in the following months. Many Hutus in Rwanda were therefore convinced that Tutsis would not share power, causing the numbers of extremist militias to swell.
Meanwhile, Hutu leaders were organizing the attack against the minority, which consisted of recruitment, training and weapon distribution. Aware of these preparations, the RPF violated the peace accords and increased the number of their soldiers and firearms in Kigali. By late-March 1994, extremist Hutu leaders were prepared to slaughter massive numbers of Tutsi and Hutu moderates, shattering the peace agreement in the process, in order to rid themselves of opponents.

Analysis

Three factors for assessing threat are the capabilities, intent and desired outcome of the various actors. Habyarimana's plane was shot down by surface to air missiles from a location near the Kigali airport. The area was closed down by the Rwandan Army, which stated that it had recovered two launchers, identified as SA-16s. Besides barring crash investigators from the site, the Rwandan military turned down an American offer for technical aid and did not conduct its own investigation.
Successfully launching such a weapon requires a certain level of training. Even though the Hutu government tried to accuse Belgian soldiers of firing the weapons, there are four possible actors who could have managed the

attack: the RPF, extremist Hutus, a small nucleus of powerful French individuals or Habyarimana's political rivals. The RPF had the training to launch missiles, and their ally, Uganda, had access to such weapons. The RPF had a battalion stationed in Kigali. Extremist Hutus had the easiest access to the launch area and could have access to training through mercenaries or French personnel. France had military personnel supporting the Rwandan government, which could have conducted the attack. Suggestions have been made that the missiles had been captured in 1991 by the French Army in Iraq. Finally, the RPF, the French or mercenaries could have supported political rivals of Habyarimana.

Certain indicators point in the direction of three possible actors. The former French Minister of Cooperation, Bernard Debré, asserted that records of RPF communications suggest that troops started moving towards Kigali before the plane was shot down. There are indications that Bagosora and some military elements knew something was up beforehand. Presidential Guard troops had put up barricades before the plane was shot down, and shootings and killings started almost immediately after the crash. A few elements suggest a link to French actors. Even though a French crew piloted the plane, the French Government didn't immediately start an investigation. Two French Gendarmes -supposedly communication experts- were killed by the RPF on 8 April in a house near the airport. François de Grossouvre, a presidential adviser on African affairs, committed suicide on 7 April.

Looking at the intent and purpose, the RPF, politicians opposed to Habyarimana and extremist Hutus all might have wanted to eliminate the Rwandan president. The RPF could have killed him to stop his delaying of the accords or, conversely, because they thought they had more to win through a military campaign.

Some opponents might have thought the only way to stop the planned killings was to kill Habyarimana. The Hutu extremists refused to accept the peace accords and were probably ready to kill the president in order to stop the peace accords and start their planned massacres immediately. It is harder to define what intent a small French nucleus could have had, other than to simply eliminate a leader who was no longer of use to them.

With regards to the outcomes, the president's assassination was catastrophic for his political opponents. Most of them were slaughtered in the following days. France lost influence in the area and still faces international blame for its political and military implication. The Hutu hardliners were able to carry out their planned genocide. However, they lost the war against the RPF and had to leave Rwanda a few months later. The RPF were able to seize the moral high ground and freely conduct military operations. They have had a hold of

the country since 1994.

Conclusions

Considering capabilities, intent and outcome a number of conclusions can be developed. The political opponents were not prone to violent methods and paid dearly in the immediate aftermath of the assassination. French implication is possible from a capabilities point of view; however, the lack of intent renders this explanation unlikely. The Hutu hardliners were the first benefactors of Habyarimana's death; however, they were unable to achieve any of their long-term objectives. In the end, it seems that the RPF had the best mix of capabilities, intent and long-term goals.

Investigations

Many reporters have investigated the incident. However, most of their conclusions are in line with their understanding of the genocide.
In 1998 the French judge Jean-Louis Bruguière started to investigate the crash of Habyarimana's plane. In 2006, his investigations concluded that the RPF was responsible, and he indicted several important people linked to the Rwandan Government then in power.[1] As a result, Rwanda severed diplomatic relations with France. The quality of his investigation, however, has been questioned due to the fact that his interpreter was linked to Félicien Kabuga, who has been indicted by the International Criminal Tribunal for Rwanda (ICTR). It appears that Bruguière also worked with Paul Barril, who had close ties with the Habyarimana regime. One of the main witnesses, Abdul Ruzibiza, who later claimed to have been part of the RPF unit, which shot down the plane, has recently denied any implication.[2]
The attack on Habyarimana's plane remains an unsolved mystery. As long as France and Rwanda are unable to iron out their political differences, it is unlikely that a definitive answer will be found. In order for the truth to come out, it may be necessary for the ICTR to investigate Habyarimana's murder: the trigger of the Rwandan genocide.

1 Ayad, Christophe, Hofnung, Thomas, "Attentat du 6 avril 1994 : Bruguière accuse Kagame," *Libération*, 21.11.2006, http://www.liberation.fr/monde/010166983-attentat-du-6-avril-1994-bruguiere-accuse-kagame (all websites last consulted: 4.04.2010).
2 Marsaud, Olivia, "Le juge Bruguière démenti par l'un de ses témoins-clés," RFI, 4.12.2006, http://www.rfi.fr/actufr/articles/084/article_47956.asp

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TERRORISM BETWEEN WAR AND PEACE

Terrorism and the Airline Industry

Daniel Stanislaus Martel

Aerospace researcher and journalist

"We are diverting according to company instructions." The controller replied (…) "Please explain message EL AL 426" (…) The response from the aircraft crackled across the skies (…) "Rome! Rome! This is Al Jiddah 707. This was EL AL 426. Here speaking is the Palestine Liberation Organization."[1]
Why was this Israeli flight diverted by force in 1968 – as were many more? Who were the people who did this – and who have done it again? How do they operate? How can we defend ourselves against them? The following contribution looks into these questions. First, it outlines the three characteristics that make air transport an attractive target. Next it gives an overview of terrorism. Finally it approaches defensive action.

Why has air transport become a target of choice?

Several factors make air transport an ideal target for terrorism. They are of an economic, political and systemic nature. From an economic perspective, aircrafts are assets for operators and investors. Any depreciation destroys capital.[2] More than 2.2 billion passengers are counted every year. Air transport also enables other activities such as airmail or logistics. Over 44 million tons of freight are hauled annually. This represents 35% of interregional exports of goods by value. In 2007 airlines and airports offered 5.5 million jobs worldwide.[3] The global impact of civil aviation was some USD 3.557 billion or 7.5% of the world Gross Domestic Product (GDP).[4]
Next, the government has a stake in air transport. Legal, institutional, or procedural initiatives presuppose complex negotiations. Changes shape the system only after individual and institutional learning processes.[5]

1 Sherman, Arnold, *To The Skies: The EL AL Story*, Bantam Books, Toronto/New York/London, 1972, p. 145.
2 Ashwood, Thomas M., *Terror In The Skies*, Stein & Day Publishers, 1987, p. 38.
3 Air Transport Action Group, *The Economic And Social Benefits Of Air Transport 2008*, ATAG, Geneva, 2008, p. 3-5.
4 *Ibid*., p. 5.
5 Enders, Walter and Sandler, Todd, *The Political Economy Of Terrorism,* Cambridge University Press, Cambridge (MA), 2006, p. 90-110.

Governments rely on aviation as an infrastructure. One example is the exchange of overseas mission personnel. Through the International Civil Aviation Organization (ICAO), air transport has become an issue for the United Nations (UN).[6]

Air transport has additional particularities. Aircraft are fragile, owing to their engineering and environment in which they operate.[7] Two hundred grams of explosives bring down a jetliner.[8]

Disturbances from terrorist acts create ripple effects well beyond air transport.[9] It offers other advantages to attackers. Any terrorist act puts the targeted state under pressure.[10] Terrorists can challenge countries outside of national borders.[11] Defensive measures have led to a considerable resource drain from air transport actors and governments. Media coverage offers a worldwide audience to the terrorists.[12]

Terrorism represents a permanent risk. The current world of which air transport is a part influences national governments and international organizations. Among the latter are those involved in air transport governance. One of their responsibilities is to approach risks affecting aviation. Loyalty of airline crews and airport ground staff of certain ethnic origins may be one example of these risks. Tension among states is another. Stakeholders monitor and assess such developments through risk analysis.[13] Terrorists have concentrated their efforts on attack patterns, which offer the best compromise between trade-offs and risks of failure. These have included taking air passengers hostage through hijackings, introducing explosive devices on aircrafts, raiding airports, as well as some utilization of man-portable air-defense systems. Each of these schemes has been the result of a learning process, which updates as air security measures against terrorist attacks adapt. Successful attacks have inspired new security measures. The subsequent figure summarizes the risk management process against terrorism.

Despite massive efforts, a 100% success rate of the defenses is impossible.[14] For instance, one can never be sure about the loyalty of security staff or the effect of a bribe on a ground handler. New explosives, undetectable with current equipment may be used. Terrorists may disable the people aboard through chemicals released from false bottoms of handbags.[15] Such residual

6 Golich, Vicki L., *The Political Economy of International Air Safety. Design for Disaster?*, St. Martin's Press Inc, New York, 1989.
7 Goetsch, Ernst, *Luftfahrzeugtechnik,* Motorbuch Verlag, Stuttgart, 2002.
8 Ashwood, Thomas, *Op. Cit*., p. 38.
9 Morrison, Steven and Winston, Clifford, *The Evolution of the Airline Industry*, The Brookings Institution, Washington D.C., 1995.
10 Ashwood, Thomas M., *Op. Cit*., p. 41.
11 *Ibid*., p. 41.
12 *Ibid*., p. 41.
13 Wallis, Rodney, *Combating Air Terrorism*, Brassey's, Washington/New York/London, 1993, p. 65-95.
14 McGuire, Keith, "Sharing The Knowledge Of Experience," *ISASI Forum,* April-June 2003, p. 22-23.
15 Naudin, Christophe, *Sûreté aérienne. La grande illusion*, Editions de la table ronde, Paris, 2007, p. 71-74.

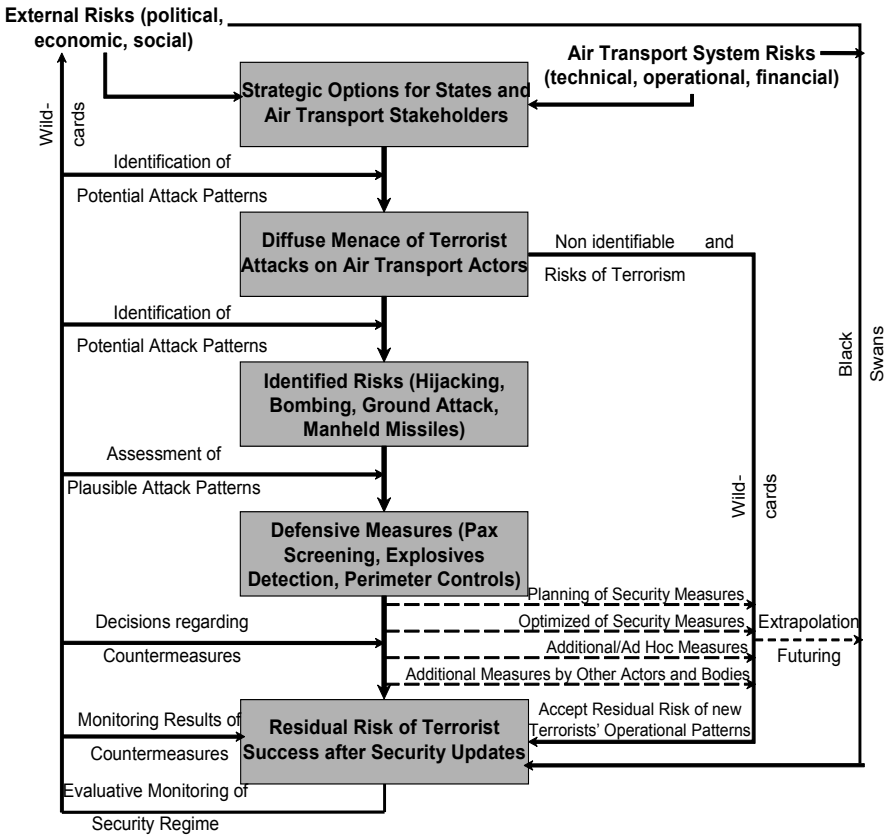
risks - "known unknowns" - or wildcards have to be accepted as part of the global risks of air transport.[16]
"Unknown unknowns" are another residual risk. We are not aware of them and therefore cannot predict them. At best, some vague ideas may be outlined. For instance, unemployed IT specialists "too old" to find a new job may be used as unwitting agents under the guise of a consultancy on the security of IT outsourcings of airlines.[17] Such unimaginable surprises are sometimes called black swans.[18] Finally, security measures may have unexpected side effects. For example, metal and explosive detection machines at the security check may encourage an attack through an explosive device triggered at the moment the suitcase in which the explosive is contained is processed.[19]

What is terrorism?

Terrorism can also be approached as a phenomenon, or the way operations are planned can be studied. Both must be put into historical context.
Like any economic activity, air transport has attracted violence. Most of the perpetrators have been criminals with personal motivations. One example was insurance fraud through the murder of a relative with a bomb.[20] In the last 15 years, unruly passengers have become a factor of disturbance. There are various reasons for this behavior; the most quoted are alcohol, stress and dissatisfaction with in-flight service.[21] Attacks have been targeted at airport ground staff, fellow passengers, and cabin and cockpit crews. Again, the aggressors have acted on a strictly personal basis.
Two other groups appear odd at first sight. They are airport and airline personnel and cockpit crews. In all cases, they were frustrated or enraged against their employer and have committed thefts and sabotage.[22] Finally, there have been pilots who have deliberately crashed their aircraft to commit suicide.[23] Even these acts have been unrelated to the political and economic context. The table "Unlawful Interference With Air Transport" reviews the various known acts against airline operations (this table can be found after "Air Security as a Risk Management Process").

16 Fischhoff, Baruch et al., "How Safe is Safe Enough? A Psychometric Study of Attitudes Toward Technological Risks and Benefits," in Slovic, Paul (ed.), *The Perception of Risk*, Earthscan Publications, London/Sterling (VA), 2000, p. 80-103.
17 Naudin, Christophe, *Op. Cit*., p. 78-79.
18 Taleb, Nicholas Nassim, *The Black Swan. The Impact Of The Highly Improbable*, Penguin Books, London, 2007.
19 Thomas, Andrew R., *Aviation Insecurity. The New Challenges Of Air Travel*, Prometheus Books, Amherst (NY), 2003, p. 187-199.
20 Thomas, Andrew R., *Op. Cit*., p. 145.
21 *Ibid*., p. 146-148.
22 *Ibid*., p. 141-142.
23 *Ibid*., p. 142.

Air Security as a Risk Management Process[24]



Source: Author.

Unlike other ill doers, terrorists adhere to a cause. Usually, they are organized. Their motivation is to "deliver a political message" through their act and to maximize their impact.[25]

24 Mueller-Gauss, Uwe, "Durchdringender Prozess. Risikomanagement: Integraler Bestandteil wertorientierter Unternehmensführung," *Sicherheitsforum* 6, 2004, p. 55-57.

Naudin, Christophe, *Op. Cit.*

Petersen, John L., *Out Of The Blue. How To Anticipate Big Future Surprises*, Madison Books, Lanham (MD), 1999, p. 11-19.

Sweet, Kathleen M., *Aviation And Airport Security. Terrorism And Safety Concerns*, Pearson Prentice Hall, Upper Saddle River (NJ), 2004, p. 1-4.

Wallis, Rodney, *Combating Air Terrorism*, Brassey's, Washington/New York/London, 1993, p. 9-64.

Whittaker, David J., *Terrorism: Understanding The Global Threat*, Pearson Education, Harlow, 2002, p. 169-172.

25 Thomas, Andrew R., *Op. cit.*, p. 143-144.

There is no universal definition of terrorism. Air transport professionals and the victims usually qualify terrorists as cowards and criminals.[26] For state officials, "terrorism is the premeditated threat or use of violence by sub-national groups or clandestine individuals intended to intimidate and coerce governments, to promote political, religious or ideological outcomes, and to inculcate fear among the public at large."[27]
They are aware that similar institutions in other countries have tolerated or enabled terrorist activities.[28]

Unlawful Interference with Air Transport[29]

Group	Ways of Interference				
	Aircraft Sabotage	In-Flight Assault	Hijacking	Airport Sabotage and Interference	Airport Assault
Ordinary Criminals	X		X	X	X
Unruly or Disruptive Passengers		X	X		X
Criminal Airline and Airport Professionals	X	X	X		
Suicide Cockpit Crews			X		
Terrorists	X	X	X	X	X

Examples are Iran, Libya, and Syria.[30] Aggressive competition among states has motivated them.[31]
The terrorists see themselves as freedom fighters.[32] In their opinion, the end justifies the means.[33] They often quote the examples of the French and Norwegian resistance of the Second World War.[34] The latter planted explosive devices aboard German aircraft.[35] Like their predecessors contemporary terrorists are motivated by hatred, sacrifice and hope, and plan and execute rationally.[36]
Terrorists attempt to achieve maximum results. This begins with the selection

26 *Ibid*., p. 149.
27 Whittaker, David J., *Op. Cit*., p. 10.
28 Saint John, Peter, "The Politics Of Aviation Terrorism," in Paul and Brian Michael Jenkins (eds.) *Aviation Terrorism And Security*, Frank Cass, London/Portland (OR), 1999, p. 27-49.
29 Ashwood, Thomas M., *Op. Cit*., p. 123-128.
30 Sweet, Kathleen M., *Op. Cit*., p. 81-109.
31 King, John H., "The Evolution Of Global Conflict: From War To Terrorism, And Why." in Vautravers, Alexandre (ed.), *Globalization Of Security Trends And Perspectives. Security Forum 2007*, Webster University Press, Geneva, 2007, p. 37-50.
32 Nance, Malcolm, *The Terrorist Recognition Handbook,* The Lyons Press, Guilford (CT), 2003, p. 8-11.
33 Whittaker, David J., *Op. Cit*., p. 14.
34 *Ibid.*, p. 12-13.
35 Stahl, Peter Walter and Jaeger, Manfred, *Kampfflieger zwischen Eismeer und Sahara. In meinem Fall: Ju-88,* Motorbuch Verlag, Stuttgart, 1995. p. 261-262.
36 Whittaker, David J., *Op. Cit*., p. 76.

of the target. For instance, a Tuesday was retained for the 11th September 2001 attack in New York. On this day more executives and government decision-makers than usual were aboard the targeted flights than any other moment of the week. The World Trade Center was chosen for its symbolic value and the high-level professionals within.[37] The plot of the attack was very professional as well.[38]

Whenever they prepare an operation, terrorists take into account the way air transport works. Hostage takers will always need to overcome the security checks prior to boarding. Such systemic constraints force the terrorists into path dependences when they plan their mission.[39] The ways to execute an operation has no limits others than the terrorists' imagination. For instance, they have used seemingly harmless objects as weapons or transformed aircraft into vectors of mass destruction in 2001.[40] It is always the last successful attack that shapes the defenses. Whenever new security measures render the identified pattern next to impossible, the security regime evolves. Like the aggressors, the defenders attempt to innovate and to disrupt.[41]

But why has terrorism against the airline industry become the menace it is today? As is the case with all social phenomena, the context has motivated those involved. Everywhere in the world, minorities have been oppressed. Some of them have fought back. Examples are the Shining Path in Peru or the FARC in Colombia. All groups are clandestine.[42]

Terrorists from the Middle East have been the most focused on air transport.[43] The reasons for this are found in the regional history.[44] In 1947, the United Nations enabled the state of Israel. Soon, most of the local Arab population left. In the Israeli opinion, they were forced by their leaders to flee. The Arabs have claimed to be victims of ethnical cleansing.[45] The Arabian or Palestinian people settled in refugee camps, which developed into slums and lower middle class dwellings.[46] In 1964, the Palestine Liberation Organization (PLO) was established.[47] Israeli defensive successes against its operations encouraged attacks outside the Jewish territory. After 1968, aircraft became an attractive soft target.[48]

According to specialists, Islam has been a major driver behind Mid-Eastern

37 *Ibid.*, p. 3.
38 *Ibid.*, p. 76.
39 Hoffman, Bruce, "Aviation Security And Terrorism: An Analysis Of The Potential Threat To Air Cargo Integrators," in Wilkinson, Paul and Jenkins, Brian Michael (eds.), *Aviation Terrorism And Security*, Frank Cass, London/Portland (OR), 1999, p. 54-69.
40 Aust, Stefan and Schnibben, Cordt, *11. September - Geschichte eines Terrorangriffs*, Spiegel Buchverlag, Hamburg, 2005, p. 15.
41 Damanpour, Fariborz, "Organizational Innovation: A Meta-Analysis Of Effects Of Determinants And Moderators," *The Academy of Management Journal*, No. 34 (3), 1991, p. 555-590.
42 Newman, Bob, *Guerillas In The Mist*, Paladin Press, Boulder (CO), 1997, p. 5-17.
43 Ashwood, Thomas M., *Op. Cit.*, p. 129.
44 *Ibid.*, p. 130.
45 *Ibid.*, p. 130-132.
46 *Ibid.*, p. 131.
47 *Ibid.*, p. 132.
48 Sherman, Arnold, *Op. Cit.*, p. 155-168.

terrorism. Like Christianity and Judaism, Islam is based on the belief in a supreme being, life in an afterworld, and reward for rightful action.[49] After 1947, the role of Islam increased in the Middle East. In 1979, the revolution in Iran gave it another boost.[50] The Afghan resistance against the Soviets from 1979 to 1989 drew its force from the "holy warriors" who were rewarded for their sacrifice in the afterlife.[51] Another reason behind the rise of Islam as a reference for suicide was the Israeli response to the Palestinian Intifada. After 2002, the Pakistani-sponsored Taliban acted in the name of a renewed Islam.[52] During the same years, the Saudi Osama Bin Laden became a main promoter of this belief.[53] Around the mid-1990s, he established the Al-Qaeda organization. Actions in the name of the faith became more intense and included personal sacrifice.[54]

Who are the individuals who carry out such acts? The leadership is usually assumed by academics from the middle and upper classes with intensive military training in a terrorist-sponsoring state. For them, terrorism is a profession. Under other circumstances, they might have entered a high-level intelligence career.[55] They are responsible for the strategic planning and remain in the background.

A middle stratum is usually made up by academics from the upper middle classes. They have followed traditional military training.[56] Usually, they fall into one of two categories. The first is that of an intellectual, such as a teacher who has been discriminated. He is driven by the hope for a better future for his people.[57] The other is the technocrat. For him, terrorism is again a career. Under other circumstances, he might have become a traditional soldier or police officer.[58] He has no scruples in offering a gift in the form of a hidden bomb to an unsuspecting woman.[59] Such individuals lead operations for organizations such as Al-Qaeda, Hezbollah, or El Fatah.[60]

Finally, there is the lowest stratum, which carries out the missions. A first example is the radical revolutionary or quasi-religious extremist.[61] His origin is mostly lower middle-class, and his education may vary from elementary school to a university graduate. Military training is usually limited. He is driven by hatred, fueled by the desperate situation of his next-of-kin. In a hijacking, he may act as a sleeper among the passengers or direct the fire

49 Whittaker, David J., *Op. Cit*., p. 91.
50 *Ibid*., p. 93.
51 Coll, Steve, *Ghost Wars*, Penguin Books, London, 2004, p. 170-188.
52 Whittaker, David J., *Op. Cit*., p. 96.
53 *Ibid*., p. 99.
54 Coll, Steve, *Op. Cit*., p. 543-558.
55 Nance, Malcolm, *Op. Cit*., p. 11-12.
56 *Ibid*., p. 12-16.
57 Ashwood, Thomas M., *Op. Cit*., p. 126.
58 *Ibid*., p. 126-127.
59 Wallis, Rodney, *Combating Air Terrorism*, Brassey's, Washington/New York/London, 1993, p. 76-77.
60 Nance, Malcolm, *Op. Cit*., p. 12-15.
61 *Ibid*., p. 16-19.

during a ground attack.[62] Groups like the Palestine Liberation Organization (PLO), the Popular Front for the Liberation of Palestine (PFLP), or the Abu Nidal organization have relied on them. Next comes the sadist or criminal.[63] He may be of any origin and educational background. For him, terrorism represents the opportunity for personal power. Under other circumstances, he might have become a thug or interrogator within a police force. During the operation, he usually assumes the critical roles, such as forcing the way into the cockpit or the executing hostages.[64] At the lowest stratum, there is the disposable loser.[65] He grows up in misery. He is determined to do something great and to be rewarded. In fact, he is manipulated and neglected once he has fulfilled his duty. Often, his sacrifice is planned from the beginning.[66]

A race between the attackers and the defenders

Acts against civil aviation began in 1931. In this year, Peruvian passengers forced a pilot to change his route, so that they may throw leaflets out of the windows.[67] The first acknowledged loss of an aircraft to a bomb occurred in the U.S. two years later. The act was an insurance fraud.[68] These events were unrelated. No measures were deemed necessary.[69]

After 1945, things changed. In 1947, three Romanians commandeered a domestic flight, killed a crewmember, and fled to Turkey. In total, 18 similar events were counted. In all cases, people saw this as the easiest way to break through the Iron Curtain.[70] Again, these acts were individual but encouraged by the political context. Flight incursions from behind the Iron Curtain waned in the 1950s. A next series of events originated in the Caribbean after the Cuban revolution in 1959. Motivation was again personal. Press conferences in the "Free World" gave a political dimension to the acts.[71]

Airline professionals began to be worried. In 1960, the International Federation of Airline Pilots Associations (IFALPA) issued the first recommendations against hijackings.[72] They rejected the idea of armed security guards on board. The pilots feared bullet damage to the fuselage.[73]

On 14 September 1963, an international agreement to sanction illicit acts was signed. The Tokyo Convention or Convention on Offences and Certain Other Acts Committed on Board Aircraft entitled the commander of the aircraft

62 Whittaker, David J., *Op. cit.*, p. 81.
63 Nance, Malcolm, *Op. cit.*, p. 21-22.
64 Ashwood, Thomas M., *Op. Cit.*, p. 127.
65 Ashwood, Thomas M., *Op. Cit.*, p. 136.
66 *Ibid.*, p. 136.
67 Gero, David, *Flights of Terror - Aerial Hijack and Sabotage since 1930*, Patrick Stephens Ltd. Yeovil, Somerset, 1997, p. 10.
68 *Ibid.*, p. 10.
69 Ashwood, Thomas M., *Op. Cit.*, p. 23.
70 *Ibid.*, p. 23.
71 *Ibid.*, p. 24.
72 *Ibid.*, p. 67.
73 *Ibid.*, p. 67.

to take measures in favor of the safety of the aircraft. The country where the hijacked air vehicle was forced to land should permit the aircraft, crew, passengers and freight to continue its journey to the original destination as early as practical. It should take the terrorists into custody as well. The Tokyo Convention has been ratified by 122 countries. No legal instruments to enforce it were included, therefore it has been difficult to implement.[74]

A third wave of hijacking started in the mid-1960s, when Cuba became a destination for U.S. criminals. There were no extradition treaties between the countries.[75]

After the Six Days War in 1967, Palestinian groups focused on Israeli aircraft outside their country of origin.[76] For the first and last time, they successfully diverted an EL AL flight in 1968 after it had departed from Rome. On 18 February 1969, four PFLP members attacked another while it was taxiing to the runway in Zurich.[77] Soon afterwards a U.S. aircraft on route to Damascus was hijacked. There have never been any doubts of a direct Syrian involvement.[78]

In the same years, the terrorists innovated again. As a response to the search of departing passengers and their hand luggage, they introduced explosive devices through cargo or airmail. One of the early victims was a Swissair aircraft in 1970.[79] In all bombings, air accident investigators and criminologists have been able to identify the device.[80] Cargo was screened to prevent such attacks.

By 1970, terrorist activities called for international prevention. In addition to access restriction of airports, the attacks encouraged another global framework. The Convention for the Suppression of Unlawful Seizure of Aircraft or The Hague Convention entered into force in October 1971. This agreement attempted to answer the issue of prosecution left open in the Tokyo Convention. It required that every Signatory State extradite identified hijackers to the state whose aircraft is hijacked or prosecute them. Again, the main drawback was the impossibility for enforcement.[81]

Israel reacted through undercover agents or sky marshals seated among the passengers.[82] In September 1970, they foiled an attempt by the Palestinian leader Leila Khaled to seize another EL AL flight.[83] Other countries placed their own security people.[84]

In September 1971, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation intended to coordinate the fight against

74 Sweet, Kathleen M., *Op. Cit.*, p. 47.
75 Ashwood, Thomas M., *Op. Cit.*, p. 25.
76 Sherman, Arnold, *Op. Cit.*, p. 139-154.
77 Martel, Daniel, "Der erste Terroranschlag," *Skynews.ch,* February 2009, p. 42-43.
78 Naudin, Christophe, *Op. Cit.*, p. 45-46.
79 *Ibid.*, p. 29.
80 Ashwood, Thomas M., *Op. Cit.*, p. 74.
81 Sweet, Kathleen M., *Op. Cit.*, p. 48-49.
82 Thomas, Andrew R., *Op. Cit.*, p. 206.
83 Sherman, Arnold, *Op. Cit.*, p. 172.
84 Ashwood, Thomas M., *Op. Cit.*, p. 69.

terrorism.[85] The "Sabotage Convention" or Montreal Convention applies to acts of sabotage against air transport. It laid the international legal basis for the now worldwide security checks.[86] In the same year, Israel stunned the world once again when it liberated hostages in a Belgian aircraft at Tel Aviv. Special Forces disguised as mechanics overpowered the terrorists. There was now an ultimate possibility to ward off hijackers.[87] In 1973, a ground attack at Tel Aviv airport killed 26 travelers.[88]

In 1974, the terrorist side overrode the passenger and hand luggage screening in a spectacular act. A Palestinian passenger checked in a bag with a bomb, killing himself and all others aboard an American. aircraft.[89] US President Nixon signed the Anti-Hijacking Bill based on the international conventions.[90] Metal detectors against weapons were introduced at U.S. airports. The US infrastructure, which isolated the passengers only area, was soon adopted by other countries. There remained the challenge of Near- and Mid-Eastern governmental support of terrorism.[91]

In 1974, Annex 17 to the Convention on International Civil Aviation ("Security - Safeguarding International Civil Aviation against Acts of Unlawful Interference") was adopted by the International Civil Aviation Organization (ICAO).[92] It represented government and air transport officials' attempt to bring the issue of terrorism under the U.N. umbrella. Like other acts, the convention could only be enforced by a targeted attack on the terrorists on the territory of the failing country.[93] Some countries did not hesitate to do so. In Entebbe (1976) and Mogadishu (1977), two hijackings were halted by Israeli and German Special Forces respectively.[94]

In 1978, the Bonn Agreement mirrored yet another attempt to take measures against the state sponsors of terrorism. The initiative was never ratified by the national parliaments.[95] During the same years, air transport actors extended screening procedures to cargo and checked luggage.[96] Non-urgent freight was stored for 24 hours as a way to override preset timers.[97] The terrorists responded through new types of detonators.[98]

In 1985, the longest hijacking ever was undertaken. Flight TWA 847 was held for a fortnight.[99] In the same year, a bomb aboard an Air India flight killed 329

85 Sweet, Kathleen M., *Op. Cit.*, p. 49-51.
86 Ashwood, Thomas M., *Op. Cit.*, p. 146.
87 Naudin, Christophe, *Op. Cit.*, p. 46.
88 Gero, David, *Op. Cit.*, p. 74.
89 Ashwood, Thomas M., *Op. Cit.*, p. 78-80.
90 *Ibid.*, p. 70.
91 *Ibid.*, p. 71.
92 ICAO, *Annex 17 To The Convention On International Civil Aviation. Safeguarding International Civil Aviation Against Acts Of Unlawful Interference*, Montreal, 2006.
93 Enders, Walters and Sandler, Todd, *The Political Economy Of Terrorism*, Cambridge University Press, Cambridge (MA), 2006, p. 150-152.
94 Sweet, Kathleen M., *Op. Cit.*, p. 72-73.
95 *Ibid.*, p. 53-54.
96 Ashwood, Thomas M., *Op. Cit.*, p. 81.
97 *Ibid.*, p. 82.
98 Jenkins, Brian Michael, "Aircraft Sabotage," *Aviation Terrorism And Security*, in Wilkinson, Paul and Jenkins, Brian Michael (eds.), Frank Cass, London/Portland (OR), 1999, p. 50-53.
99 Ashwood, Thomas M., *Op. Cit.*, p. 45-65.

people.[100] In 1986, the attempt to have an unsuspecting woman carry a bomb aboard an EL AL aircraft failed in London. The Syrian embassy supported the operation.[101] In the same year, another international agreement failed. At the Tokyo Summit, the seven leading Western countries had negotiated common strategies against the use of diplomatic channels by sponsor states. The document was signed but never applied.[102] In 1988, Pan Am Flight 103 exploded over Lockerbie. Libyan operatives were found to be the saboteurs. Some doubts still remain in this case.[103]

In 1989, the unknown Palestinian Group M15 claimed responsibility for the in-flight explosion of a French wide body over Africa. French counterintelligence concluded that Libya had been behind the attack. An African youth had been the unsuspecting bomb carrier.[104]

In 1994, an Algerian policeman enabled the hijacking of a French Airbus. Since the terrorists had no air transport experience, the pilots tricked them into a landing in Marseilles. The French GIGN special unit liberated the hostages. The terrorists had intended to crash the aircraft over Paris.[105] The mysterious 1995 Bojinka plot in which several US aircraft were to be blown up over the Pacific was foiled.[106] The same year witnessed another multilateral attempt to fight terrorism through a task force of antiterrorist experts, which resulted in no mentionable change.[107] The same was true for the Lyon Summit in 1996. Ministers responsible for national security of leading countries attempted to establish a common platform against the use of false identities. This time, conflicting national interest in respect to intelligence exchange proved fatal.[108] The same was true for the Ministerial Conference on Terrorism in Paris later that year.[109] In 1999, another effort was made to track the financial transactions of terrorist networks through the drafting of the International Convention for the Suppression of the Financing of Terrorism. The proposed convention still remains only a draft at this stage.[110]

September 11th, 2001 stunned everyone. The terrorists systematized suicide and maximized damage. On the 21st of December of the same year, U.K. citizen Richard Reid was denied permission to board a US flight in Paris due to inappropriate travel documents. A day later he gained security clearance.[111] He was overpowered before he could activate the explosive device in his footwear.[112] The operation allegedly prepared by Al-Qaeda was a suicide

100 Jiwa, Salim, *The Death Of Air India Flight 182*, Star Books, London, 1986.
101 Naudin, Christophe, *Op. Cit*., p. 49.
102 Sweet, Kathleen M., *Op. Cit*., p. 51.
103 Emerson, Steven and Duffy, Brian, *The Fall of Pan Am 103 - Inside the Lockerbie Investigation*, Futura Books, London, 1990.
104 Naudin, Christophe, *Op. Cit*., p. 60.
105 *Ibid*., p. 61.
106 *Ibid*., p. 68-69.
107 Sweet, Kathleen M., *Op. Cit*., p. 55.
108 *Ibid*., p. 55-56.
109 *Ibid*., p. 56-57.
110 *Ibid*., p. 57.
111 *Ibid*., p. 64-65.
112 Nance, Malcolm, *Op. Cit*., p. 268.

mission.[113] As a result, screening was extended to shoes.[114] In 2006, an attempt by suicide bombers to destroy up to ten aircraft departing from the U.K. was apparently thwarted. Again, many questions remain open.[115] As a result of this apparent attempt, liquids aboard flights were mostly banned.[116] In 2002, two man-held missiles fired upon an Israeli charter airliner near Mombasa Airport; both missed their target.[117]
Meanwhile, hijackings have continued. Currently, attackers and defenders seem to have reached a stalemate.

Fight against terrorism

There is hardly any other industry, which has invested as much in risk management to prevent contingencies as air transport.[118] Despite intensified competitive pressure since the 1990s, the number of occurrences has remained stable.[119] In 1992, there were 18'000 aircrafts in operation. Today's number is 24'000.[120] Percentages of occurrences have lowered over time. Air safety has reached a higher level despite a rise in traffic.[121] All these measures are doomed to fail in the event that someone takes deliberate action.[122]
Owing to the way air transport operates, terrorists are restricted to four appropriate attack patterns. A first is hijacking. Together with the passengers, a group boards the flight and takes command over the plane. The passengers serve as bargaining chips. This strategy emerged after 1968. Once the demands of the terrorists are met, the surviving travelers and the aircraft are usually released.[123]
Destroying the aircraft in flight has become a second strategy.[124] The attack intends to instill fear.[125] Commando raids against airport facilities are a third way to strike.[126] The goals of this attack method are casualties and asset destruction.[127]
Finally, there is a fourth attack method. A man-held missile is fired at an

113 Naudin, Christophe, *Op. Cit*., p. 94.
114 Sweet, Kathleen M., *Op. Cit*., p. 249.
115 Naudin, Christophe, *Op. Cit*., p. 62-63.
116 *Ibid*., p. 62.
117 *Ibid*., p. 70.
118 Sarsfield, Liam, Stanley, William L., Lebow, Cynthia C. , Ettedgui, Emile and Henning, Garth, *Safety in the Skies*, Institute for Civil Justice - RAND Corporation, Santa Monica, 1999.
119 Oster, Clinton V., Stron, John S., and Zorn, Kurt C., *Why Airplanes Crash. Aviation Safety In A Changing World*, Oxford University Press, Oxford, 1992.
120 ATAG, *Op. Cit.*, p. 3.
121 Latest trends suggest a stagnation for reasons yet to be explored (Learmount, 2009).
122 Thomas, Andrew R., *Op. Cit*., p. 139-142.
123 Saint John, Peter, *Op. Cit*., p. 27-49.
124 Merari, Ariel, "Attacks On Civil Aviation: Trends And Lessons," *Aviation Terrorism And Security*, in Wilkinson, Paul and Jenkins, Brian Michael (eds.), Frank Cass, London/Portland (OR), 1999, p. 9-26.
125 Nance, Malcolm, *Op. Cit*., p. 9-11.
126 Merari, Ariel, *Op. Cit*., p. 9-26.
127 Sweet, Kathleen M., *Op. Cit*., p. 312-314.

aircraft in flight.[128] This hardware appeared in the late 1960s. Once fired, the missile is homed in on its target through the heat signature of the aircraft's engines or by electronic guidance.[129] After the Cold War, these weapons found their way to terrorist groups. With the exception of some failed attacks against Israeli aircraft, most operations have been executed in war zones.[130] The subsequent table, outlines terrorist attack patterns.

In response to terrorism over the last decades, an anti-terrorist regime has emerged. It has been structured around a defensive sequence. This sequence represents the integral risk management process from national intelligence work and transnational negotiations to the way the individual screener controls passengers and their luggage. The barriers have emerged as the combined outcome of two approaches to risk management.[131] The first has been constant learning through the experiences of terrorist successes.[132] The second are attempts to predict future operational patterns and to adjust vulnerabilities in current security measures.[133] The stakeholders are aware that a residual risk remains.[134] Updates mirror new experiences and anticipations. One example is the ban of liquids aboard aircraft in 2006.[135] Modifications are decided for ease of implementation, the ability to integrate them into the existing systems, and the dissuasive visibility.[136] Attackers and defenders divide their operations into strategic planning, operative preparation, and tactical execution.[137] The figure "Anti-Terrorism As An Anticipation And Learning Process" outlines the sequence (this figure can be found after "Terrorist Attack Patterns").

The strategic options are inspired by the overall economic and social context of the given region and its geopolitics. Groups that have felt discriminated may get radical. They may identify air transport as a target for guerrilla warfare. National intelligence agencies of the concerned states have focused on this threat.[138] Cooperation has encouraged transnational initiatives.[139] The impact has been limited since terrorists can be prosecuted outside the national jurisdiction only if a bilateral or multilateral agreement exists.[140] Each convention was based on the known attack patterns.[141]

128 Schaffer, Marvin B., "The Missile Threat To Civil Aviation," in Wilkinson, Paul and Jenkins, Brian Michael (eds.), *Aviation Terrorism And Security*, Frank Cass, London/Portland (OR), 1999, p. 70-82.
129 Nance, Malcolm, *Op. Cit*., p. 269-270.
130 Naudin, Christophe, *Op. Cit*., p. 70-71.
131 Wallis, Rodney, *How Safe Are Our Skies? Assessing the Airlines' Response To Terrorism*, Praeger Publications, Westport (CT), 2003, p. 151-174.
132 Thomas, Andrew R., *Op. Cit*., p. 31-39.
133 Wallis, Rodney, *Op. Cit*., p. 1-64.
134 Fischhoff, Baruch, *et al*., *Op. Cit*., p. 121-136.
135 Naudin, Christophe, *Op. Cit*., p. 136-137.
136 Thomas, Andrew R., *Op. Cit*., p. 136-137.
137 Nance, Malcolm, *Op. Cit*., p. 3-15.
138 *Ibid.*, p. 39-46.
139 Saint John, Peter, *Op. Cit*., p. 27-49.
140 Wallis, Rodney, *Op. Cit*., p. 64.
141 Woods, Ngaire, "Global Governance and the Role of Institutions," in Held, David and McGrew, Anthony (eds.) *Governing Globalization: Power, Authority and Global Governance*, Polity Press, Cambridge, 2002, p. 25-45.

Terrorist Attack Patterns[142]

Parameter	Way of Attack			
	Hijacking	**Bombing**	**Ground Attack**	**Surface-to-Air Missile Attack**
General pattern of operation	Infiltration to take hostages, usually once aircraft is airborne	Smuggle explosives aboard to disable the aircraft in flight	Take aircraft under fire while it is on ground	Fire at an aircraft in flight with a man-portable missile (MANPAD)
Motivations of terrorists	Obtain a bargaining chip, usually to free prisoners	Administer a spectacular blow to the enemy	Kill people and destroy assets	Override the air transport security system
Global political and psychological impact	High, owing to helpless feeling and limited options for counter-measures	Very high, owing to shock wave	Lower, since attack follows the logic of commando raids	Limited, since little known outside the intelligence community
Advantages for the terrorists	Dictate agenda setting, get a worldwide stage, ease of containment of hostages	Little to marginal material and personal input (only one to two specialists needed)	Easy preparation since terrorists follow basic military training anyway	Preparation outside the scope of the security and defensive measures
Most likely outcome for victims	Some may be killed, most often liberated after negotiations	Usually killed if device placed at the appropriate spot	Killed or wounded following intensity of attack	So far only victims in crisis zones and most aircraft landed safely
Risks for terrorists during execution	Security checks	Baggage and cargo security checks	Airport perimeter patrolling	Practically none except training
Passive counter-rmeasures	Cooperation among air transport actors and states, security checks	Intensify baggage and cargo screening	Physical containment of airport perimeters and intelligence	Intelligence, weapons proliferation control

142 Ashwood, Thomas M., *Op. cit.*

Hoffman, Bruce, "Aviation Security And Terrorism: An Analysis Of The Potential Threat To Air Cargo Integrators," in Wilkinson, Paul and Jenkins, Brian Michael (eds.), *Aviation Terrorism And Security*, Frank Cass, London/Portland (OR), 1999, p. 54-69.

Naudin, Christophe, *Op. Cit*.

Petersen, John L., *Op. Cit*., p. 11-19.

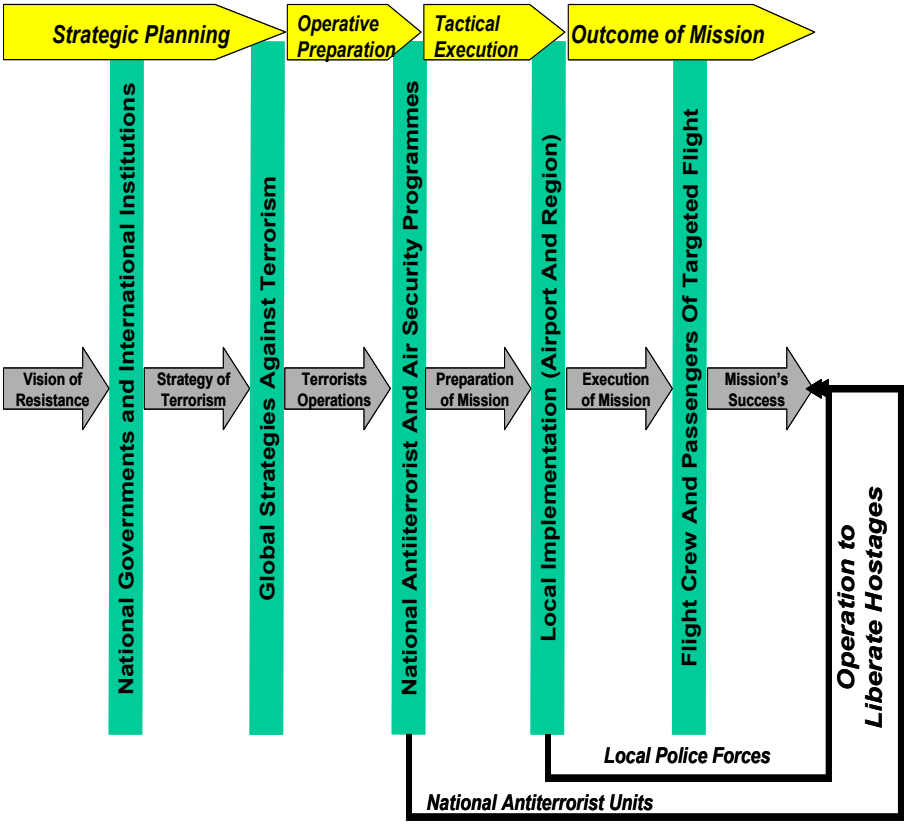
Sweet, Kathleen M., *Op. Cit*., p. 1-4.

Wallis, Rodney, *Op. Cit*., p. 9-64.

Whittaker, David J., *Op. Cit*., p. 169-172.

Parameter	Way of Attack			
Active counter-rmeasures	Special units to liberate hostages	Practically none except intelligence	Include wider area into security perimeter	Practically none except intelligence

Anti-Terrorism as an Anticipation and Learning Process[143]



Source: Author.

All initiatives have been elaborated by governments, international organizations, such as the International Civil Aviation Organization (ICAO), or regional bodies, such as the European Civil Aviation Conference (ECAC). The air transport actors have participated through the International Air

143 Mueller-Gauss, Uwe, *Op. Cit*., p. 55-57.
Naudin, Christophe, *Op. Cit*., p. 217-240.
Sweet, Kathleen M., *Op. Cit*., p. 18-44.
Thomas, Andrew R., *Op. Cit*., p. 181-211.

Transport Association (IATA), the Airports Council International (ACI), or the International Federation of Airline Pilots Associations (IFALPA).[144] The updates set benchmarks for national legislation and standardized operations.[145] The box, "International Conventions and Agreements Against Terrorism," enumerates the conventions and agreements.

Examples have been passenger and luggage checking, airport area isolation, cargo and airmail checking, or background screening of the airport and airline staff to avoid hiring staff, which might assist terrorists.[146]

These measures largely rely on technical equipment and constructive details of the facilities.[147] Another example are training programs accredited by transnational air transport bodies such as IATA.[148] These initiatives have to fit into the air transport system as a whole. Worldwide cooperation has ensured global coverage.[149] The signatory states usually translate the general guidelines into national legislation.[150]

Security checks try to prevent the introduction of weapons or dangerous objects and explosive devices aboard the aircraft.[151] Several machinery-based screenings complete each other. A first is based on X-rays and allows the non-invasive inspection of passengers, luggage, airmail and freight.[152] Routines such as "false images" which show forbidden objects and test runs by controllers have kept screeners alert.[153] Other systems have focused on explosives.[154] Mobile phones and laptop computers have posed new challenges.[155]

A major problem has remained the way the controls are organized. The screeners may be employed by private companies, police, or military forces. The former is the case in France or the U.S.[156] In countries like Israel, the personnel have a state background.[157] In Switzerland, the police of each Canton team up with the local airport. Formally, the security staff is employed by the airport. In fact, they remain members

144 Wallis, Rodney, *Op. Cit.*, p. 83-100.
145 Sweet, Kathleen M., *Op. Cit.*, p. 59-60.
146 Naudin, Christophe, *Op. Cit.*, p. 149-150.
147 Sweet, Kathleen M., *Op. Cit.*, p. 190-204.
148 Wallis, Rodney, *Op. Cit.*, p. 137-142.
149 Thomas, Andrew R., *Op. Cit.*, p. 137.
150 *Ibid.*, p. 83-100.
151 Sweet, Kathleen M., *Op. Cit.*, p. 143-156.
152 *Ibid.*, p. 196-204.
153 *Ibid.*, p. 183.
154 *Ibid.*, p. 206-208.
155 *Ibid.*, p. 200-201.
156 Naudin, Christophe, *Op. Cit.*, p. 96-101.
157 *Ibid.*, p. 96.

International Conventions And Agreements Against Terrorism[158]

- Tokyo Convention against unlawful acts aboard aircraft (1963), ratified
- The Hague Convention for the Suppression of Unlawful Seizure of Aircraft (1971), ratified
- Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1973), ratified
- ICAO Extraordinary Assembly to enforce of international conventions against terrorism (1973), failure
- Annex 17 to the Convention on International Civil Aviation "Security. Safeguarding international civil aviation against acts of unlawful interference" (1974)
- Bonn Agreement on coordinated fight against terrorism and its sponsor states (1978), never ratified
- Tokyo Summit for the cooperation against sponsor states (1986), failure
- ICAO Subcommittee Draft Treaty on Tagging Explosives (1990), formally accepted in 1991
- G-7 Summit, common Antiterrorist Task Force suggested (1995), ignored
- Lyon Summit of Security Ministers (1996), ignored
- Ministerial Conference on Terrorism on sanctions against terrorism sponsor states (1996), failure owing to U.S. – EU dispute
- Draft International Convention for the Suppression of the Financing of Terrorism (1999), discussions pending …
- Repeated condemnations by the General Assembly of the U.N. and appeals to all states to do something against terrorism… all failures
- Various other initiatives by the EU, the European Civil Aviation Conference (ECAC), ICAO and IATA, all failures owing to lack of political support

of the police force. Their training is better than those of the employees of private subcontractors.[159] Yet, in other places, such as Malaysia, security is an independent state structure.[160]

The different professional procedures and cultures make a coherent transnational level of service very difficult. This is for instance the case when an arrest is necessary.[161] Many experts disagree with the way the security checks are carried out even if most of them agree that they are dissuasive.[162] There remains the fundamental challenge of the numbers of people and pieces to be processed. Systematic screening of all passengers would require a check-in time of at least three to four hours prior to departure. Only EL AL

158 Sweet, Kathleen M., *Op. Cit.*, p. 45-60.
159 Wallis, Rodney, *Op. Cit.*, p. 79.
160 *Ibid.*, p. 79-80.
161 Naudin, Christophe, *Op. Cit.*, p. 212-216.
162 Wallis, Rodney, *Op. Cit.*, p. 81-82.

has gone that far.[163]

Specialists have criticized the often-interrupted surveillance of the "passengers only" zone, while the airport is closed at night.[164] Another problem in their opinion has been the language barrier.[165] Also criticized have been racist behavior against passengers, screenings by persons or the opposite sex, and rude behavior of controllers.[166] The claim of racism can be traced to the techniques of suspect identification known as profiling.[167]

Another question has been the control of flight crews and airport staff.[168] Thefts of uniforms and badges have been reported. In other cases, they were issued to holders of false identities.[169] Access to the airport has been secured through mechanical and electronic systems.[170] They have been overcome many times.[171]

Experience has proven that flights to certain destinations are more exposed to risk than others; however, all passengers are usually checked in the same way without regard for their age, background, or destination. Only Israeli airports adjust the procedure to the passengers and their destination.[172]

Intelligence agencies may detect preparations for an operation.[173] Attackers are aware that most humans only see what they know or expect to see. Therefore they try to "blend into the background."[174] One example of operation detection is the black list with names of suspects. Terrorists hardly use their true or known identities but lots of would-be passengers with similar or identical names have been denied boarding.[175] Operations with man-held missiles outside the airport perimeter have been documented as well.[176] One example was an alleged attempt against EL AL in Geneva in 2006.[177] The Israeli airline is the only so far that has installed anti-missile systems.[178]

Over time, the quest for security has changed the basics of air transport. One example has been the physical integrity of aircraft. It is next to impossible to make them blast proof.[179] Again, only EL AL has proceeded to structural modifications.[180] Explosive devices have to be detected before they get aboard. Time fuses were neutralized through delays. Altimetric systems

163 Thomas, Andrew R., *Op. Cit*., p. 205-207.
164 Naudin, Christophe, *Op. Cit*., p. 141.
165 *Ibid*., p. 143-145.
166 *Ibid*., p. 204-211.
167 Ashwood, Thomas M., *Op. Cit*., p. 96.
168 *Ibid*., p. 111.
169 Naudin, Christophe, *Op. Cit*., p. 149-150.
170 Sweet, Kathleen M., *Op. Cit*., p. 327-345.
171 Thomas, Andrew R., *Op. Cit*., p. 194-197.
172 Naudin, Christophe, *Op. Cit*., p. 105-106.
173 Nance, Malcolm, *Op. Cit*., p. 186-189.
174 *Ibid*., p. 173-182.
175 Naudin, Christophe, *Op. Cit*., p. 160-162.
176 Nance, Malcolm, *Op. Cit*., p. 269-270.
177 "Swiss 'foiled hit on Israeli jet,'" BBC News, 8 June 2006. Available: http://news.bbc.co.uk/2/hi/europe/5060936.stm.
178 Vause, John, "Missile Defense For El Al Fleet," CNN.com, 24 May 2004. Available: http://edition.cnn.com/2004/WORLD/ meast/05/24/air.defense/index.html?iref=allsearch.
179 Jiwa, Salim, *Op. Cit*., p. 111-113.
180 Schauer, Rainer, "High-Tech gegen Terror," Faz.net, 28 September 2006. Available: http://www.faz.net/s/RubB4457BA9094E4B 44BD26DF6DCF5A5 F00/Doc~E998118154E8B4C85A086126409553EA6~ATpl~Ecommon~Scontent.html%29.

were overridden through barometric or vacuum chambers, which simulate the conditions in the cargo hold in the air.[181] Terrorists reacted by developing new bombs, which were activated only after a complete pressurization cycle. In response, the vacuum chamber was operated twice.[182] New types of explosives have posed a permanent threat. There have not been many successful international attempts to make them "detectable" through chemical markers or taggants.[183]

Over the last decades, the fight against terrorism has influenced the layout of passenger terminals. One of the first facilities built with easy defense against a ground attacks in mind was London Heathrow Terminal Four, which opened in 1986.[184] By now, most airports have been altered.[185]

It is, however, the way the individual screener works together with his or her colleagues and the other people involved in security, which often decides the success or failure of a terror plot. The tactical implementation of security is what counts in the end.[186] In many countries, access to the airport facilities is restricted to ticket holders.[187] In others, travelers pass a first checkpoint before getting to the terminal. An identity and sometimes hand luggage checks are carried out.

Once the traveler reaches check-in, he or she may be profiled. The procedure matches the passenger's behavior, such as nervousness, and his or her open (e.g. request of a specific seat), conscious (e.g. the vocal variety), and subconscious (e.g. body language) communication and behavior with experience-based profiles of terrorists and criminals.[188] Profiling is carried out by the check-in agents or by covert surveillants. On high-risk flights, a first security check precedes the check-in. Agents ask questions about the luggage and the reasons for the flight. They are not interested in the replies but how the candidate reacts. This procedure was introduced by EL AL.[189] After check-in, the traveler enters the "passengers only" area through passport control and the main security check.[190]

The job of the screeners is crucial. In 2008, passengers leaving from Geneva Cointrin checked 4'240'798 pieces of luggage. Controllers found 21'195 knives, 64 weapons, 1'172 sprays, and 3'517 other forbidden objects. At the Euroairport in Basle/Mulhouse with 2.1 million departing passengers who checked 1.46 million pieces, some 9'600 objects were retrieved. This included 108 weapons. At Zurich Kloten, some 850 professionals check ten million passengers a year – 25'000 to 38'000 everyday. 50'000 forbidden objects were

181 Ashwood, Thomas M., *Op. Cit*., p. 82.
182 Sweet, Kathleen M., *Op. Cit*., p. 215-228.
183 *Ibid.*, p. 216-218.
184 Ashwood, Thomas M., *Op. Cit.*, p. 86.
185 Cuadra, Manuel, *World Airports – Weltflughäfen*, Junius Verlag, Hamburg, 2002.
186 Thomas, Andrew R., *Op. Cit*., p. 187-199.
187 Ashwood, Thomas M., *Op. Cit*., p. 96.
188 *Ibid.*, p. 96.
189 Thomas, Andrew R., *Op. Cit*., p. 205.
190 Ashwood, Thomas M., *Op. Cit*., p. 96.

seized in 2008. Most of them were carried by negligence. In some airports, a second combined identity and security check is carried out at the waiting zone for the flight.[191] Another profiling may take place at the gate prior to boarding.[192] In case a passenger is missing, all bags are supposed to be unloaded and identified by their owners.[193]

Even if the terrorists break through all security measures, there remains an ultimate chance against them. Flight crews and sky marshals may overpower them. Once again, EL AL has pioneered through video-surveillance.[194] The terrorists reacted through "sleepers" among the passengers.[195] Hardened cockpit doors have become another element of defense.[196] Their usefulness has been questioned.[197]

Hijackings are as demanding for the terrorists as they are for the hostages.[198] Most of the terrorists carry out only one mission and lack experience. Often, they are as afraid as their victims. The rude treatment of the hostages intends to break them and to boost the morale of the terrorists.[199] Hijackers are aware that the aircraft cannot stay aloft for more than a couple of hours. The negotiations usually begin with the request for refueling at a first stop.[200]

Whenever an aircraft is hijacked, most governments activate crisis management structures.[201] Occurrences involving Swiss aircraft are handled by the Federal Department of Foreign Affairs in cooperation with similar institutions from the country where the flight is forced to land.[202]

Yet again, Israel has set the benchmark. Hostages have been liberated by special anti-terrorist forces. Other countries have established similar units. Known examples are the GSG 9 and the French GIGN.[203] Successful liberations intimidate the terrorist leaders and boost the prestige of the country that launched them. They are reactive and their schedules are dictated by the terrorists.[204] Some operations have failed. One example was the attempt by an Egyptian commando in Malta in 1985 in which 60 people died.[205]

The terrorists have adapted their behavior once again; all ground staff have become suspicious in their eyes.[206] In 2001, the attackers switched to suicide missions as a way to eliminate the critical step of exfiltration once the operation is concluded.[207] So far, none of these operations have been

191 *Ibid*., p. 97.
192 *Ibid*., p. 103.
193 *Ibid*., p. 97.
194 Sherman, Arnold, *Op. Cit*., p. 174-179.
195 Ashwood, Thomas M., *Op. Cit*., p. 107.
196 Sweet, Kathleen M., *Op. Cit*., p. 65-67.
197 Thomas, Andrew R., *Op. Cit*., p. 166-168.
198 Ashwood, Thomas M., *Op. Cit*., p. 45-65.
199 *Ibid*., p. 121-123.
200 *Ibid*., p. 160-162.
201 *Ibid*., p. 113-116,
202 Information provided by the Swiss Federal Department of Foreign Affairs.
203 Ashwood, Thomas M., *Op. Cit*., p. 115.
204 Sweet, Kathleen M., *Op. Cit*., p. 112-124.
205 Ashwood, Thomas M., *Op. Cit*., p. 159-170.
206 Enders, Walter and Todd Sandler, *Op. Cit*., p. 168-169.
207 Ashwood, Thomas M., *Op. Cit*., p. 135-136.

successfully countered.[208]

Thinking the unthinkable

The race between attackers and defenders is not about to slow down. Forecasts can be extrapolated from major parameters such as geopolitics, air transport, screening technology, wildcards, and black swans.[209] What if Israel was forced by the US to release its pressure on the Palestinians? What if China increased the pressure on its Muslims? What if Pakistan is destabilized? What if social tensions between the local population and Muslims immigrants in the United Kingdom or France lead to riots? What if the current crisis forces the US to lower their worldwide presence?

Terrorists will try everything to overcome tomorrow's defenses as well. As has been the case in the last half century, the only adequate response will be to try to "think the unthinkable."[210] What if a new cargo airline is created? On day X, its aircraft are loaded with radioactive, chemical, or biological agents. Their departures are coordinated so that they reach several mayor cities at the same time. Think the unthinkable… What if terrorists manage to get hired by a manufacturer and build explosives directly into the aircraft? So far, this scenario has remained a novel by Nelson De Mille.[211] Think the unthinkable… What if terrorists introduce chemicals to kill the people aboard? Think the unthinkable…

Conclusion

Terrorism has been the desperate attempt by the weak side to make the strong opponent nervous through permanent friction.[212] The attackers justify their operations as legitimate resistance against oppression. The defenders tend to claim legitimacy for themselves.[213]

The best brains from both camps have tried to predict what the leaders from the other side plan next. Both sides have learned that air transport can be attacked only in a limited number of ways. The ripple effects have encouraged the terrorists to continue their fight even after the defenses became serious obstacles.

Security has become more visible, complex, and expensive. Today, passengers take off their shoes… and tomorrow? Whenever a new measure has been introduced experts have predicted that air travel would come to a standstill. It has not. "Terrorism will be defeated if we are not terrorized. Fear must

208 Enders, Walter and Todd Sandler, *Op. Cit*., p. 124-126.
209 Graf, Hans Georg, *Global Scenarios - Megatrends in Worldwide Dynamics*, Verlag Rueegger, Chur, 2002, p. 20-34.
210 Naudin, Christophe, *Op. Cit*., p. 66-79.
211 De Mille, Nelson. *By The Rivers Of Babylon*, Berkeley Books, New York, 1979.
212 Whittaker, David J., *Op. Cit*., p. 202.
213 *Ibid*., p. 149.

not rule our lives. They are weak and we are strong – and we will grow stronger."[214] Those were the words of US President George Bush after 9/11. Air transport experts have reached the same conclusion.[215]

At every step other experts and stakeholders have suggested to rethink the approach to security in the air and in general. In their opinion, the demands by oppressed minorities have been at least partially legitimate. Some of them were finally adopted. As a result, tensions have decreased. One example is East Timor.[216] Maybe, the Geneva initiatives addressed at Israel and Palestine will be a point of departure if the hardliners on both sides agree that thousands of potential recruits for terrorist groups might get a better perspective on their personal professional and social life. For the time being, the prospects for this fundamental change are minimal. Why not remain committed to the traditional anti-terrorist forces' approach: think the unthinkable…?

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214 *Ibid*., p. 205.
215 Wallis, Rodney, *Op. Cit.*, p. 167.
216 Tamsyn, Meredith, "Witnessing East Timor's Independence," *The Epoch Times*, 7 September 2009. Available: http://www.theepochtimes.com/n2/content/view/22169/.

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Juvenile Enemy Combatants: Child Soldiers in the Global War On Terror

M. Justin Ackley

MA in International Relations, Webster University Geneva

Throughout history the recruitment and use of child soldiers on the battlefield has been a problem. In recent years, the issue of child soldiers has taken on a new front. Since 2001, the United States and its allies have engaged in the Global War on Terror (GWOT) and challenged the very foundation of International Humanitarian Law (IHL), or the law of armed conflict. These challenges have been posed to the legal definition of detainees and prisoners of war. The Global War on Terror has now broached the issue of child soldiers. The United States and its allies have confronted, engaged, and detained child soldiers on the battlefield. The issue that has to now be addressed is how to treat child soldiers in this new legal battle in the field of IHL. The United States has labeled these young detainees, "juvenile enemy combatants" or JEC. In this paper, we will attempt to address this new definition of child soldier and its ramifications within IHL. The paper will give a background on child soldiers; it will address the use of child soldiers in international armed conflicts and the expanded use of child soldiers in 21st Century non-international armed conflicts. Further, we will give a legal history of the Global War of Terror and the detention of lawful and unlawful enemy combatants. I will discuss the role of International Humanitarian Law with regards to the protection of children in armed conflicts. The paper will compare and contrast the ideas and protections afforded to child soldiers and those not afforded to juvenile enemy combatants. We will also discuss the most pressing case in this new arena: the prosecution of Canadian-born Omar Khadr, who was injured and detained during the first battle of the Global War on Terror in Afghanistan. Finally, we will attempt to conclude with suggestions on how the United States needs to address this issue and how the international community must come to a consensus on protections offered to child soldiers.

History of child soldiers

The use of child soldiers is not a recent phenomenon. "In the Middle Ages, boys as young as 14 or 15 served knights as squires, often performing night-watches and cleaning weapons. In the 18th and 19th Centuries, boys called "powder monkeys" – frequently as young as eight – were assigned to reload canons on ships; and relay messages between infantry regiments on the battlefield."[1] "In 1864, during the United States Civil War, the Union Army faced approximately twenty-five cadets from the Virginia Military Institute, 16 or younger, in the Battle of New Market."[2] During World War I, many soldiers used by the major powers were seventeen years old. In World War II, the Nazis introduced entire regiments constructed of German youth (*Hitlerjugend*) as Germany's last attempt to stop the powerful allied armies. Child soldiers were used during the war in Vietnam and in the Cold War between the Eastern and Western bloc countries. However, in "each of these cases…they were isolated incidents… and children were never an integral, essential part of the forces engaged."[3]

In recent decades, children have become increasingly widespread within developed and developing countries. From the 1980s until the present, the international community has termed the timeframe the "age of child soldiers." In 1989, the Convention on the Rights of the Child defines a child as "any human being below the age of 18 years…"[4] Since the end of the Cold War, the new element of armed conflict defined by small, internal wars has led to an explosion in the use of child soldiers. The United Nations Children Fund (UNICEF) defines child soldiers as "any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes."[5] Today, the Coalition to Stop the Use of Child Soldiers reports "tens of thousands [of child soldiers] have remained in or been newly recruited and used in armed conflicts."[6] Additional figures show "76% of on-going or recently ended conflicts have had children below 18 years serve as combatants, 40% of armed organizations around the world use child soldiers" and "an unknown

1 Collmer, Sabine, "Child Soldiers – an Integral Element in New, Irregular Wars?" *The Quarterly Journal*, Vol. 3, 2004: 2.
2 Singer, Peter, "Caution: Children At War," *Parameters, US Army War College Quarterly*, Vol. 31, 2001, p. 2.
3 *Ibid.*
4 United Nations General Assembly (UN GA), Convention on the Rights of the Child, G.A. Resolution 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989) – Article 1.

Vautravers, Alexandre (ed.), "Why Child Soldiers are such a Complex Issue," in Vautravers, Alexandre (ed.), *Children at Risk, Refugee Survey Quarterly (RSQ)*, Proceedings of the 13th International Humanitarian Conference, Oxford University Press, Oxford, No. 4, 2008.
5 UN Children's Fund (UNICEF), *The Paris Principles: Principles and Guidelines on Children Associated With Armed Forces or Armed Groups*, February 2007.
6 Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2008*, London, 2008.

amount of children serve in 'combat roles' such as cooks, messengers, spies, porters, sex slaves, and mine clearers."[7]

The proliferation of child soldiers can be attributed to three wide-ranging ideas. These three factors "form a causal chain: (1) generational disconnects caused by globalization, war, and disease… (2) efficiency improvements in small arms permit recruits to be effective participants…, and (3) result in the propensity to use children as a low-cost way to mobilize and generate force."[8] With the advancement of technology, there are many socio-economic problems that face children and families. The factors of hunger and poverty among the Least Developed Countries (LDC), extremely low access to education, lighter and more accessible weapons, and unconventional, urbanized warfare are examples that have led to the increase in child soldiers. In addition to these factors, children are also seen as an available, abundant resource for military and militia commanders. Children are impressionable and easily manipulated and controlled - often seeking protection, acceptance, and approval. Military and militia commanders use fear, intimidation, drugs, and alcohol to control children in armed conflicts.

The international community has attempted to address the issue of children in armed conflict in a number of ways. Beginning in 1949, the third Geneva Convention (GC3) Relative to the Treatment of Prisoners of War addressed the age of prisoners detained, regarding the equality of treatment and labor performed by prisoners.[9] The fourth Geneva Convention (GC4) Relative to the Protection of Civilian Persons in Time of War established hospital, safety zones, and localities for children under 15. In addition, Article 24 sets out measures of protection relating to child welfare.

In 1977, the Additional Protocol Relating to the Protection of Victims of International Conflict (Addition Protocol I), in Article 77 addressed the protection of children by stating "parties to the conflict must take all feasible measures in order that children who have not attained the age of 15 years do not take direct part in hostilities and, in particular, they must refrain from recruiting them into their armed forces." Additional Protocol I (API) also stated "children who…take a direct part in hostilities and fall into the power of an adverse party, continue to benefit from the special protection accorded by this Article, whether or not they are prisoners of war." Further, "If arrested, detained or interned for reasons related to the armed conflict, children must be held in quarters separate from the quarters of adults, except where families are accommodated as family units" and "the death penalty for an offence related to the armed conflict must not be executed on persons who had not attained the age of 18 years at the time the offence was committed."

Children are afforded additional protection in 1977 under Additional

7 Singer, Peter, *Op. Cit.*, p. 4.
8 *Ibid.*
9 *Geneva Convention Relative to the Treatment of Prisoners of War*, 12 August, 1949, Articles 16, 49, 75 UNTS 135.

Protocol Relating to the Protection of Victims of Non-International Armed Conflicts (Additional Protocol II). In Article 4, Additional Protocol II (APII) guarantees education, reunification of families, children under 15 years must neither be recruited nor allowed to take direct part in hostilities, and "special protection to children under the age of 15 years remains applicable if they have taken a direct part in hostilities." Under Article 6, Penal Prosecutions, "the death penalty must not be pronounced on persons who were under the age of 18 years." As reinforcement of these conventions and protocols and to address the application of international and national law to child soldiers, the United Nations passed the non-binding United Nations Standard Minimum Rules for the Administration of Juvenile Justice in 1985 and both the United Nations Guidelines for the Prevention of Juvenile Delinquency and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty in 1990. In 1998, the Rome Statute of the International Criminal Court established in Article 8 that "conscripting or enlisting children under the age of 15 years into national armed forces or into armed groups" was a war crime. In May 2000, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict strengthened the Convention in setting the minimum age for compulsory recruitment and direct participation at 18 years.

Since the establishment of the United Nations, the international community has attempted to address the issues of children involved in armed conflict. In the beginning the UN attempted to protect children as victims of armed conflict, then attempted to protect children who were forcibly recruited into armed conflict, and finally attempted to punish those who recruit and use children as soldiers. Since the 1990s, the application of justice to children has been at issue. How does the international community of member-states in the United Nations apply applicable war crimes laws to children in armed conflict? Although the international community has made a limited effort to address this question, the United States has taken a step in a new direction that demands the attention of International Humanitarian Law.

The United States and the Global War on Terror
A brief history – US federal law, presidential orders, and international politics

On 11 September 2001, the United States was the target of a terrorist attack. In New York City and Washington DC, United Airlines jetliners were used as weapons to attack civilians. After the attack and nearly 3,000 casualties, the United States responded with the Global War on Terror(ism). The Global War on Terror is a new front in non-conventional warfare. It launched new legal definitions regarding juveniles and challenged the very basis of International

Humanitarian Law with respect to child soldiers.

On 14 September 2001, President Bush declared a state of emergency: "A national emergency exists by reason of the terrorist attacks at the World Trade Center, New York, New York, and the Pentagon, and the continuing and immediate threat of further attacks on the United States."[10] On 13 November 2001, the President of the United States, George W. Bush, issued 66 Federal Regulation 57'833 – Detention, Treatment, and Trial of Certain Non-Citizens in the War against Terrorism, stating "non-citizens with ties to al-Qaeda may be sentenced to death for their crimes against humanity."[11]

First, the Detention Order defined individuals detained as unlawful "enemy combatants." A lawful combatant is defined according to the Geneva Convention Relative to Treatment of Prisoners of War. Article 4 states lawful combatants are "commanded by a person responsible for his subordinates, has a fixed, distinctive sign…, carry arms openly, and conduct their operations…" within the confines of International Humanitarian Law. The Detention Order gave this power to the President of the United States as well as the authority to identify members of al-Qaeda.

Second, the Detention Order along with the Uniform Code of Military Justice, the Authorization for Use of Military Force, and the Detainee Treatment Act, "acknowledged a general Presidential authority to convene military commissions in circumstances where justified under the Constitution and laws, including the law of war." This Detention Order had serious implications for child soldiers.

On 22 January 2002, the United States Department of Justice, Office of Legal Counsel, released a memorandum "RE: Application of Treaties and Laws to al-Qaeda and Taliban Detainees."[12] The DoJ Memo concluded international treaties and domestic, federal laws do not protect members of al-Qaeda or the Taliban militia. The President of United States decided the "standards of conduct" for US military forces regarding al-Qaeda and Taliban forces.[13]

These orders gave the President of the United States broad powers regarding the detention, treatment, and legal prosecution of "enemy combatants." The problems that arise are regarding individual rights and protections under the Geneva Convention and the international conventions, additional protocols, and optional protocols that protect children in armed conflict, including child soldiers. The United States has derogated the rights of individual combatants during the Global War on Terror and a logical extension would apply to children in armed conflict. A case study involving Omar Khadr will further

10 *Declaration of National Emergency by Reason of Certain Terrorist Attacks*, 66 Fed. Reg. 48,199, (14 September 2001).
11 *Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism*, 66 Fed. Reg. 57,833, 13 (November 2001). [hereinafter Detention Order]
12 Bybee, Jay, *Memorandum for Alberto Gonzales Counsel to the President, and William J. Haynes II General Counsel of the Department of Defense,* Washington D.C., 2002. [hereafter DoJ Memo]
13 Bush, George W., *Humane Treatment of Taliban and Al Qaeda Detainees,* Washington D.C., 2002.

explore the derogation of international treaty protection to children.

On 1 August 2004, the United States Army Center for Law and Military Operations published a report titled, *Legal Lessons Learned from Afghanistan and Iraq, Volume 1: Major Combat Operations [11 September, 2001 – 1 May, 2003].*[14] Within this report, the United States Army laid out how commanders and soldiers should handle the detainment of child soldiers. The report stated that although there are "international legal obligations relating to the treatment of children in custody and are contained in the" Convention on the Rights of the Child and Additional Protocol I to the Geneva Convention, "The United States is not a party to either of these instruments and does not consider the obligations contained therein to be customary international law."[15] The report goes on to say, "the United States has issued no specific policy guidance concerning treatment of detained children."[16] This derogation of children's rights and protections can only lead one to think that the United States would apply the rules and regulations set forth in previous Executive Orders to child soldiers. In fact, the report states "The United States is under no legal obligation to treat child detainees differently than adults."[17] The report offers the Convention on the Rights of the Child and Additional Protocol I to the Geneva Convention as "guidelines." While the report notes that Geneva Convention IV states "the death penalty may not be pronounced on a protected person who was under the age of 18 years of age at the time of the offense,"[18] the report says nothing in regards to unlawful enemy combatants or a trial by military tribunal. Both of which had been established by 2004. This appalling practice puts the United States on par with some of the worst human rights violators on the planet.

The final blow to International Humanitarian Law came in 2006 with the passage of the Military Commissions Act (MCA). Common Article III of the Geneva Conventions "Regulates the conduct of the United States, as a contracting party, even if the other parties in the conflict are not parties to the Convention." The MCA legislatively defined that while Article 3 of the Geneva Conventions applied to detainees, no other articles applied to unlawful enemy combatants. The MCA signaled a green light for military commissions to try individuals defined by the President of the United States as unlawful enemy combatants. Under these military commissions, the individual's international rights listed in the various Geneva Conventions do not apply. If an individual defined as an unlawful enemy combatant did not have the protection of the Geneva Conventions, a child or juvenile detained

14 Center for Law and Military Operations, the Judge Advocate General's Legal Center & School, United States Army, *Legal Lessons Learned From Afghanistan and Iraq, Volume 1: Major Combat Operations [11 September, 2001 – 1 May, 2003],* Charlottesville (NC), 2004. [hereafter the Legal Lessons Report]

15 *Ibid.*, 13, p. 77.

16 *Ibid.*,13, p. 77-78.

17 *Ibid*.

18 *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, 12 August 1949, Articles 68, 75 U.N.T.S. 287.

and deemed an unlawful juvenile enemy combatant would be tried by a military commission; furthermore the child would not have the protections outlined earlier, which apply to a traditionally identified child soldier. Even under these new laws passed by the United States Congress and ordered by the president, a human being under the age of 18 years is still defined as a child under various documents besides the four Geneva Conventions of 1949. Also, the problem that must be addressed is regarding the application of the death penalty to children. While outlined in the Geneva Conventions, the prohibition of the death penalty for minors has been reaffirmed time and again from 1989 through the present. Unfortunately under the MCA of 2006, if the President of the United States deems a human being under the age of 18 years an unlawful enemy combatant, this person will be tried by a military commission for whom the death penalty or life imprisonment without release is an applicable punishment.

Application of Law

As early as January 2002, detainees were received at the United States naval base located at Guantanamo Bay, Cuba.[19] These were the first enemy combatants to be subjected to the new laws and policies laid out under the Bush administration. Although these detainees were not yet subjected to the military tribunals, they were denied the rights of counsel, visitation, and Prisoner of War (POW) status. In July 2002, Omar Khadr – a 15-year-old Canadian national – was detained in Afghanistan after a battle with US soldiers. It was not until 21 April 2003 that the United States government acknowledged it had detained Omar Khadr and other children at Guantanamo Bay Naval Base (GTMO).[20] The United States did separate most children from adults while in detention at GTMO, while Omar Khadr and others, ages 16 and 17, were held with adults. The problem is the United States military definition of a juvenile is anathema to International Humanitarian or U.S. federal law. This amalgamation of law places the future of child soldiers in doubt. Instead of an international standard, each detained individual is subjected to the determination of the President of the United States and legal definitions within the United States military, specifically the Uniform Code of Military Justice.

While these detainees were engaged during the War on Terror in Afghanistan, another front was about to be opened. In 2003, the United States and its allies invaded Iraq. After the invasion, the United States began to perform similar actions in Iraq that had been deemed appropriate in Afghanistan. The United States believed it necessary to detain individuals at prisons in Iraq such as Abu Ghraib. It would not be until 2004 that *Sunday Herald* reporter

19 [hereafter GTMO]

20 McKenna, Michael, "War on Terror: the Detainees: the Child Captives in Irons At Camp Cuba," *The Advertiser*, 22 April 2003.

Neil Mackay would write about child detainees in Iraq. The story broke on 1 August 2004 detailing how Coalition Forces held children in Abu Ghraib. While this story outraged many in the international community, it would not be until an investigation later that same year that the Pentagon confirmed the U.S. military had detained 60 children at various facilities. Also following the report, a Pentagon source acknowledged that the Pentagon did not take issue with the International Committee of the Red Cross stating the number of detained children as in excess of 100. The 2004 internal UNICEF report titled *Children in Conflict with the Law or with Coalition Forces* states "In July and August 2003, several meetings were conducted with the Coalition Provisional Authority…and the Ministry of Justice to address issues related to juvenile justice."[21] The United States ignored the international protections prescribed to children, regarding detention in Iraq and Afghanistan. The UNICEF report states "UNICEF is working through a variety of channels to try and learn more about conditions for children who are imprisoned or detained, and to ensure that their rights are respected."

Though information on this subject is very limited, through these few examples a number of questions are raised. The United States has not universally applied any rules of domestic, federal or international treaty laws regarding children. The status of child soldiers within United States military custody remains unclear. The problem is further exacerbated when the specific case of Omar Khadr is examined more closely. As stated above, the United States military has a separate definition of juvenile and child, which does not conform with US Federal Code or treaties to which the United States is a party. The US has routinely avoided the application of international treaties to the problem of child soldiers. This problem will continue to worsen, as the United States military must increasingly deal with child soldiers or juvenile enemy combatants on the battlefield. The United States cannot continue to apply different standards depending on the person in the White House. The case of Omar Khadr will draw further attention to the problems currently facing the United States regarding the issue of child soldiers.

Accountability and the Rights of the Child

Accountability and rights of the child and child soldiers can be discussed in two respects. The first is on a domestic level and the other on the international level. Domestically, the accountability of child soldiers, in the modern age, can be traced to the mid-eighteenth century. In *Rex v. Perkins* (1758), the defendant was being charged with desertion. The King's Bench ordered the child "out of military hands" because of his age.

The international accountability of child soldiers in regards to war crimes

21 UNICEF, *Children in Conflict with the Law or with Coalition Forces*, 2004. [hereafter the UNICEF Report].

and atrocities has been addressed recently in the Special Court for Sierra Leone, the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY). Within these international criminal tribunals, the idea of holding child soldiers accountable for their actions during armed conflict has been dismissed, specifically within the Special Court for Sierra Leone. As stated earlier, domestically the accountability of children has been limited due to the mental capacity and fundamental development issues of a child's understanding. However, to develop an international statute to further the understanding of child soldier accountability would remove many grey areas in the practice of the prosecution of war crimes.

Childhood accountability is established quite well on many domestic levels. It has been defined, "To be guilty of a crime, particularly with regard to serious offences, it is not enough simply to have done a particular prohibited act; there must be the requisite *mens rea* (guilty mind) as well as the *actus reus* (wrongful act)."[22] The argument goes on to state that "…international crimes have such onerous *mens rea* requirements that children will always lack capacity to commit them."[23] Within the domestic legal system with established juvenile justice systems, Claire McDiarmid argues there are four models of transfer between childhood accountability and adulthood accountability.[24] Focusing specifically on model II, Ms. McDiarmid argues "…the dividing line which age draws between juvenile and adult proceedings is absolute…"[25]

The understanding within domestic law is that a child is unable, due to mental development, to comprehend the consequences of committing crimes and therefore is lacking the necessary "guilty mind." Further, a general consensus has been reached that children under the age of 18 years are not to be subjected to the death penalty, as led recently by the Supreme Court decision in *Roper v. Simmons*. In 2005, the United States Supreme Court struck down the death penalty as a punishment for juveniles, citing the eighth Amendment, deeming the death penalty for juveniles as "cruel and unusual punishment."[26] In the majority opinion, the Supreme Court backed this finding, citing "the maturity and irresponsibility of juveniles as compared to adults, juveniles' vulnerability and susceptibility to negative influences in their environments, and the unformed character and personality of juveniles as compared to adults."[27] Until this landmark decision, the United States was one of the last countries in the world to execute juveniles.

Within the international community and the structure of international law

22 Happold, Matthew, *International Criminal Accountability and the Rights of Children*, The Hague Academic Press, The Hague, 2006, p. 69-84.
23 *Ibid.*
24 McDiamid, Claire, *International Criminal Accountability and the Rights of Children*, The Hague Academic Press, The Hague, 2006, 85-95.
25 *Ibid.*
26 Roper v. Simmons, 543 U.S. 551 (2005).
27 *Ibid*.

regarding the rights of the child, the guiding principal has been that no one under the age of 15 years can be recruited into a military force. Also, the sentence of life imprisonment without release and the death penalty for child soldiers shall not be enforced. The concrete understanding of age as a divider and the landmark decisions to prohibit "cruel and unusual punishment" have created the environment necessary to draft new international resolutions to establish a policy that will protect child soldiers from the prosecution of war crimes.

Case Study: Omar Khadr

Omar Ahmed Khadr was detained near Khost, Afghanistan in July, 2002. At the age of 15 years, Mr. Khadr engaged in a firefight with United States forces, killing one soldier before being severely wounded. In October 2002, the United States transferred Mr. Khadr to GTMO, where he was held in "Camp Delta," an adult detention facility. Mr. Khadr was not separated, because at the time of his arrival, he had reached 16 years of age. Besides the separation issue, Mr. Khadr has been subjected to interrogation, torture, denied medical treatment for serious wounds, denied access to his family, and no attempt has been made to implement the internationally recognized standards for disarmament, demobilization, and reintegration (DDR). Mr. Khadr faces charges of conspiracy, murder, attempted murder, spying, and terrorism. Since he has fallen under the Bush administration's policy of concerning unlawful *juvenile* (emphasis added) enemy combatants as an al-Qaeda fighter engaged in terrorism against the United States, Mr. Khadr is subject to trial by military commission. The United States has not ruled out the sentence of execution or life imprisonment.

The United States charged that Mr. Khadr was not a child soldier but in fact an operative of al Qaeda. In the Court of Military Commission Review of the 4 June 2007 case of *United States of America v. Omar Ahmed Khadr*, the argument proceeded "In the Military Commissions Act of 2006 (MCA), Congress established a comprehensive system for trying unlawful enemy combatants." The prosecution's first point was that the MCA was the system Mr. Khadr was to be tried under regardless of his age at the time of his capture and detainment. The government argued that Mr. Khadr is an unlawful enemy combatant and mentions that the United States never ratified the API.[28] Further, the U.S. stated that Mr. Khadr is not subject to protection under the Geneva Conventions. As a member of al-Qaeda, he does not belong "to a force that wears uniforms, carries its arms openly, is under responsible command, and systematically abides by the laws of war."[29] The United States rejected the claim that Mr. Khadr is a former child soldier on

28 United States of America V. Omar Ahmed Khadr, No. 00000001, Military Commission MCO #07-02, Reply Brief on Behalf of Appellant.

29 *Ibid*.

the basis that "minors are not immune from war crimes prosecutions when they have committed law of war violations."[30] The prosecution went on to say, "a contrary principle would give rogue regimes and non-state armed groups every incentive to enlist minors, because any potential war crime they commit would be done so with absolute impunity… he cannot be immune from criminal prosecution."[31]

The United States' argument ignores the international protections provided to children through the many treaties explained throughout this paper. The most recent case involves the Special Court on Sierra Leone in which the prosecutor had the jurisdiction to prosecute minors that committed war crimes but refused. The prosecutor did charge the adults involved with war crimes, relating to the recruitment and use of child soldiers, among other atrocities. The issue that the United States intends to try Mr. Khadr through a military tribunal and has indeed argued for this, has enormous consequences regarding the death penalty or life imprisonment for Mr. Khadr. The defense also states that if Mr. Khadr is brought to trial for war crimes he would be the first child ever charged with war crimes in the history of western culture.[32]

On 18 January 2008, the defense filed a Motion to Dismiss. Mr. Khadr's defense is attempting to establish under international law that he was a child soldier at the time of his capture and was illegally recruited by al-Qaeda. The defense stated it is

> …very important to the issue of military jurisdiction in the case, a juvenile illegally used in combat by al-Qaeda does not have the requisite military status that has been historically necessary for military jurisdiction to be exercised. To now exercise military commission jurisdiction over an alleged al-Qaeda child soldier and try him for alleged war crimes puts this commission in the very awkward position of legitimizing – contrary to the interest of the United States – the illegally imposed military status of an illegally recruited al Qaeda child fighter. This is certainly not what Congress intended when it granted jurisdiction to this commission to try al-Qaeda's war crimes against the United States.[33]

Mr. Khadr's defense team has attempted to show that even under the Military Commissions Act of 2006, the United States Congress had no intention of allowing children to be tried by military commissions, as there was no specific mention of child soldiers within the MCA. The defense argues that because children require such special attention in the field of DDR, the United States

30 *Ibid*.
31 *Ibid*.
32 United States of America V. Omar Ahmed Khadr, No. 00000001, Military Commission MCO #07-02, For Dismissal Due to Lack of Jurisdiction.
33 *Ibid*.

Congress would have specifically addressed the issue within the legislative context of the MCA citing: "the exercise of jurisdiction over a child soldier by a military tribunal such as this one, which has a complete lack of juvenile justice expertise and operates through a process which narrows or even eliminates important procedures protecting even an adult defendant's trial rights."[34] The defense went on to argue that the United States Military and Executive Branch are attempting to abrogate the rights of child soldiers and contort the application of military tribunals to the issue of juvenile justice without previously established legislative authority. The ultimate argument by the defense is that the United States Executive Branch and the United States Military have no way of determining the "intent" of Congress in regards to the trial of child soldiers by military tribunals.

While Mr. Khadr's case has not been decided, the implications are far-reaching. Mr. Khadr is now 21 years old, and his case is on the forefront of the international debate regarding the treatment of child soldiers in the Global War on Terror. The United States is in a position to establish an international precedent either for or against the prosecution of child soldiers for war crimes. Further, the United States could act in contrast to its own domestic policy and execute an individual who was a minor at the time of incident. The United States, as a leader in the western world, must realize that a child denied the access to education, protection from hunger, and protection from poverty, must be afforded those basic rights under the control of the United States. Prosecution and sentencing of Mr. Khadr as a juvenile enemy combatant without the provided the rights of a child solider would be in contrast to all generally defined domestic and international treaties on the protections of children in armed conflict.

Conclusion and Suggestions

As has been stated throughout this paper, the protection of child soldiers in international and domestic law with emphasis on US law, has a few grey areas. Child soldiers age 16 and 17 years old are somewhat unprotected and now in the GWOT child soldiers or juvenile enemy combatants are not protected from prosecution by military tribunals. Both loopholes could be addressed with a new convention, resolution, or additional protocol on the rights of the child. While children ages 16 and 17 years are closer to adulthood and have a better grasp on the concept of right and wrong, they do not have an understanding of the "guilty mind" and the ramifications with respect to armed conflict and war crimes. The psychological damage done to children during armed conflict is well documented and has a lasting effect on the mental abilities. The international community has a responsibility to protect the children of armed conflict and those forced into child soldiering. While there has been

34 *Ibid*.

some effort in the area of protection and juvenile justice, these efforts need to be furthered in the face of a new legal contention. The United States and its allies in the Global War on Terror have created new legal challenges to the protection of child soldiers and now have to address these problems. While domestically the US has agreed the prosecution and sentencing of children should be taken in to consideration, internationally, the US has ignored this practice. The United States needs to take the lead on a new initiative to protect children in armed conflict. The United States Supreme Court has taken the first step towards this powerful new idea in striking down the death penalty for children, and the United States government should follow suit. Protection of national interests and defense of US Military forces is an important concern, but it should not be paramount to protecting those that cannot protect themselves from the atrocities of war. Many in the international community see the need to close the loopholes identified in this paper; the United States has the moral responsibility to act. As has been stated many times, children are the most important resource the world has, and protection of those children must be all encompassing. The United States should not be using grey legal definitions to subvert International Humanitarian Law to prosecute and sentence juveniles. Within the realm of humanitarianism, the majority of the time there is a consensus on issues about children. A new effort must be made to extend protection to children in the case of military tribunals and child soldiers ages 16 and 17.

Judging the Bundeswehr in Afghanistan

Nicholas Burtscher

MA in International Relations, Webster University Geneva

The German military's restricted participation in Afghanistan has been under extensive fire in the press, primarily because Bundeswehr soldiers on the ground have not. NATO allies, especially the United States, Great Britain, Canada, and The Netherlands, complain that German Rules of Engagement (ROE), which do not allow German soldiers to actively pursue and engage al-Qaida and its allies, are divisive and have left other members of the Northern Alliance to shoulder too much of the burden. Despite a small concession in the form of a Quick Reaction Force (QRF) of 200 soldiers last summer to replace a Norwegian unit, Germany has stood by its policies and has also continually refused to send troops to the more hostile southern regions of the country, preferring instead to focus on development and reconstruction in the north.

Berlin has approved three mandates in Afghanistan. The first is the International Security Assistance Force (ISAF) for which Bundeswehr soldiers have been deployed in Afghanistan since January 2002. The mission is legitimized under UN resolutions and is under the command of NATO.[1] The United Nations Security Council authorized the establishment of the force "in the maintenance of security in Kabul and its surrounding areas, so that the Afghan Interim Authority as well as the personnel of the United Nations can operate in a secure environment."[2] The assistance force has since expanded the reach of its mission to cover the entire country and has also boosted the number of ISAF troops from the initial 5'000 to around 50'000 from 41 countries, including all 26 NATO members.[3]

From 2001 to 2008, the German military was also active in Operation Enduring Freedom (OEF) missions in Afghanistan. OEF is essentially the "Global War on Terror," (although President Obama has moved away from the phrase) of which Afghanistan is just one mission. The OEF in Afghanistan under

1 "ISAF, OEF und Tornado-Einsatz: Die drei Bundeswehr-Mandate in Afghanistan," *Tagesschau*, 27 August 2008. Available: http://www.tagesschau.de/ausland/bundeswehr2.html (all websites last visited: 29 April 2009)

2 "NATO's Role in Afghanistan," NATO, 27 April 2009. Available: http://www.nato.int/cps/en/natolive/topics_8189.htm#mandate

3 *Ibid*.

US Central Command had up to 100 German special forces (Kommando Spezialkräfte or KSK) at their disposal to be used anywhere in Afghanistan to support the fight against "terrorists." German parliament did not renew this mission, and it should be noted that the KSK were only used a few times, seeing action in 2002, 2003, and 2005.[4]

The third mandate under which the Bundeswehr is operating in Afghanistan is the so-called "*Tornado*-Einsatz" of the German Air Force. Since early 2007, the Tornadoes have been flying reconnaissance missions. Although the pilots fly missions in areas of intense fighting, they themselves may only fire in self-defense. Intelligence from these missions is shared with both ISAF and OEF forces.

Despite these commitments, NATO allies contend that the Bundeswehr is not pulling its weight in Afghanistan and that the Bundeswehr's limited participation in Afghanistan is weakening the Northern Alliance. Berlin disagrees. Focusing on these disagreements while employing the aid of the official websites of NATO and the German government, American, British, and German news sources, as well as military journals, this paper presents both sides of the argument surrounding the question, how should the restricted participation of the Bundeswehr in Afghanistan be judged?

Case for a positive interpretation of Bundeswehr engagement

Following the attacks on the World Trade Center and Pentagon in the United States on 11 September 2001, Article 5 of the North Atlantic Treaty was invoked for the first time. Article 5 states:

> The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognised by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.[5]

This article is important to the discussion on how to judge the Bundeswehr's

4 "ISAF, OEF und Tornado-Einsatz: Die drei Bundeswehr-Mandate in Afghanistan," *Tagesschau*, 27 August 2008. Available: http://www.tagesschau.de/ausland/bundeswehr2.html

5 The North Atlantic Treaty, NATO Official Text, Washington D.C., 4 April 1949. Available: http://www.nato.int/docu/basictxt/treaty.htm

restricted engagement in Afghanistan. Given that the article specifies that "each of them" is to take the action "it deems necessary, *including* (emphasis added) the use of armed force," it is clear that Germany has more than fulfilled its obligation under the North Atlantic Treaty. In attempting to form a judgment, international law is of course only one method in evaluating the Bundeswehr's engagement in Afghanistan.

How do we achieve our objective?

Last month, German Chancellor Angela Merkel said, "For me our aim remains clear- that Afghanistan no longer poses a terrorist threat to our security, in other words to NATO member countries."[6] The overarching objective of the Germans in Afghanistan is the same as that of those countries involved in intense fighting in the southern part of the country, including the United States, Great Britain, Canada, and The Netherlands. The difference comes in regards to the many smaller objectives within this larger goal. Said another way, Berlin differs in their view of *how* the overarching objective can best be achieved.

The buzzword for the Germans throughout its engagement in Afghanistan has been "networked security." Chancellor Merkel has noted that *networked security* "provides for civilian reconstruction and military security to go hand in hand," adding that "One is not possible without the other."[7] The German Chancellor has also said that rebuilding civil society in Afghanistan is the most important priority, calling on NATO to "work much more closely with the United Nations and non-governmental organizations," according to the *Berliner Zeitung*.[8] The bulk of the German engagement in Afghanistan has been development, reconstruction, and especially the training of Afghan military and police. In Germany's view, this is how the threat to NATO countries' security coming out of Afghanistan will be removed. Recklessly pursuing al-Qaida and its allies leads to civilian casualties, which leads to more terrorists. Economic opportunity and the provision of tools with which the Afghan government itself can maintain security are the keys, according to Berlin.

Missions in Afghanistan such as those carried out under the banner of OEF are particularly unpopular among Germans because of the civilian casualties they have caused. Perhaps the best example of the opposite end of the intermediate objectives spectrum is embodied in a classified letter former

6 "Merkel Calls Afghanistan NATO's 'Biggest Test,'" *Deutsche-Welle*, 26 March 2009. Available: http://www.dw-world.de/dw/article/0,,4128887,00.html

7 "The Chancellor winds up her visit to Afghanistan." *Die Bundesriegerung Online*, 6 April 2009. Available: http://www.bundesregierung.de/nn_353632/Content/EN/Artikel /2009/04/2009-04-06-merkel-afghanistan__en.html

8 "Success or Failure in Afghanistan Will Depend on Americans," *Spiegel Online International*, 27 March 2009. Available: http://www.spiegel.de/international/world/ 0,1518,615878,00. html

NATO High Commander Bantz John Craddock sent to NATO commanders. The letter was a "so-called, 'guidance,' which is equivalent to an order on the strategic level."[9] In it, he called for "an immediate offensive 'to attack directly drug producers and facilities throughout Afghanistan.'"[10] He went on to say, "It is no longer necessary to produce intelligence or other evidence that each particular drug trafficker or narcotics facility in Afghanistan meets the criteria of being a military objective."[11]

German members of parliament across the political spectrum reacted to the letter with outrage. The Social Democrats' defense policy point man in parliament, Rainer Arnold, described the letter as a "totally mistaken approach," while Brigitte Homburger of the Free Democratic Party described the order as "clearly unlawful."[12] German General Ramms refused to execute the order, "deeply upset(ing)" Craddock.[13]

National Sensibilities

Germany's Nazi past still plays a very real role in the psyche of its citizens. The wave of nationalism that allowed Adolf Hitler and the Nazi party to establish a fascist state in which the military played the key role in supporting and carrying out the malicious wishes of the party, has made Germans take an incredibly careful approach to both patriotism and the use of the military. Germany's Nazi past is drilled into German students arguably more than any other pupils in world. As a result, the past two generations of Germans have carried significant guilt. Although this sense of guilt is less overwhelming for generation.com than preceding generations, it is still an inevitable consequence, which takes time to heal.

A look at the use of the German military since the end of World War II illustrates this sense of caution. Germany was of course completely demilitarized following the Second World War. In 1955, NATO decided to "safely" incorporate West Germany into the alliance. Although German Basic Law specifies that the military only be used in a defensive role, this was very much in line with NATO's defensive stance behind the Iron Curtain at the time.[14]

Following the fall of the Berlin Wall, the Bundeswehr absorbed the Nationale Volksarmee (NVA) of former East Germany and was forced along with the rest of the world to reconsider how it fit into the new world order. Since this time, the German military has taken a very active approach in reacting to

9 Gebauer, Matthias and Susanne Koelbl, "Battling Drugs in Afghanistan: Order to Kill Angers German Politicians," *Spiegel Online International*, 29 January 2009. Available: http://www.spiegel.de/international/world/0,1518,604430,00.html
10 *Ibid*.
11 *Ibid*.
12 *Ibid*.
13 *Ibid*.
14 *Basic Law for the Federal Republic of Germany*, Article 87a (2), German Bundestag Administration, Public Relations Division, Berlin, 23 May 1949 (amended up to June 2008).

crises and humanitarian situations around the world. The first two of what is today around 130 such missions were Cambodia (UNTAC) and Somalia (UNOSOM) in 1992.[15]

In 1994, the Federal Constitutional Court ruled that the term "defense" as referred to in Article 87a (2) of German Basic Law (Grundgesetz) has been defined to not only include the borders of Germany but can also refer to the broader security of Germany anywhere in the world.[16] Following this ruling, the most notable missions of the nineties were in Bosnia and Herzegovina (IFOR) and Kosovo (KFOR).[17] In an often-quoted speech, former German Defense Minister Peter Struck noted in 2004 that German security is defended at the Hindu Kush.[18]

The recent tendency for Germans has been towards a "normalization" of national sentiment. Following the 2006 World Cup of Football in which the German hosts put their best foot forward, thousands of articles and news segments flooded the German media asking the whether or not is was to wave the flag or generally be proud of Germany.[19] This positive presentation of their country on the world scene stimulated a new, more positive discussion on national sentiment.

There seems to be little change in the mindsets of Germans when it comes to the use of the military however. Opinion polls throughout the Afghanistan deployment have shown strong sentiment against German troops in Afghanistan and even stronger opposition to sending them to the south to fight. Polls from 2008 show 85% of Germans opposed sending troops to the volatile south of the country,[20] and two-thirds of all Germans favor an immediate military withdrawal.[21] A poll from earlier this month shows that just 32 percent of Germans want to keep troops in that Afghanistan.[22] Indeed, there has been a general sense among Germans that the entire deployment in Afghanistan has been little more than a neo-crusade in the form of Bush's "War on Terror."[23]

15 "Chronology of Bundeswehr Missions," *Die Bundesriegerung Online*, 1 May 2008. Available: http://www.bundesregierung.de /Content/EN/Artikel/Auslandseinsaetze-der-Bundeswehr/2008-04-24-chronologie-der-einsaetze__en.html

16 Börner, Karl-Heinz, "Germany's Constitutional Court and Future German Combat Operations Outside of Europe," US Army War College, Carlisle (PA), 3 December 1997.

17 The Bundeswehr is still in Bosnia and Herzegovina in the form of EUFOR ALTHEA, which replaced IFOR. The German military is still fulfilling its KFOR mandate in Kosovo.

18 "Erklärung der Bundesregierung," *Die Bundesriegerung Online*, 11 March 2004. Available: http://www.bmvg.de

19 A 2008 survey found that 86% of 14 to 18 year old Germans are proud to be German: http://www.zeit.de/online/2008/08/umfrage-deutsch?page=all.

20 "German Minister Wants More Troops in Afghanistan," *Deutsche-Welle*, 21 June 2008. Available: http://www.dw-world.de/dw/article/0,2144,3429073,00.html

21 Gartzke, Ulf, "Berlin's Best Hope," *The Journal of International Security Affairs*, No. 14, Spring 2008, p. 35-43.

22 "Germans positive about NATO leaders, dislike Afghanistan mission," *Deutsche-Welle*, 3 April 2009. Available: http://www.dw-world.de/dw/article/0,,4149145,00.html

23 Gartzke, Ulf, *Op.Cit.*, p. 35-43.

Case for a negative interpretation of Bundeswehr engagement

Unfair Burden

While the letter of Article 5 of the North Atlantic Treaty may indicate that Germany has fulfilled its obligations, fellow NATO members have strongly disagreed. In the spirit of Article 5, which is most often boiled down to "an attack against one of us is an attack against all of us," Germany has not responded adequately according to many.

At the 44th Munich Conference, U.S. Defense Secretary Robert Gates summed up the sentiment of many NATO members when he said that some NATO members should not have the luxury to be able to decide they would like to look after civilian operations and the stabilization of Afghanistan, thereby forcing other members to shoulder an imbalanced burden.[24] The press has had an absolute field day with the inner-NATO tiff, printing headlines such as "Im Norden wird gebaut, im Süden wird geblutet"[25] (building in the north, bleeding in the south), Die einen graben Brunnen, die anderen töten und sterben"[26] (the one's digging wells, the other's killing and dying), and of course there is the running joke among American GIs that ISAF actually stands for "I Saw America Fight."

The 200 QRF forces that Germany did provide last summer only came after they were asked twice, and Canada threatened to pullout its forces altogether.[27] Why was Ottawa so upset? Canada, a country with less than half the population of Germany, has 850 less troops in Afghanistan than Germany,[28] and yet, there have been 117 Canadian troops killed in action compared to Germany's 26.[29] Recent reports that the Bundeswehr has given Canadian Forces 20 *Leopard* 2A6M tanks as a sort of conciliation have lead critics to suggest that Germany has developed a guilty conscience in the face of such statistics.[30]

How do we achieve our objective?

The Germans have flaunted their "Networked Security," mentioning in nearly every interview on the subject of Afghanistan the mutual exclusiveness of

24 Hemicker, Lorenz, "Blick zum Hindukusch," *Y. Magazin der Bundeswehr*, March 2008, p. 20-21.
25 Becker, Susanne, "Wir Bleiben Im Norden," *Y. Magazin der Bundeswehr*, March 2008, p. 18-19.
26 *Ibid*.
27 *Ibid*.
28 "International Security Assistance Force," Webster University Geneva. Handout in INTL 5550 (War & Diplomacy: Peacekeeping) course, spring II 2009 term, current as of 1 December 2008.
29 "U.S. and Coalition Casualties: Afghanistan," *CNN World*, 30 April 2009. Available: http://edition.cnn.com/SPECIALS/2004/oef.casualties/
30 Vautravers, Alexandre, "Les Léopard Canadiens," *Revue militaire suisse (RMS)*, No.1, January-February 2009, p. 27-30.

security and development. A typical quote is that of German Secretary of Defense Franz Josef Jung's "Without security, no development, but without development no security."[31] What remains unclear however is exactly who is providing this security. Is this the security of German forces stationed in relatively quiet, northern Afghanistan- not allowed to fight- or is it being provided by the other NATO members in the south of the country?
The American approach to the question "how do we achieve the overarching goal of a world in which Afghanistan does not pose a threat to NATO members' security" for example differs from that of the German view in a very fundamental way. The Americans, while acknowledging the usefulness of development and reconstruction for Afghanistan's people, also believe as President Obama said last month that they must '"disrupt, defeat, and dismantle' the al-Qaida terrorist organization and the Taliban in Afghanistan and Pakistan."[32] The Americans have lost 675 troops thus far.[33] Two months into his term as president, Barack Obama had already announced his plan to send 17'000 additional combat troops to Afghanistan in attempt to turn the tide of the war.[34] This would bring the total number of US soldiers in Afghanistan to 55'000 by year's end.[35]
Taking a different approach than that of former NATO High Commander Craddock, President Obama is expected to hold the Afghan and Pakistani governments responsible for cracking down on corruption and narcotics. NATO has claimed that at least 100 million USD a year goes to insurgents through the drug trade in the region.[36] According to a recent report, President Obama is planning on increasing spending on US efforts in Afghanistan by 60%. Additionally, there may be plans to triple the 1.5 billion € the United States gives Pakistan each year to fight the Taliban and its al-Qaida allies.[37]

Germany is weakening NATO

By refusing to stand in solidarity with their NATO allies by partaking in offensives and sending troops to southern Afghanistan, Germany is weakening the Northern Alliance. U.S. Defense Secretary Robert Gates has said that the development into a two-tiered alliance with fighting and non-fighting partners would undo the progress that has been made for the Afghan

31 Jung, Franz Josef, "NATO ist unser Anker," Interview with *Y. Magazin der Bundeswehr*, January 2008, p. 105.
32 "Success or Failure in Afghanistan Will Depend on Americans," *Spiegel Online*. 27 March 2009. Available: http://www.spiegel.de/international/world/0,1518,615878,00.html
33 "U.S. and Coalition Casualties: Afghanistan," *CNN World* [Online], 30 April 2009. Available: http://edition.cnn.com/SPECIALS/2004/oef.casualties/
34 *Ibid*.
35 *Ibid*.
36 Gebauer, Matthias and Koelbl, Susanne, "Battling Drugs in Afghanistan: Order to Kill Angers German Politicians," *Spiegel Online*, 29 January 2009. Available: http://www.spiegel.de/international/world/0,1518,604430,00.html
37 "Success or Failure in Afghanistan Will Depend on Americans," *Spiegel Online*, 27 March 2009. Available: http://www.spiegel.de/international/world/0,1518,615878,00.html

people, increase the danger of a terrorist attacks in Europe, and ultimately destroy the alliance.[38] NATO Secretary-General Jaap de Hoop Scheffer has expressed what is needed in his eyes, saying "One team, one mission that is the goal."[39]

Charles Grant of the Financial Times has claimed German foreign policy as of late "has evolved in a manner that leaves the EU- and perhaps the Atlantic Alliance weaker."[40] He goes on to say that the Bundeswehr's efforts in Afghanistan are of little help, and that London, Paris, and Washington "despair of the commitment."[41]

One can also point to the increasing reserve with which other NATO allies are approaching the mission in Afghanistan as proof of a weakened alliance. Were the Germans perhaps shouldering more of the combat burden, countries like Canada and the Netherlands would not be poised to remove their troops from Afghanistan.[42] While it is true that wars become less popular the longer they last, there is also simply a threshold where countries like the Netherlands and Canada decide they have suffered too many casualties. Germany's restricted participation in Afghanistan creates an additional concern for NATO in that citizens of other alliance countries can look at the German model, and say to their leaders, "Hey, we didn't know that was an option. If we have to send our troops to Afghanistan, then let's at least not make them fight."

What has not helped a bit are stories coming out of the German press such as that from the *Frankfurter Allgemeine Zeitung* (FAZ), which explains that since Germany was the first to send a reconstruction team to the region, they were able to pick the relatively peaceful northern region, adding "experience shows: taking the initiative yourself early is preferable to being forced into something late in the day."[43] There would be many appropriate political cartoons to sum up what this German paper has described. Most of them would involve a child sticking his tongue out at his playmates.

Conclusion

Tactless rhetoric, such as the aforementioned *FAZ* article along with the myopic bickering and juvenile peer pressure of NATO allies serve to weaken NATO. Berlin's decision to focus on reconstruction, development, and military and police training, which is in accordance with the will of the people it serves (who coincidentally provide the soldiers), does not. All NATO partners recognize that it is not the sheer number of allied troops running after al-Qaida forces that will lead to a successful engagement in Afghanistan. New,

38 Hemicker, Lorenz, "Blick zum Hindukusch." *Y. Magazin der Bundeswehr,* March 2008, p. 20-21.
39 *Ibid*.
40 Grant, Charles, "Unilateral Germany threatens to weaken Europe," *Financial Times*, 4 December 2008. Available: http://us.ft.com/ftgateway/superpage.ft?news_id=fto120420081415136121
41 *Ibid*.
42 "Success or Failure in Afghanistan Will Depend on Americans" *Op.Cit.*
43 *Ibid*.

unconventional threats to the North Atlantic area's security, such as al-Qaida cannot be effectively neutralized with a traditional "defeat the enemy on the battlefield" approach only. Reconstruction, development, and certainly military and police training are just as important as combat. Why then, should the Bundeswehr's commitment, which we have also seen more than obliges German commitment to the North Atlantic Treaty, be considered second class? In terms of effectiveness, it deserves a first class seat in front of the "Craddocks," who are certainly weakening NATO.

Both the general difficulties and the Bundeswehr experience NATO has encountered in Afghanistan are further signals to some that the Northern Alliance would be better off focusing less on the new challenges such as global instability, nuclear proliferation, piracy, narcotics, terrorism, and cyber terrorism. The 2006 Comprehensive Political Guidelines for NATO focused on the "ability to meet the challenges, from wherever they may come" and to be able to "respond quickly to unforeseen circumstances."[44] In many ways this new approach has attempted to fill the void left by the collapse of the Soviet Union. Two observations: first, NATO has never demonstrated that it is capable of tackling these new challenges and second, given Russia's aggressive military and energy-related foreign policy in recent years, it is no longer clear just how big this void is.

The "New NATO" movement exemplified by the U.S., U.K., Netherlands, and Denmark interprets Article 5 very loosely and supports a very broad strategic concept. Even in the aftermath of the 2008 South Ossetia War, U.S. NATO Ambassador Kurt Vogel expressed concern that NATO might shift too much of its attention east, saying there are "a lot of other things that are more important and more immediate," adding that looking east is at best 40% of NATO's agenda.[45] The full return of France may also prove to be wind in the sails of "New NATO." French President, Nicolas Sarkozy, recently declared, "Our strategy cannot remain stuck in the past when the conditions of our security have changed radically."[46]

But have they? "Old NATO" countries, such as Norway, Estonia, Latvia, Lithuania, and most East European members, identify the greatest threat as the re-emergence of Russia.[47] They would likely be in favor of a re-evaluation of NATO's relationship with Russia, which they see as too cozy at times. According to these states, one need not look any further than to Russia's involvement in Georgia this past summer to identify the greatest threat to NATO. Indeed, many challenges facing NATO today are of the "old" variety. Should Ukraine and Georgia be brought into NATO, given that Russia has demonstrated that they are still in its "sphere?" How will missile defense

44 Ringsmose, Jens and Rynning, Sten, "Come Home, NATO? The Atlantic Alliance's New Strategic Concept," *Danish Institute for International Studies*, Report 2009.
45 *Ibid.*, p. 18.
46 Cody, Edward, "After 43 Years, France to Rejoin NATO as Full Member," *Washington Post*, 12 March 2009. Available: http://www.washingtonpost.com/wp-dyn/content/article/2009/0
47 Ringsmose, Jens and Rynning, Sten, *Op.Cit.*

plans in Poland and the Czech Republic play out with Moscow? Finally, there is the issue of energy security, given that many of the eastern states rely on a steady flow of gas from their giant neighbor to the east.

Despite the many challenges the Northern Alliance faces, many experts have speculated that the 2009 Strasbourg-Kehl Summit was the first step towards a new NATO Strategic Concept. It is clear this new policy needs to address these fundamental issues, re-establishing a firm base in the form of a clearly defined mandate and the re-establishment of a strong unity of purpose. If the Northern Alliance is able to do this, not only will it be better prepared vis-à-vis "unforeseen circumstances" from the outside, but it might also avoid "unforeseen circumstances"- like the Bundeswehr in Afghanistan- from the inside as well.

After addressing the issue of the transformation of conflicts in a global perspective (2007) and internal armed conflicts (2008), the third edition of the Security Forum addresses the relationship between military and politics.
Carl von Clausewitz has demonstrated the close ties –and the subordination- of the first to the second. Today, modern forms of warfare (insurgency, terrorism, nation-building) question our capacity to distinguish and coordinate military tools and political objectives.

In recent history, many situations show how military incidents can lead to considerable political crises. Attacks on ships such as the *Lusitania* or the *USS Stark*, the shooting down of an American U-2 spyplane over the Soviet Union or the downing of Korean Air Lines flight 007, the failure of US Special Forces units in the hostage crisis in Iran or the rescuing of American soldiers in Somalia, as well as corruption scandals in arms deals in India or the case of the Taiwaneese frigates have fully demonstrated this relationship.
Through these varied 20th Century case studies, we will try to discern trends and paterns, as well as understand the intricate mechanisms of esccalation and resolution, pretext and cover-up.

This publication contains contributions from speakers at the Security Forum 2009. The Forum's goals are:

- To present the evolving nature of conflict and security issues, in relation to concrete national and regional policies;
- To introduce new research and disciplines, encourage interactive discussion and participation in the reflection on security policies;
- To reassess contemporary threats and risks, and evaluate present crisis reaction/preparation mechanisms;
- To compare risks and liabilities in conflicts for public and private (corporate) actors;
- To compare civil and military processes and cooperation in the complex field of security.