Security Sector Assistance in the Post-Cold War Era: Is There A Balanced Approach in the Interagency?

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Introduction

In April 2013, President Obama issued Presidential Policy Directive 23 (PPD-23), Security Sector Assistance (SSA) with the stated intent that the United States provide SSA more selectively in line with US Foreign Policy and National Security objectives through a more collaborative interagency approach with the Department of State as the lead agency responsible. The PPD defined SSA as "the policies, programs, and activities the United States uses to engage with foreign partners" that "help shape their policies and actions in the security sector," which includes state security and law enforcement providers, justice management and oversight bodies, civil society, and other state security providers as relevant actors in the security sector.²

PPD-23 states that the goal of security sector assistance is to reduce the possibility of the United States intervening abroad in response to instability.³ Since 9/11 SSA⁴ (or Building Partner Capacity) has consistently been touted as a means of mitigating the threats likely to emanate from weak or failing states, which may prompt a

¹ Presidential Policy Directive – 23, Security Sector Assistance, April 5, 2013, The White House, Washington DC

² "Fact Sheet: US Security Sector Assistance Policy," *The White House,* 5 Apr 13; http://www.whitehouse.gov/the-press-office/2013/04/05/fact-sheet-us-security-sector-assistance-policy

³ Ibid

⁴ To denote activities to Train, Advise, and Equip foreign armed forces, the US Department of Defense has used the terms Building Partner Capacity (BPC) and Security Force Assistance (SFA) rather than Security Assistance (SA) since 9/11. The PPD definition of SSA seeks to encompass all three terms.

direct US military response. Speaking at the National Defense University in September 2008, Secretary of Defense Robert Gates said, "where possible, our strategy is to employ indirect approaches – primarily through building the capacity of partner governments and their security forces – to prevent festering problems from turning into crises that require costly and controversial American military intervention. In this kind of effort, the capabilities of our allies and partners may be as important as our own and building capacity, is arguably as important if not more so, than the fighting we do ourselves.⁵" In another example, President Obama highlighted the role of SSA when he addressed graduating cadets at the US Military Academy in June 2014,

I am calling on Congress to support a new Counterterrorism Partnerships Fund of up to \$5 billion, which will allow us to train, build capacity, and facilitate partner countries on the front lines. And these resources will give us flexibility to fulfill different missions, including training security forces in Yemen who have gone on the offensive against al Qaeda; supporting a multinational force to keep the peace in Somalia; working with European allies to train a functioning security force and border patrol in Libya; and facilitating French operations in Mali. 6

Given the focus on building partner capacity through Security Sector Assistance, we pose the questions, "Why did the President issue PPD-23 and how can it be implemented to achieve its stated objectives?" To answer these questions, this paper explains three causal factors. First, the legislative evolution of SSA is explored along with its use by the Department of Defense since the end of the cold war. Second, the change in post 9/11 Defense strategy and planning constructs that directed US armed forces put more emphasis on building partner security capacity is examined. Finally, we look at the armed forces' experience in building security sector capacity in Iraq and

⁵ Robert Gates, "A Balanced Strategy," Speech as Delivered by the Secretary of Defense at National Defense University, Washington D.C. September 29, 2008.

⁶ Barack Obama

Afghanistan. The authors contend that understanding these factors will facilitate moving toward the coherent and collaborative approach that President Obama stated as his goal in PPD-23,⁷ will validate the President's intent to put the State Department in the lead, and by observing the lessons learned since 1991, it will inform the modes of security sector assistance that will and will not work in the future.

The first phase of this project will be presented at the Joint Conference of the International Studies and American Political Science Associations in Austin, Texas in November 2014. The next phase, bringing in the research from post World War II through the cold war will be presented at the meeting of the International Studies Association in New Orleans in February 2015.

US Overseas Military Assistance at the End of the Cold War

From the Truman administration to the end of the Cold War, security assistance (training, advising, and equipping foreign armed forces) was a component of every administration's foreign aid program and woven into an overall strategy of containing communism. Historically, security assistance was justified to the Congress by the following four reasons, with one or two prioritized over the others depending on the President's strategy:

- Security Assistance helps friendly nations to defend themselves against external and internal threats
- 2. Strengthens economies of friendly nations by reducing the pressure of defense spending on a shaky economy and promotes US economic interests
- 3. Promotes regional security and maintains the cohesion of US alliances

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⁷ Ibid

4. Secures access to overseas military bases and facilities and increases Washington's political influence with receipient states⁸

The collapse of the Soviet Union and the end of the cold war eliminated the grand strategy that was the ultimate basis of security assistance. By 1991, while some observed that most members of Congress agreed on the need for some security assistance program, consensus had broken down on the traditional rationale for security assistance. Some members were particularly opposed to arms transfers, fearing that they were as likely to increase regional conflicts as to prevent them, potentially drawing the US into warfare. Others were concerned with the cost.⁹

However, President George H.W. Bush believed it was important to maintain traditional support for foreign aid and security assistance despite the dissolution of the Soviet bloc. On August 2, 1990 President Bush announced a policy of "peacetime engagement every bit as constant and committed to the defense of our interests and ideals in today's world as in the time of conflict and cold war." Bush added that terrorism, renegade regimes, unpredictable rulers, the proliferation of weapons of mass destruction and new sources of instability required a strong and engaged America. He pointed to the invasion of Kuwait, which had occurred the same day to support his argument. 11

In the wake of the overwhelming coalition victory, which dislodged Iraqi forces from Kuwait, a senior defense department official, speaking at the Foreign Service

⁸ Clarke, Duncan L. and Steven Woehrel. "Reforming United States Security Assistance." American University International Law Review 6, no. 2 (1991): 217-249.

George H.W. Bush, XLI President of the United States, Remarks at the Aspen Institute Symposium, Aspen, Colorado, August 2, 1990, http://www.presidency.ucsb.edu/ws/?pid=18731
Ibid

Institute, explained that the administration's regionally based security strategy was designed to deter regional hegemons and to enable the expansion of peace and stability through robust and continued engagement in support of US partners and allies. Thus, while the defense budget, and consequently the armed forces of the United States were being reduced, the Bush administration sought to maintain a robust foreign aid and security assistance program as a means of securing and maintaining the post cold war peace.¹²

However, the lack of an existential threat after the demise of the Soviet Union weakened President Bush's argument to Congress to fund robust foreign assistance appropriations. Additionally, increased congressional earmarking of all types of foreign assitance reduced the flexibility of the aid available to the President. This is because Congress would designate specific recipients of foreign aid contrary to the President's request. This practice especially affected foreign military financing appropriations, the principal appropriation to provide military equiupment and services to foreign partners and allies. Furthermore, legislated restrictions on providing security assistance, such as the Leahy amendment, ¹³ also reduced presidents' ability to achieve foreign policy or national security objectives through the use of overseas security assistance. In

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¹² Information from 1992 speech at the Foreign Service Institute was obtained from the personal papers of Dr. Wade Hinkle, then the Deputy Under Secretary of Defense for Policy and Planning. Dr. Hinkle is now a Senior Research Staff Member at the Institute for Defense Analysis.

¹³ The Leahy amendment to the Foreign Assistance Act of 1961 states, "No assistance shall be furnished ... to any unit of the security forces of a foreign country if the Secretary of State has credible information that such unit has committed a gross violation of human rights." The law was first inserted into th[e Foreign Operations Appropriations Act of 1997 (Public Law 104-208, Sept 30, 1996). It was made permanent law in 2008 when the Foreign Assistance Act was amended. More recently, it has been applied to Department of Defense appropriations as well. See section 8057 of Public Law 113-6, March 26, 2013, SEC. 8057. (a) None of the funds made available by this Act may be used to support any training program involving a unit of the security forces or police of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken."

response, presidential adminstrations, from Bush-41 through Obama have all sought special, temporary authority to provide SSA through the mechanism of the National Defense Authorization Act (NDAA) or the Foreign Operations Appropriations Act. The congressional committees responsible for these Acts are bodies within which consensus for the President's national security and foreign policy objectives are more easily achieved. These special authorities resulted in a proliferation of unique processes, procedures, and management structures required to provide training and equipment for foreign security forces, and have contributed to an imbalance between DOS and DOD in the provision of SSA. The survey of post-cold war authorities outlined below does not include specific authorizations or appropriations for Afghanistan or Iraq or from supplemental appropriations for overseas contingency operations.

Post Cold War Congressional Authorities to Provide Overseas Foreign Security Assistance

Counter-drug Authorities

The NDAA of 1991 granted the Secretary of Defense the temporary authority, outside the historic constraints of the Foreign Assistance Act or the oversight of the Secretary of State, to provide counter-drug related training to law enforcement personnel of foreign countries¹⁴. Going even further, in 1998, Congress authorized the Secretary of Defense to transfer riverine patrol boats, specialized equipment such as radars and night vision systems and components for aircraft or patrol boats, and to pay for the maintenance and repair of equipment that the governments of Peru and

¹⁴ Referred to as 1004 authority and originally authorized by Public Law 101-510, the National Defense Authorization Act of 1991.

Colombia used in counter-drug activities.¹⁵ In this case, the authorization required the Secretary of Defense to consult with the Secretary of State, but it was otherwise not subject to established, normative procedures of foreign assitance.

Specifically, the provision of material and training to a foreign nation provided by these special authorities was not requested by the Department of State as part of the overall US Foreign Assistance budget request, and the authority to do so was neither debated by the foreign affairs committees of the House or Senate nor was the money to buy the equipment and pay for the training appropriated through the Foreign Operations Appropriations Committees. Rather, the requests came from the Department of Defense, and the Congressional deliberation took place exclusively within the Armed Services and Defense Appropriations committees. The State Department's role was not to lead, but only to concur. Its power was limited to blocking a DOD request.

Though the DOD counter-narcotics authorities are not permanent, they have been reauthorized and expanded by the armed services committees every year in which they are set to expire. The number of states eligible to receive military equipment through 1033 authority has grown to more than 35 and includes most of Central America, Central and South Asia and West Africa.¹⁶

Two other narcotics related initiatives, the Andean Counterdrug Initiative (ACI) and the Merida Initiative were broad based presidential initiatives to enable six South American nations, particularly Colombia, and Mexico to overcome the effects of the

¹⁵ Referred to as 1033 authority and originally authorized by Public Law 105-85, the National Defense Authorization Act of 1998.

¹⁶ Wyler, Liana Sun, "International Drug Control Policy: Background and Responses," Congressional Research Service, August 13, 2013.

illegal cultivation, production, and distribution of narcotics. The ACI was the U.S. means of supporting then Colombian President Andres Pastrana's plan to stabilize his country. Public Law 106-246, passed in 2000, provided \$3.5 billion between 2000 to 2004 in interdiction and development assistance to Colombia and the Andean states of Bolivia, Brazil, Ecuador, Peru, Venezuela, and Panama.

The money provided for eradication and interdiction efforts as well alternative crop development, farming infrastructure and expanded judicial capabilies. Through 2003, the amount of money providing training and equipment for security forces responsible to interdict the drug trade was more than twice the amount of development assistance provided. In total, the ACI provided 700 times more monetary assistance than the traditional foreign assistance programs, specifically the Economic Support Fund (ESF) and Foreign Military Financing (FMF). At the end of 2004, when the original authorization dating back to the Clinton administration expired, President George W. Bush requested and received a five year extension of the ACI.¹⁷

In the same way the ACI supported Colombian President Pastrana's plan to stabilize his country, the Merida initiave was U.S. support to President Felipe Calderon of Mexico. As originally conceived in 2007, the Merida initiative provided training and equipping, through Title 22 appropriations, for Mexican security forces conducting counter-narcotics activities. In 2010, the initiative was expanded to include security sector institution building and economic development assistance. From Fiscal Year 2008 to Fiscal Year 2014, \$2.4B has been appropriated for the Merida initiative. Unlike ACI, Meridia initiative funding was either provided by traditional Security Assistance

¹⁷ Veillette, Connie, "Andean Counterdrug Initiative and Related Funding Programs: FY2005 Assistance." Congressional Research Service, Report # 32337, May 10, 2005

accounts (FMF and ESF) or through funds appropriated directly to the International Narcotics and Law Enforcement agency of the US State Department.

Another difference between ACI and Merida is that the US Department of Defense has played little role in Merida beyond overseeing equipment transfers paid for by FMF and providing the training associated with the equipment being transferred. Nevertheless, the DOD, through US NORTHCOM, still provided more than \$60M in assistance through its 1004 and 1033 accounts between 2011 and 2013. As a Congressional Research Service report indicates, there is no correlation between the funds authorized and appropriated for Merida by the Foreign Affairs and Foreign Operations committees and those DOD counternarcotics activities authorized and approrpriated for by the Armed Services and Defense committees. Therefore, it is not known whether DOD's independent activities reinforce or conflict with the objectives of the Merida initiative. 18 Given that requests for 1004 and 1033 authority do not originate in the State Department and are exclusively handled by Congressional Defense Committees, this is not surprising. Post 9/11 authorities to provide security sector assistance to foreign partners have largely followed the example of the 1004 and 1033 authorities despite the Congressional consensus for action and success achieved in broad, State department led Presidential counter-drug initiatives in the Andean region and Mexico.

Post 9/11 Authorities

¹⁸ Seelke, Clare Ribando and Finklea, Kristin. "US-Mexico Security Cooperation: The Merida Initiative and Beyond," Congressional Research Service, Report R41349, April 8, 2014.

The rest of the special authorities reviewed are all post 9/11 authorities that the armed services committees granted to the Department of Defense. None of these authorities are associated with a specific appropriation. Rather, they all rely on existing DOD appropriations for their funding. Like the 1004 and 1033 authorities, none are managed according to normative foreign and security assistance processes; yet, they all require at least some degree of State Department coordination before being utilized. The result, as will be shown, is a quilt of different 'security assistance,' programs providing varying degrees and kinds of authorities to the Department of Defense to train and equip foreign security forces, Given the unique reporting and coordinating requirements imposed by Congress on each of these programs, the DOD has also developed unique bureaucracies to manage each one.

Global Train and Equip Authorities

Section 1206 of the FY06 National Defense Authorization Act, gives the Secretary of Defense the authority to train and equip foreign security forces for counter-terrorism purposes and allows him to train and equip military forces preparing for stability operations in areas where the US military is already conducting operations. Through FY14, \$2.2B has been obligated under 1206 authority. Unlike DOD's counter-narcotics authorities, the Secretary of State must concur with any transfers of training or equipment to foreign nations paid for using 1206 authority.

Also unlike the counter-narcotics authorities, 1206 funds are not specifically appropriated. The Secretary of Defense must utilize existing Defense Operations and Maintenance appropriations to enable 1206 program activity. Another consequence of

the program's authorization and funding scheme is that all of the funds the SECDEF intends to make available for 1206 program activities in a given fiscal year, must be obligated within that same fiscal year. This makes comprehensive large train and equip programs very difficult to execute and puts at risk any strategy or plan that assumes consistent funding streams over multiple years. This is because 1206 funds are not fungible across fiscal years and they are subject to yearly revisions of their scope by the Congress.

The 1206 program has provoked significant debate between DOS and DOD advocates regarding its necessity. DOS supporters claim 1206 is a less flexible tool than FMF, that it undermines the DOS authority and the US Ambassador in their responsibilities for national security and foreign policy abroad during peacetime, and that it represents a militarization of foreign assistance. DOD supporters, to include Robert Gates when he was the Secretary of Defense, argue that 1206 is an indispensable, flexible, ¹⁹ military tool to shape theaters of operation, which include the foreign security forces of allies and partners, so that it is less likely that US forces will be engaged in future, costly, combat missions. When first authorized, 1206 became the first globally available train and equip authority to place authority for global military

¹⁹ A principle benefit, thus far, of 1206, is that it has not been subject to Congressional earmarking which means the executive (specifically the Department of Defense) determines where the authority will be used (subject to State Department concurrence and Congressional guidelines) rather than Congress specifying what countries will be the recipient of appropriated security assistance.

assistance with the Department of Defense rather than with the Department of State as the Foreign Assistance Act specifies.²⁰

Security and Stabilization Authority

The FY06 National Defense Authorization Act also authorized Section 1207.

This authority allowed the SECDEF to transfer up to \$200M in DOD appropriations to DOS for use in security, reconstruction, and stabilization activities. According to congressional staff, "the Senate Armed Services Committee (SASC) introduced Section 1207 of the FY 2006 NDAA in response to requests from Defense Secretary Donald Rumsfeld and Secretary of State Condoleezza Rice to help jump start the State Department Coordination for Reconstruction and Stabilization (S/CRS) by providing authorization and funding for projects that would involve interagency coordination." ²¹ This approach was taken because Congress was unable to pass a State Department authorization bill that would authorize S/CRS to conduct a comparable program. It was assumed that it would be easier to obtain authorization and funding for Foreign Assistance through the armed services committees than the foreign affairs and foreign relations committees.

Nevertheless, the armed services committees intended DOS and the Office of Management and Budget to produce the necessary budget requests and justification to obtain authorization and funding through the Title 22 oversight committees.²² By the end of FY10, the last year Congress authorized 1207, nearly \$450M had been

²⁰ Serafino, Nina M., "Security Assistance Reform: "Section 1206" Background and Issues for Congress," Congressional Research Service, Report # RS22855, April 4, 2014.

²² Ibid.

²¹ Perito, Robert M., "Integrated Security Assistance, the 1207 Program," United States Institute of Peace Special Report, July 2008.

transferred from DOD to DOS for security and stabilization activities. Expressing the sense of Congress, members of the House Armed Services Committee reported

While the projects undertaken with funds provided by this authority are worthy, the committee is concerned that insufficient progress has been made in building the capacity within the Department of State to assume the statutory and fiscal responsibility necessary to fulfill its statutory requirements....The committee stresses that it has always been a temporary authority and urges the Administration to develop capacity within the Department of State so that this transfer authority is no longer required²³

Special Forces Assistance to Indigenous Forces

Section 1208 of the 2005 NDAA authorizes forces operating under the authority of the US Special Operations Command to "support" foreign forces, irregular forces, groups, or individuals supporting or facilitating ongoing counterterrorism operations. The funding limit was set at \$25M. There were no other limits placed on the SECDEF's ability to authorize transfers from US Special Forces to foreign forces or individuals.²⁴ In subsequent years, the authority has been reauthorized through FY2015 and the funding limit increased. However, Congress has consistently increased the DOD reporting requirements when using the authority. In the FY2009 NDAA, Congress added that the concurrence of the relevant Chief of Mission must be obtained before Special Operations Forces could utilize the authority.

Though 1208 continues to be reauthorized, it has not been without controversy. For example, there have been reports that armed militias outside Tripoli seized American automatic weapons, night vision goggles, vehicles, and other equipment provided to

²³ Serafino, Nina M., "Department of Defense Section 1207 Security and Stabilization Assistance: Background and Congressional Concerns, FY2006 – 2010," Congressional Research Service, Report RS22871, March 3, 2011.
²⁴ Section 1208 of Public Law 108-375, National Defense Authorization Act of 2005.

Libyan forces under 1208 expenditures. Additional reports state that American trained commanders of elite Army units in Mali eventually defected to Islamic insurgents that helped to lead an uprising against the Malian government.²⁵

Yemen Ministry of Interior (MOI) Counter-Terrorism Fund

Historically, DOD has been limited to military engagement with armed forces under the authority of foreign ministries of defense. Engagement with foreign security forces under a Ministry of Interior or Home Office (such as Commonwealth Nations have) was the responsibility of DOS to coordinate, plan, and execute. This limitation extended to the 1206 Global Train and Equip authority. 1206 authority was limited to foreign armed forces under the authority of a Ministry of Defense. Public-Law 111-383, the NDAA of Fiscal Year 2011 granted a one-year exception to this long-standing limitation by authorizing the Secretary of Defense \$75M in authority to enhance the ability of Yemen's Ministry of Interior Counter-Terrorism Forces. Utilization of the authority required the SECDEF to receive SECSTATE concurrence before providing assistance.

Global Security Cooperation Fund (GSCF)

Finally, section 1205 of the FY12 NDAA created the Global Security Cooperation

Fund. The GSCF is an interagency treasury account that authorizes DOD and DOS to
pool their appropriated resources in one account to conduct SSA. The pooled funding
can also be used "to participate in or support military, stability, or peace support
operations consistent with US Foreign Policy and National Security interests...where
conflict or instability challenges the existing capability of civilian providers to deliver

²⁵ Schmitt, Eric., "U.S. Training Elite Anti-Terror Troops in Four African Nations," The New York Times, May 26, 2014.

such assistance.²⁶" The authority was granted for four years and requires both DOD and DOS to jointly formulate and agree upon assistance programs carried out using the authority. No specific appropriations were given for this authority. Instead, DOS and DOD were allowed to take from existing appropriations to create the pooled fund.²⁷

The idea for such a joint fund came from the United Kingdom which pools funds from its Foreign Commonwealth Office, Ministry of Defense, and International Development Agency to pay for overseas security and stabilization assistance. In 2009, Secretary of Defense Robert Gates proposed to Secretary of State Clinton that DOD and DOS create a pooled fund to incentivize collaboration between the two agencies in their respective foreign capacity building, stabilization, and conflict prevention activities. Furthermore, in February 2010, Secretary Gates stated that funding to support the growth of indigenous security forces overseas should be outside normal budgetary channels. Gates argued that pre-existing channels are not well suited to react to emerging or unforeseen threats from failed or fragile states. ²⁸
Consequently, the Obama administration proposed the GSCF legislation to facilitate the combining of DOS and DOD funds. It was also thought that this effort to combine agency expertise and resources to conduct SSA could serve as a precedent to expand to the broader interagency. ²⁹

As of April 2014, only five projects had been approved under GSCF authority at a funding total of less than \$50M, well below the \$250M that Congress authorized.

²⁶ Public Law 112-81, National Defense Authorization Act of Fiscal Year 2012, Section 1207.

²′ Ibid

²⁸ Kruzel, John J. "Gates Calls for Building Foreign Troops Capacity," American Foreign Press Service, February 24, 2010; remarks at the Nixon Center; Found at: http://www.defense.gov/news/newsarticle.aspx?id=58085

²⁹ Serafino, Nina M., "Global Security Contingency Fund, Summary and Issue Overview," Congressional Research Service, Report # R42641, April 4, 2014.

Experts question whether GSCF, as authorized, is a workable concept given the small teams responsible to coordinate the effort within DOS and DOD, the lack of specific appropriations which require extensive coordination within and between departments to gain access to funds for approved projects, and extensive congressional reporting requirements.³⁰

DOD's Eclipse of DOS in Dominating SSA

With the proliferation of DOD authorities to undertake traditional security assistance activities, DOD's share of the funds supporting security assistance efforts has grown to 58 percent of the total, despite the fact that the Secretary of State retains the statutory lead for all security assistance. The Notwithstanding DOD's significantly increased share of security assistance funds, DOS funds also increased by \$12B between 2002 and 2012. In addition, Congress created a new; though small (\$50M), Complex Crisis Fund for USAID. However, all of these new authorities and increased funding levels, with an exception, to some degree, of the counter-narcotics efforts tied to a Reagan era National Security Directive 1, lack a strategic framework to set priorities and to clarify department and agency roles in SSA, which may improve the prospects for interagency collaboration and effectiveness. Furthermore, a careful reading of existing authorities given to DOS under Title 22 of United States Code would lead a rational observer to conclude that the authorities given to DOD often duplicate an existing, broader, permanent authority given to DOS. The DOD authorities appear to be

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³¹ Adams, Gordon, and Rebecca Williams., "A New Way Forward: Rebalancing Security Assistance Program and Authorities," The Henry L. Stimson Center, March 2011.

³² Ihid

³³ National Security Decision Directive 221, April 8, 1996, proclaimed that the international drug trade threatens the national security of the United States.

a way to compensate for permanent and intentionally flexible³⁴ DOS authorities that lack sufficient funding and consensus for use in meeting present foreign policy and national security objectives.

For example, the Counter-Terrorism Fellowship Program (CTFP), which is not covered in the survey above since Congress enacted this as a permanent authority, duplicates what DOS's International Military Education and Training (IMET) program already provides per Section 2347 of Title 22. CTFP, a DOD authority, is specifically targeted and limited in its application, while the DOS authority to train and educate foreign military members is not. Also, the GSCF may be a useless duplication of the Reagan era Special Defense Acquisition Fund (section 2795 of Title 22) which authorized the Secretary of Defense, with Secretary of State concurrence, to establish a fund under the control of DOD to finance the acquisition of defense articles and services in anticipation of their transfer to eligible foreign countries and international organizations. The authors contend that this duplication and proliferation of authorities stems, primarily, from post 9/11 strategic guidance which has argued that building foreign partner security capacity is a military mission distinct from security assistance accounts which meet DOS, but not DOD goals. Congress has largely gone along with DOD's argument despite the historical and congressional record, which clearly intended security assistance to serve broad national security goals. The next section will review post 9/11 Defense Strategy, beginning with the 2006 QDR.

Post 9/11 Strategic Guidance

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³⁴ As noted earlier, the limited flexibility in State Department security assistance authority is largely the result of Congressional Earmarking. The authorities were not designed or legislated to be inflexible.

The Bush and Obama administrations' strategic guidance in the wake of 9/11 increasingly emphasized counterterrorism and counterinsurgency strategies, indicating a developing understanding of the rapidly evolving strategic environment. Documents such as the National Security Strategy (NSS), the National Defense Strategy (NDS), the Quadrennial Defense Review (QDR), the Quadrennial Diplomacy and Development Review (QDDR), the National Military Strategy (NMS), various Theater Security Cooperation Plans, and other policy statements such as presidential addresses highlighted SSA as ways and means to achieve national interests. A few of these sources of strategic guidance will be highlighted below.

The 2006 QDR

The 2006 QDR was the first to emphasize Irregular Warfare (IW) as a primary prism for US armed forces to develop future operating concepts and capabilities. The QDR described IW as a non-traditional, asymmetric challenge of a new century and the dominant form of warfare confronting the United States. The 2006 QDR also recommended building partners' capacity through train and equip activities and referred specifically to the need for flexible access to funding to train and equip partners in order to defeat terrorist networks.³⁵ Furthermore, the 2006 QDR called for reforming foreign assistance so that its focus is not just to "shore up friendly regimes against external threats."36 Bolstering internal security and legitimacy should also be the goal so that societies are "inoculated against terrorism, insurgency, and non-state threats." ³⁷ The QDR also called for DOD to be as capable operating with foreign constabularies and

35 Ibid

³⁶ ibid

³⁷ Ibid

interior ministries as it is with armed forces and defense ministries.³⁸ It is important to note that these were missions that DOD forces had neither been historically trained and equipped for, nor legally authorized to perform.

Subsequently, DOD published a Building Partnership Capacity (BPC)

Execution Roadmap in May 2006 to implement the concepts introduced in the QDR.

This document detailed how DOD intended to implement the QDR through "building partner capacity," a term which by then had eclipsed security assistancein the strategic guidance verbiage of the Department of Defense. The BPC roadmap defined "Building Partnership Capacity" as "targeted efforts to improve the collective capabilities and performance of the Department of Defense and its partners." DOD partners were broadly defined as US federal, state, and local governments, allies, coalition members, host nations, non-governmental organizations, international organizations, and the private sector. The roadmap sought to build capacities to defeat terrorist networks, defend the homeland in depth, shape the choices of foreign countries, conduct irregular warfare and military diplomacy, and enable host countries to provide good governance through integrated foreign assistance.⁴⁰

The execution roadmap and the 2006 QDR described an expansive, DOD-centric view of a whole of government effort to employ counterterrorism and counterinsurgency strategies. These 2006 documents assumed a strategy that would enable DOD to utilize operational authorities granted to military commanders in Iraq and

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³⁹ "Building Partnership Capacity: QDR Execution Roadmap." May 2006. Author's Note: The BPC Execution Roadmap has been pulled from all public DOD domains. The citations come from the author's personal copy. The Roadmap was distributed to the Department of Defense by OSD Memo 07928-06 on May 23, 2006, and signed by the Deputy Secretary of Defense

⁴⁰ Ibid.

Afghanistan, who were conducting war-time military operations. Subsequent strategic guidance through 2012 maintained the course the 2006 QDR set and continued to push for new and special authorities to carry out DOD's self-assigned, self-described mission to build partner security capacity.

The 2008 NDS was Robert Gates' opportunity to put his stamp on DOD strategic guidance following the tenure of Secretary Donald Rumsfeld. The main objectives of Gates' strategy did not significantly change from the 2006 QDR. The long term effort to counter terrorism was still a prominent goal; however, the 2008 NDS put even more emphasis on non-kinetic, indirect support activities to shape the choices of key states and to build the capacity of partners and allies. This reflected a more focused approach to Irregular Warfare, which by that time DOD had defined as having five pillars. Three of the pillars were largely kinetic (counter-insurgency, unconventional warfare, and counter-terrorism) and two were non-kinetic (stability operations and foreign internal defense.)⁴¹ Key to the non-kinetic focus of Gates' NDS was building the capacity of fragile and vulnerable partners to withstand internal threats and external aggression. The NDS also called for continuing to work with Congress to build the portfolio of partnership capacity building tools available to DOD.⁴²

The 2010 QDR continued the emphasis on building partner security capacity. It identified a shortfall to support the theater campaign plans of the Unified, Geographic

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⁴¹ Foreign Internal Defense is defined by US Armed Forces Doctrine as the participation by civilian and military agencies of a government in any of the action programs taken by another government or other designated organization, to free and protect its society from subversion, lawlessness, insurgency, terrorism, and other threats to their security in order to support the host nation's internal defense and development. (Joint Publication 3-22, 12 July 2010)

⁴² National Defense Strategy, June 2008. http://www.defense.gov/news/2008%20national%20defense%20strategy.pdf

Combatant Commands and "their assigned mission to build partner capacity." However, in describing capacity building as an assigned DOD mission, DOD brought itself into direct conflict with United States law which assigns the provision of all foreign assistance, to include security assistance, to be under the leadership of the Secretary of State.

While the National Security Council (NSC) was conducting its review of SSA, which would eventually be published as PPD-23, DOD began to loudly voice its claim to build overseas partners' security capacities as a core DOD mission. In addition, DOD continued to call for flexible legislative authorities under DOD leadership to enable its self-assigned mission. Speaking at the Nixon Center just two weeks after the 2010 QDR was released, Secretary Gates said, "building a partner's overall governance and security capacity is a *shared* responsibility across multiple agencies and departments of the U.S. national security apparatus, one that requires flexible, responsive tools that incentivize cooperation." Within the same speech Gates referred to the need to continue to increase the flexibility and responsiveness of authorities, such as the 1206 program, and to develop other means that allowed DOD and DOS to pool its resources. This was a reference to the pooled funding concept, which eventually led to the GSCF legislation explained earlier. Further emphasis was provided by Gates' successor, Leon Panetta, in 2012, who stated that while he wanted DOS to have a lead role in

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⁴³ Ibid.

http://www.defense.gov/speeches/speech.aspx?speechid=1425 Remarks as Delivered by Secretary of Defense Robert M. Gates, The Nixon Center, Washington, D.C., Wednesday, February 24, 2010

crafting and conducting U.S. foreign policy, it was also clear that "building partnership capacity is a key military mission for the future."

Comments at lower levels of leadership within the Department of Defense have been even more direct than those of the Secretary of Defense. Consequently, the implementation of strategic guidance since 2006 has led to some direct conflicts over the roles and responsibilities of the armed forces and diplomatic community in peacetime. For example, in 2012 U.S. Africa Command's Director for Strategy, Plans and Programs, Major General Charles Hooper, declared, "building partner capacity is an essential military mission [and] the foundation of USAFRICOM's theater strategy." **46*

Echoing a refrain about the need for more flexible, modern authorities declared in nearly every DOD strategy document since 2006, Major General Hooper wrote, "Finally, our outdated and often arcane partner-building capacity processes and policies create the risk that others, perhaps not those we would chose, may become the preferred security partners of African states." **47*

Since the 2006 QDR, the Geographic Combatant Commands (GCC) have shifted their emphasis away from preparation for traditional warfare, in accordance with an existing operational plan, towards steady-state, peacetime activities to shape the GCC's theater of operations and to build the capacity of partners and allies. The 2007 issuance of the Guidance for the Employment of the Force (GEF) directed this shift in

⁴⁵ http://www.defense.gov/Speeches/Speech.aspx?SpeechID=1691 Speech at the United States Institute of Peace, Secretary of Defense Leon Panetta, June 28, 2012.

⁴⁶ Hooper, Charles, Major General. "Going Farther by Going Together: Building Partner Capacity in Africa." Joint Forces Quarterly, Issue 67, 4th Quarter 2012.

⁴⁷ Ibid.

emphasis.⁴⁸ The GEF directed commanders to put as much if not slightly more emphasis on steady-state peacetime activities to shape the environment and build partner capacity as they did in preparing for traditional warfare. The GEF also directed all combatant commanders to produce Theater Campaign Plans which articulated how the commander intended to carry out DOD guidance for building partner capacity.

Formerly, theater commanders considered peacetime shaping activities within the construct of their theater security cooperation plans, which were an annex to the GCC's operational plans. The GEF changed this construct and made security cooperation⁴⁹ a prominent feature of the plan rather than an annex of lesser importance.

The shift in strategic guidance toward building partner capacity resulted in a lot of consternation and confusion among defense planners at the combatant command level and within the supporting operational commands, such as United States Air Forces in Europe or United States Army Pacific Command. This shift began with the 1206 authority in the 2006 NDAA, which Congress granted in response to the strategic guidance and operational concepts being developed at that time. However, even though Congress granted the authority, it is clear from the text of the legislation that Congress did not intend to permanently place the DOD in the lead for training, advising,

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⁴⁸ The Guidance for the Employment of the Force is a classified document issued by the Under-Secretary of Defense for Policy. Its purpose is to provide direction to Unified Combatant Commands who are then expected to turn the guidance into plans that implements current defense strategy consistent with the guidance.

⁴⁹ Security Cooperation is a Department of Defense term defined in Department of Defense Directive 5132.03: Activities undertaken by the Department of Defense to encourage and enable international partners to work with the United States to achieve strategic objectives. It includes all DoD interactions with foreign defense and security establishments, including all DoD administered security assistance programs, that: build defense and security relationships that promote specific U.S. security interests, including all international armaments cooperation activities and security assistance activities; develop allied and friendly military capabilities for self-defense and multinational operations; and provide U.S. forces with peacetime and contingency access to host nations.

and equipping foreign security forces. . The original 1206 legislation called for the President to submit the following reports:

- 1. The strengths and weaknesses of the Foreign Assistance Act of 1961, the Arms Export Control Act, and any other provision of law related to the building of the capacity of foreign governments or the training and equipping of foreign military forces, including strengths and weaknesses for the purposes described in [in the authorization].
- 2. The changes, if any, that should be made to the Foreign Assistance Act of 1961, the Arms Export Control Act, and any other relevant provision of law that would improve the ability of the United States Government to build the capacity of foreign governments or train and equip foreign military forces, including for the purposes described [by the authorization].
- 3. Recommendations on how DOS and DOD could improve their ability to conduct security assistance programs, especially comments related to the mechanisms required to assure adequate funding for such programs⁵⁰.

We argue that If Congress intended for 1206 and other similar authorities to be permanent, then it would not have asked for recommendations on changes to U.S. Code that otherwise specify the ways and means to accomplish U.S. strategic ends through the provision of foreign assistance, to include security assistance. However, we do not know if these reports were ever prepared or submitted. Nor has DOD signaled its desires for Congress to increase DOS's resources so it can reassume its traditional leadership role for foreign security assistance.

⁵⁰ Public Law 109-163., Section 1206, Paragraph (f), sub-paragraphs (1-4), Jan 6, 2006.

On the contrary, the department continued to push for new authority and the continuing reauthorization of its existing authority. Although Secretary Gates repeatedly asked Congress to appropriate more resources for DOS, his pleas were not accompanied by a strong push, backed by a strategic guidance that was explained to all the relevant congressional committees.⁵¹ As a result, for nine consecutive years NDAAs have reauthorized the 1206 authority. Meanwhile, the list of authorities that allows DOD to conduct SSA grows in comparison to DOS appropriations.

US Armed Forces' Experience Training, Equipping and Advising in Iraq and Afghanistan

Finally, a review of US armed forces' experiences in Iraq and Afghanistan will facilitate the understanding of the armed forces' perspectives on the need for flexible, responsive authorities. These two theaters of war prominently featured capacity building activities to increase police, armed forces, and ministerial capacities as part of the Theater Military Commanders' plans. Concurrent with these war plans were both the authorities and the appropriations granted to military commanders in Iraq and Afghanistan through supplement appropriations and special authorizations, such as the Iraq and Afghanistan Security Forces Funds and the Commanders' Emergency Response Program.

Since these were wartime, not peacetime environments, the designated U.S. military commander was not subordinate to the Chief of Mission in the countries where these

⁵¹ Citing just one example, Gates testified to a Senate Committee in 2011 that it is a critically urgent concern that a \$5.2B allocation for the State Department be approved so it could *carry on the training of Iraqi police and other programs once handled by the Pentagon.* Pincus, Walter., "Gates Pleads for Critically Urgent Funds for State Department's Work in Iraq." The Washington Post. February 17, 2011.

wars were taking place. Therefore, the commanders at Multi-National Security

Transition Command – Iraq (MNSTC-I) and at Combined Security Transition Command

– Afghanistan (CSTC-A) (the organizations responsible to train, equip, and advise Iraqi
and Afghan security forces and ministries) could make plans and execute resources
outside of DOS approval, concurrence, or oversight. Only the military chain of
command checked the operational authority of the commanders carrying out these
programs. MNSTC-I and CSTC-A activities were constrained only by the limits and
rules that Congress and the Office of the Secretary of Defense put in place prior to
disbursing funds necessary to build security force capacity within each theater of war.

Such constraints included favoring U.S. manufactured military equipment regardless of whether that equipment was most suited to the operational environment. Furthermore, the process to obtain equipment and transfer it to a foreign country relied upon the existing foreign military sales architecture, which by law, is prejudiced against rapid procurement and transfer of military equipment to foreign countries.⁵²

Military culture also prejudices it against typical DOS or USAID perspectives on capacity building and development. Military culture emphasizes accomplishing its mission in accordance with immediate operational plans and perspectives. For example, from 2006 to 2012, the respective commanders at CSTC-A were expected to increase the numbers of Afghan police and soldiers in the field from a baseline of 70,000 to over 300,000. This was the number one priority for CSTC-A. While concerns about long-term sustainability and effectiveness may have been raised, these concerns were secondary to the primary mission of generating and fielding forces. Any

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⁵² Specially, the Arms Export Control Act

impediments to generating and fielding forces, such as lack of literacy, were mitigated to the best extent possible and long-term concerns were not addressed.

In contrast, development experts at USAID and DOS are trained to consider sustainability as a primary factor of any capacity building effort, a process which considers long-term concerns up front. Therefore, a military perspective may regard as slow and unresponsive what a diplomatic perspective regards as purposefully deliberate. Diplomats, by nature, are more likely to account for the regional balance of power, diplomatic relationships, and how all of these things, considered in total, affect US national security and the ability to achieve US national interests. What may be operationally important for a confined theater of war or in support of the need to execute immediate or anticipated operational plans may not be a good idea when viewed through the prism of a region or in light of the overall relationships between the United States and sovereign countries or between sovereign countries.

Conclusion

Given the US's recent experience in Iraq and Afghanistan and the DOD strategic guidance to prosecute a global war against terrorist threats through indirect, non-kinetic means of training, equipping, and advising foreign security forces, it should be no surprise that DOD has consistently agitated for and largely received more "flexible and responsive" legal authorities and appropriations to accomplish its "mission".

However, there is no consensus outside of DOD for this approach. More than one critic and even the Secretary of Defense has questioned whether the "militarization of foreign policy" is a good idea going forward. Writing in *Foreign Affairs* in 2010, then Secretary

of Defense Gates affirmed a defense strategy based on building partner capacity while also calling for reform of security assistance that reinforced the "State Department's leading role in crafting and conducting U.S. foreign policy, including the provision of foreign assistance, of which building security capacity is a key part.⁵³"

Another controversy is whether the war against terrorism is a hot war or a cold war. There is no doubt that terrorism is a risk to national security. However, questions remain about whether DOD should be the lead counterterrorism agency, in all places at all times. Are Islamist inspired insurgencies different than the communist inspired insurgencies in China, the Philippines, Greece, Malaysia, Angola, Afghanistan, and the Central American states that marked the 20th century? Are jihadi terrorists different than the attacks of 20th century Marxist terrorist groups such as the Italian Red Brigades, the Red Army faction in Germany or the 17 November organization in Greece? Does the existence of hot wars in Afghanistan and Iraq mean it is a global hot war against terrorism? If so, how is that different than twentieth century warfare in Korea and Vietnam within the midst of the Cold War?

Despite what military leaders and defense department officials may think, strategic guidance documents and current planning constructs put them at odds with existing United States Law when conducting activities in a peacetime environment. Presently, outside of a specific presidential executive order, such as exists for counter-terrorism operations in Yemen, or a Congressional Joint Resolution of the kind that authorized the wars in Afghanistan and Iraq, U.S. Law stipulates that US forces acting abroad are

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⁵³ Gates, Robert M. *"Helping Others Defend Themselves, The Future of US Security Assistance."* Foreign Affairs, May/June 2010.

acting in a peacetime environment implying that counterterrorism activities amount to more of a cold war than a hot war. Indeed, the Foreign Assistance Act of 1961 states,

The Chief of the Diplomatic Mission shall make sure that recommendations of representatives [from the United States Government] pertaining to military assistance (including civic action) and military education and training programs are coordinated with political and economic considerations...Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs, including but not limited to determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.⁵⁴

Even if one were to accept the argument that the global struggle against Islamist inspired insurgency, terrorism, and subversion does amount to a global hot war, DOD's record of building security capacity in Iraq and Afghanistan, places where it had nearly absolute authority, unlimited resources, and more than five years in each nation to show results for its efforts, does not inspire confidence that it can effectively organize and lead efforts to build sustainable security capacity. There is no question that CSTC-A and MNSTC-I generated and fielded hundreds of thousands of police, soldiers, and airmen in Iraq and

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⁵⁴ The Foreign Assistance Act of 1961, Public Law 87-195, Sections 622(b)(c). http://www.usaid.gov/ads/policy/faa

Afghanistan; however, these forces' sustainability and effectiveness is in great doubt. A key reason for this is that military capacity building efforts were means to an operational end, rather than the prime effort. Therefore, considerations of sustainability and independent effectiveness were not designed into the capacity building effort.

For example, a December 2013 Special Inspector General for Afghanistan (SIGAR) report states that CSTC-A provided nearly \$3 billion of direct assistance in three years to build the capacity of the Afghan ministries of Defense and Interior; however, the organization never conducted an assessment of the ministries capabilities to execute funds, nor did CSTC-A assess the risk of providing direct assistance before its effort began. Furthermore, the small financial risk assessments that CSTC-A conducted never considered existing assessments of other Afghan institutions, such as the Ministry of Finance, that play a major role in the Afghan budget development and execution process.⁵⁵

Speaking from personal experience, one of the authors, Mr. Taliaferro, found that his own attempts to involve the Ministry of Finance in CSTC-A's efforts to improve the capability of the Ministry of Defense were met with derision at worst, skepticism at best. By and large, the military personnel at CSTC-A simply were not interested in going outside their assigned lane to solve a problem or accomplish a mission. To some degree, this is not surprising given that very few of the military personnel assigned or contractors hired by CSTC-A to advise the Afghan security ministries and to help build their capacity had any practical

⁵⁵ SIGAR., "COMPREHENSIVE RISK ASSESSMENTS OF MOD AND MOI FINANCIAL MANAGEMENT CAPACITY COULD IMPROVE OVERSIGHT OF OVER \$4 BILLION IN DIRECT ASSISTANCE FUNDING," Nov 2013. http://www.sigar.mil/pdf/alerts/SIGAR SpecialProjects 14-12.pdf

experience working at an institutional level or subject matter experience in the areas they were assigned to provide advice.

While some help was available from other institutions in Kabul, such as the Treasury Attaché at the US Embassy or the Offices of the World Bank, a self-imposed wall of separation existed between the military command and the civilian organizations working to build the capacity of civilian ministries.

Furthermore, as already stated, all efforts at CSTC-A were subservient to the primary mission of generating and fielding forces.

To conclude, PPD-23's intent is to reaffirm the leadership of DOS and the Chief of Mission as already codified in US Law. It states further that SSA must be consistent with broader national security goals and complement the full range of foreign assistance objectives. Additionally, it states that the government should foster policy coherence and interagency collaboration prior to and during security sector assistance efforts. It affirms the principle that prior to providing security sector assistance, a partner's capacity to operate, sustain, and oversee the capabilities provided must be anticipated. Finally, the PPD states that any SSA provided to meet unforeseen, urgent, or emergent needs should be incorporated into a broader strategy to sustain the capacity provided.

Given these goals, the authors conclude that the proliferation of DOD security assistance authorities, the creeping militarization of foreign security assistance as articulated in defense strategies and theater plans of the past decade, and the track record of US armed forces' efforts to build sustainable capacity in Iraq and Afghanistan indicate an imbalance between DOS and DOD

roles. The Obama administration issued the PPD in an attempt to realign DOS and DOD roles with the original legislative intent. Terrorism, insurgency, extremism, and other violent acts that lead to state instability are a threat to US National Security. However, if building partner capacity is to be one of the ways to accomplish the end of a more peaceful, stable world, then the USG needs to be much better at ensuring that the entire government is leveraged to execute its strategy.

The degree to which the Defense Department can and will be a productive participant in a more coherent and collaborative interagency process remains to be seen. Perhaps Secretary Gates first signaled the proper role of security sector assistance in building a sustainable peace when he wrote, "What is dubbed the war on terror is, in grim reality, a prolonged, worldwide irregular campaign -- a struggle between the forces of violent extremism and those of moderation.

Direct military force will continue to play a role in the long-term effort against terrorists and other extremists. But over the long term, the United States cannot kill or capture its way to victory. Where possible, what the military calls kinetic operations should be subordinated to measures aimed at promoting better governance, economic programs that spur development, and efforts to address the grievances among the discontented, from whom the terrorists recruit.

It will take the patient accumulation of quiet successes over a long time to discredit and defeat extremist movements and their ideologies. ⁵⁶ The 2014

⁵⁶ Robert Gates, "A Balanced Strategy, Reprogramming the Pentagon for a New Age." Foreign Affairs, Jan/Feb 2009

QDR is one indicator that Defense strategists and planners have finally embraced the need for a collaborative approach to building partner security capacity to overcome the Islamist threat. The 2014 QDR makes no specific mention of building partner security capacity, and it does not proclaim that building capacity through training and equipping foreign forces is a DOD mission the armed forces need to organize against.

Rather, the 2014 QDR articulates that "Building Security Globally" to shape world events and to prevent and deter conflict support national interests. It states further that DOD's part is primarily in establishing strong security relationships with foreign military forces as a means of confronting common threats.⁵⁷ This less confrontational tone with existing State Department responsibilities as codified in Law may signal an impending breakthrough in DOS-DOD collaboration that leads to more effective SSA efforts with broader Congressional Support as well.

As mentioned in the introduction, part two of our research will review the history of security sector assistance efforts to prevent state instability and shore up nations against communist threats during the Cold War. Finally, we will conclude part two with recommendations on how Cold War and Post-Cold War lessons might be applied to present circumstances so that the President is more likely to realize the aims of his policy directive.

⁵⁷ The 2104 Quadrennial Defense Review. Accessed at: http://www.defense.gov/pubs/2014 Quadrennial Defense Review.pdf

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