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Central European Journal of International & Security Studies
C/o Metropolitan University Prague
Dubečská 900/10, 100 31, Prague, Czech Republic
Tel.: +420 724 587 171, Fax: +420 274 817 190, info@cejiss.org

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A Syria of Red Lines and Red Faces

Mitchell Belfer

There may be reason to doubt the sincerity of President Trump's commitment to Syria's embattled civilian population. After all, throughout the presidential campaign, his rhetoric focused on defeating ISIS even if it meant tacitly pairing up with Damascus. Yet the US's missile attack against a Syrian airbase as punishment for a regime gas attack however, left little to the imagination. It is a game-changer and the Trump Administration has shifted gears. Where it had taken a wait-and-see approach, it is now adopting a robust set of policy options and has reset its priority list. Trump, it seems, will enforce the Obama-era red-lines against the use of chemical weapons... and perhaps more.

The US may have pulverised one of Syria's numerous airbases, but it hardly dented the regime's capacity for war-fighting. Reinforced by Russia, Iran and Hezbollah has meant that Assad remains very capable of inflicting pain on Syria's rebels and the communities that support them. Yet, coupled with the announcement that the Trump administration does not see a future role for the Assad regime in governing Syria and this missile attack may signal the beginning of a new chapter in US engagements in the region. And, it sends an important message to Damascus, to Moscow and, importantly, to Tehran.

Russia is scrambling to save face as this is a strategic embarrassment after establishing detente with the US and, on the back of that arrangement, promising Assad protection. Russia clearly cannot deliver. With impunity Israeli and now US air power strikes deep in Syria interrupting Hezbollah arms shipments, target assassinating key personnel and now destroying a military facility. Russia may have sailed a warship to challenge the US in the Mediterranean but it was an act of desperation,

a sabre-rattle to cushion its inability of preventing us retaliation. The Tillerson-Putin meeting that followed quickly defused that aspect of their growing tension. Russia may display force, but it clearly will not exercise force against the us. It deescalated after signalling its resolve. But lessons are being learned that Trump is not Obama and, perhaps, the age of us deference to Russian power (in Syria, in Ukraine) may be drawing to an end.

*Editor's
Analysis*

And it is not only from the us that Russia is suffering embarrassment – it is from Syria as well. In 2013 Russian diplomacy had prevented us and French air strikes (following yet another chemical weapons attack) by guaranteeing the destruction of Syria's chemical and biological weapons programme. An agency even won a Nobel Peace Prize for that objective. Why then is the regime still in possession of such weapons? Did Russia not succeed in disarming Syria's WMD or did Syria not disclose its WMD to Russia. In either case, Russia may not be as respected in Syria as many believe.

Trump certainly generated surprise with his response but as the dust settled it is clear that NATO stands behind the us. Turkey and Israel are welcoming the measures while the Gulf Cooperation Council countries are actively encouraging more actions in order to tilt the balance of power back to the secular Syrian rebels with the hope of regime change in Syria both to end the brutal ethnic cleansing of Sunni Muslims in the country and to stonewall Iranian expansionism.

How this will all end is impossible to predict. Russia will not abandon its ally and the us will no longer cower behind the banner of strategic restraint. While they may not directly confront each other, it seems that their allies are in it to win it and they will be more difficult to restrain. What started as a Syrian civil war has evolved into a World War with few good options. But in a world in which retreat is not possible only aggression is rewarded. 100 years removed from the worst of World War One and one would think that we have learned our lessons. We have not.



This article first appeared in the Portuguese daily *Diario de Noticias* on Sunday, 09 April 2017 under the original title: 'Uma Siria de linhas vermelhas e caras envergonhadas.'

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The EU's Normative Impact on its Neighbourhood

Mats Braun, Adisa Avdic, Anna Gromilova, Gabriela Ozel Volfova

The paper examines the relevance of Ian Manners' 'normative power Europe' concept and argues that the concept benefits from its closer integration into the general norm diffusion literature in international relations. The paper emphasises that the European Union's capability of having an impact on what is considered to be the normal thing to do in states closest to its borders is linked to how the EU itself and the norms that it promotes are perceived in these countries. The European Union, however, faces a dilemma of the elasticity of the norms that it promotes. A high level of elasticity of the social norms is necessary for these to be successfully internalized into a new context, but at the same time this elasticity of the norms risks undermining the substantial importance of the norms while they can be watered down beyond recognition. What is crucial for the outcome of the norm diffusion is therefore how the localization process takes place, in other words how domestic actors reinterpret and reformulate EU promoted norms. The paper refers to case studies of how EU norms are perceived and received in three different countries: Estonia, Turkey and Bosnia and Herzegovina. They have been selected because the first country has been long an EU member state, the second a formal candidate country, and the third country has applied for EU membership but not yet been granted the candidate country status.

Keywords: normative power, EU, neighbourhood

Some 15 years has passed since the term 'normative power Europe' was introduced into the scholarly debate on European integration.

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Since then the term has been the subject of an intense academic debate. However, the two parts which constitute the concept, i.e. what it means to be 'normative' and what it means to be a 'power', are still the subject of debate and the concepts' meaning is far from clear. Therefore, this paper sets out to discuss how we shall understand these two concepts and to examine to what a degree and in which way the EU could be described as A) a normative actor and B) a power in relation to countries within the Union itself and in its near neighbourhood. The paper considers the relevance of the EU as a normative power in relation to A) a country that has already gone through the accession period and which has been an EU member state for more than a decade – Estonia, B) a country that is a candidate country and has started membership negotiations – Turkey, and C) a country that has applied for EU membership but not yet been granted candidate country status – Bosnia and Herzegovina. The paper makes the argument that greater attention should be paid to the domestic context of the norm receiving country compared to what typically has been the case in the existing literature on the EU as a normative power. In the paper we underscore commonalities between domestic responses to the normative power Europe in the three different cases, which highlight what we refer to as the dilemma of EU norm elasticity. On the one hand, the promoted norm needs to allow for modifications and re-interpretations in order to be relevant and possible to accept in a big variation of political and cultural domestic contexts, and yet on the other, if the norm is allows for too substantial re-interpretations then the norm might become vague and in the extreme case close to meaningless. Moreover, the elasticity of the EU norms also highlight that the EU's possibility to be a 'power' provoking normative change is very much dependent on how the EU promoted norms are understood in the domestic contexts and how the norms are interpreted and re-articulated by domestic actors in the norm-receiving countries. The selection of the three different countries included in the study has been made in order to include countries that have been subjected to the EU's alleged normative power in different ways and to different degrees. The analysis focuses on different norms in the three cases. The different norms have been selected to reflect topics and values which have caused controversies in the countries. We consider minority rights in Estonia because the issue of statelessness was so vital during the country's accession process. In Bosnia and Herzegovina we look at the norm of good govern-

ance, since this is a country with an exceptional EU involvement in its administration and despite this, the concept of good governance has caused numerous controversies in Bosnia and Herzegovina, primarily because the norm of good governance clashes with the principle of representation based on ethnicity which was introduced into the country through the Dayton Agreement. Finally, we look at the norm of democracy in Turkey, because in the country we find an interesting example of how the governing party, AKP, has rearticulated the meaning of this norm according to its priorities. The three case studies have been presented in detail elsewhere² and this paper primarily intends to discuss the conclusions we draw from the case studies for the relevance of the normative power concept.

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The concept of 'normative power Europe' has its origin in the English School of international relations. However, in recent years the concept has frequently been used also by scholars working in a constructivist tradition. There are several overlaps here between the 'normative power Europe' and two other groups of literature based on constructivist or neo-institutionalist understandings of norm-based behaviour. These overlaps have largely been ignored in the literature, which is unfortunate since a discussion on the relations between the normative power literature and the general IR literature on norm diffusion and the literature on socialization contribute to a better understanding of the concept.

For this reason, the paper starts by providing an overview regarding how the concept of normative power fits into broader constructivist literature on norm diffusion and on the socialization of norms. Thereafter, the paper turns to analyse the EU as a 'normative' actor and finally to examine the EU's capability of being a power that can change what is considered normal in its near neighbourhood.

Norm Diffusion and Socialization

There is a large amount of literature on the diffusion of social norms in the international system and in particularly within and by the European Union. The literature is characterised by a significant level of heterogeneity and several sets of literature working on similar phenomena often fail to communicate mutually. We can make a distinction between at least three different traditions of literature focusing on the spread of norms within the international system which all refer

to the same phenomenon, but which most often fail to mutually communicate. The first group of literature is the one which this article is particularly interested in, normative power literature. This literature assumes that the EU is a unique actor, with both a particular mission and specific capabilities of defining what the normal thing to do is considered in the international community.³ Second, there is the literature on how socialization takes place as a consequence of interactions between individuals in international (European) institutions, which is often referred to as socialization literature.⁴ This group of literature shares the idea with the former that the studies often tend to target socialization as a result of the European integration process. The third group is more heterogeneous and refers to the general literature on norm diffusion in international relations. In contrast to the other two groups of literature, norm diffusion literature takes into account a broader set of actors who are considered to be crucial for the process of norm diffusion. Norm diffusion literature also often has a tendency to view this process as a phenomenon where there is a blurred linkage between sender and receiver of the new norms instead of a more straightforward transfer from one point to another.⁵

Several commonalities can be observed between these three groups of literature despite having different origins and different authors contributing to their canons. The two latter bodies of literature mentioned have a common origin in the sociological version of new institutionalism.⁶ Increasingly, also the literature regarding the 'normative power' Europe takes a starting point in this theory and in particular in the theory's view on norms and the distinction between the logic of appropriateness and the logic of consequences. Therefore, we can talk of a similar understanding of what the subject of study is – i.e. the process of norm internalization understood as a process of socialization. The three groups of literature also share an understanding of the concept of norm – in other words, what it is that should be internalized as a consequence of the studied process. Moreover, they all assume that the internalization of the norms into the societies potentially can have a constitutive impact on those countries' identity, and potentially lead to a change of both behaviour and preferences. Thus, all three groups of literature assume the existence and relevance of a process of state socialization, which can be defined as 'the process by which states internalize norms arising elsewhere in the international system.'⁷ Checkel defines socialization as the situation when 'an agent

switches from following a logic of consequences to a logic of appropriateness; this adoption is sustained over time and is quite independent from a particular structure of material incentives or sanctions.⁸ Thus, socialization understood in this way implies that 'actors alienate from their old norms and values and that new understanding becomes part of one's self-understanding.'⁹ This definition is similar to that of norm internalization as defined by Finnemore and Sikkink, and according to them, norm internalization has taken place when norms have become so internalized by actors that they achieve a 'taken-for-granted quality.'¹⁰ Manners argues that the EU norms have become internalized into the receiving countries when the norms have passed through what he defines as a cultural filter.¹¹

The three groups of literature also all relate to the process of Europeanization. This process has been defined in a multitude of different ways, but one of the most frequently quoted shows compatibility with a theoretical framework focusing on the role of social norms. Radaelli¹² provides for a definition that is comparatively broad and goes beyond a more narrow understanding of Europeanization as being a part of the transposition and *acquis* compliance literature.¹³ According to Radaelli's definition, the process of Europeanization includes the study of the processes of socialization, and stresses the importance of norms for the Europeanization process. 'Europeanization consists of processes of a) construction, b) diffusion, and c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things', and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and subnational) discourse, identities, political structures, and public policies.'¹⁴

Increasingly, all three different groups of literature have started paying attention to the domestic conditions in the countries at the receiving end of the norm diffusion process. In Manners' vocabulary, the final stage of the norm diffusion process is referred to as the 'cultural filter.' This is a description for how norms internalize into a domestic setting and become part of the normative identity of that particular state. Manners argues that this process takes place in both member and non-member states.¹⁵

Initially, Manners did not devote too much attention to the cultural filter and described it as one of the mechanisms involved in the process of norm diffusion. According to Manners, cultural filters are

'based upon the interplay between the construction of knowledge and the creation of social and political identity by the subjects of norm diffusion.'¹⁶ Other authors working in Manners' tradition, however, have later pointed out that the cultural filters are much more than merely one of the mechanisms involved in the process of norm diffusion since the cultural filter 'underlies and shapes the other factors.'¹⁷ The term 'cultural filter' from this perspective becomes similar to Acharaya's concept of localization.¹⁸ According to Acharaya, localization is the process by which local actors and local norm-takers adapt the norm through a 'dynamic congruence-building process.'¹⁹ Checkel, working in the socialization tradition, refers to a similar process, which he approaches from the perspective of cultural matches as a measurement for the level of possible convergence between the international norm and the domestic norms 'as reflected in discourse, the legal system, and bureaucratic agencies.'²⁰ Both Checkel's socialization approach and Acharaya's localization approach emphasize the role of domestic actors for the norm internalization process. Yet, they are not blind to the role of domestic structures and their importance for the possibility of norm diffusion. These domestic structures include not only the political system and judicial codes, but also discourses and general understandings of norms in society, to which the possibility of norm diffusion is examined. Acharaya stresses the crucial role of how the norm which is internalized into the country is framed,²¹ which brings us to the crucial role of discourse. Björkdahl and others²² argue that the concept of cultural filter is linked to 'perceptions', and that the filter thus can be studied through the analysis of perceptions and discourse. From this perspective, the cultural filter resembles a structure which can be approached and analysed through the discourse.

Thus, according to all three approaches it is crucial to look at how norms are perceived, in order to analyse the possibility of norm diffusion. However, after having emphasised the commonalities between the three different groups of literature, it should be stressed that the normative power Europe literature is distinctive in one respect, specifically how it emphasises the European Union as a unique actor. Therefore, we will now continue to see how far its assumptions about the EU's 'normativity' and about its 'power' can be provided with some substance, and we will illustrate that the EU's possibility to be a 'normative power' is largely linked to how both the EU norms and the EU itself

are perceived in the countries being subjected to the EU's normative influence.

The EU as a 'Normative' Actor

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For Manners, the EU is a 'normative power' because the EU pursues 'universal norms.' The EU promoted norms, from this perspective, have universal legitimacy due to their substance. What is crucial from Manners' perspective is that the norms are 'acknowledged within the United Nations system to be universally applicable,'²³ and that by promoting them, the EU aims to normalise a 'just, cosmopolitan world.'²⁴ Therefore the 'normative' element of the 'normative power' concept is referring to the question whether EU norms are universally just. This should be seen in contrast to most constructivist literature on the importance of norms in international relations which merely discusses whether states act in accordance with norms, in other words in accordance with the logic of appropriateness in addition to a rationalist logic of behaviour (i.e. the logic of consequences), . The basis for all constructivist assumptions about the importance of norms is that they are respected because they are seen as 'natural, rightful, expected, and legitimate' by those who endorse the norms.²⁵ Yet for most constructivists, concrete norms are considered 'good' and 'rightful' only by one particular group. The norms might or might not have universal applicability. Some norms are partial in their nature and appeal only to a certain group of individuals and are bound to a certain geographical context and can directly exclude some groups or even include racist elements. Therefore, even if there are no bad norms from the perspective of the people who endorse the norm, this does not mean that all norms would be universally legitimate and from the perspective of an outside observer, some norms can be illegitimate and bad.²⁶

Therefore, Manners' view on the EU as a 'normative' power works with an understanding of 'normative' action that is different compared to the mainstream understanding within constructivist or neo-institutionalist literature. Moreover, since Manners assumes that the EU promotes universally just norms, he has also been criticized for failing to see that the EU's norms in reality also are 'particularistic' and that they have developed as a consequence of European history.²⁷ From such a perspective, the correspondence between EU norms and norms

endorsed by the UN is likely to be a result of the European countries' less-glorious past as colonial powers with a 'civilising mission'.²⁸ For this reason, scholars working on EU-African relations or the EU's relations to the Middle East have traditionally been more sceptical to the concept, since the colonial European heritage is more present in these cases compared to the EU's relations to post-communist Central and Eastern Europe.²⁹

More recent authors in normative power literature have stressed that the normative power is more about the possibility to change what is viewed as being normal, and thus moved the concept into more of a general category less specifically linked to the EU.³⁰ From such perspective, it might well be that the norms that the EU promotes have evolved as a consequence of the economic system that has been established in Western Europe after the end of WWII. Therefore, one suggestion has been that it would be more correct to speak of a 'market power' Europe than of the EU as a 'normative power'.³¹ Based on such an understanding, the EU's norms are not neutral and universal but have a distinctive ideological flavour of economic liberalism.³² Given this more critical interpretation of EU norms, the distinction between norms and interests are becoming blurred. Thus, it is no surprise that scholars, such as Hyde Price (2006) following a neo-realist logic, have argued that the EU's normative power is an instrument of the most powerful EU member states in imposing their norms on countries within and beyond Europe.³³ Another example is Del Sarto (2016), who in accordance with this line of argumentation, labelled the EU a normative Empire stressing that the EU's norm transferring activities '...primarily serve the economic and security interests of the European core vis-à-vis the periphery'.³⁴

Which are then the norms the EU promotes? Manners identified the EU's norms through empirical analysis of the Union's treaties and its representatives' official rhetoric. Manners argues that there are five EU core-norms, which are those of *peace, liberty, democracy, rule of law and respect for human rights*. In addition, he identified four minor norms which he considered to be more contested within the EU, and are *social solidarity, anti-discrimination, sustainable development and good governance*.³⁵

The question of whether the European Union pursues norms that are universally legitimate can hardly be solved through empirical

analysis. The likelihood of the EU actually being able to act as a power that changes what is viewed as being the 'normal' thing to do in other countries, however, is linked to how both the norms and the EU are perceived in the countries that are subjected to the EU's normative power, and whether the norms are perceived as universally just norms. Therefore, if we would like to analyze the potential of the EU as a normative power we need to focus on how the norms the EU promote are perceived in the target countries.

The countries that accessed the European Union in 2004 are often viewed as being successful examples of the EU's normative influence. One of the main objectives of the EU enlargement process towards Eastern and Central Europe was to promote the human rights norm. This has been described as a successful example of the EU's ability to influence countries in its neighbourhood. However, even if several of these countries have internalized the EU's human rights norm and later as EU member states promote this norm in relation to third countries, a closer examination shows that the norm in some cases has been adopted mainly thanks to the elasticity of the norms. If we look at how the norm of human rights has been perceived in Estonia, we can see that even if the human rights norm is supported in the country and that Estonia has made the promotion of human rights and democracy in third countries one of its foreign policy priorities, the country's political elites still ignore some aspects of the norm. The norm has been interpreted in a way that has made it possible to ignore the country's own pressing issue of statelessness. Estonia has localised the norm in such way that the country can promote minority rights at the same time as it ignores its own domestic mistreatment of minorities, which persists after more than a decade of EU membership and stems from the unresolved issue of the citizenship of the non-Estonian-speaking minority. It is likely that Estonia's interpretation of minority rights is enabled by the different standards being pursued on this issue by different member states. The problem here seems to be that the topic of minority protection also has been controversial in several older EU member states and, as a consequence, it is not explicitly addressed in any treaties or secondary EU legislation. Moreover, the EU's Charter on Fundamental Rights does not include any provision that would guarantee the right of nationality. It established the protection of 'Citizen's Rights' (Title V) but access to these rights is dependent on the mem-

ber state – i.e. that holding the nationality of an EU Member State automatically means holding EU Citizenship (and it says nothing about stateless persons).³⁶

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The EU's norms on minority rights are thus open for different interpretations and one could speak of a high level of elasticity of the norm. However, several of the other norms are also open for different re-interpretations. The norm of good governance is, for instance, crucial for the European Union's relationship to Bosnia and Herzegovina given the Union's large scale involvement in the country's domestic affairs. However, the norm as such is vague and opens up for different interpretations. The concept itself has proven hard to introduce into the domestic Bosnian context given the difficulties of finding an intelligible translation. One consequence of this is that the norm has been understood as an assortment of political principles taken up and enhanced by the European Union. This in turn has led to a simplification of the norm compared to its initial meaning. The problems of finding a suitable translation of the term can be seen as a result of the difficulties with the localisation process in Bosnia and Herzegovina, but is also a more substantial problem of the norm itself. The concept has been notoriously difficult to define even at EU level. A 2001 white paper on European governance, for example, failed to provide a definition of the term even as it outlined five principles which should be respected in order to establish good governance (these principles were openness, participation, accountability, effectiveness and coherence).³⁷ Just as in the example of Estonia, the main problems of the application of the norm in this country are linked to the issue of country minority rights. In Bosnia and Herzegovina the vision of representation along ethnic lines has been constitutionalised as a consequence of the Dayton agreement. This principle of representation, however, is at odds with the possibility of equal participation by minorities.³⁸ The Sejdic-Finci court case whose origins trace back to 2006 when two members of different minority groups were prevented from standing for election to state institutions illustrates how the political elites in the country have had problems coming to terms with equal right to representation. In 2009, the European Court of Human Rights ruled that the current constitution discriminated against minorities and had to be amended in a way that would allow equal political participation of all citizens, regardless of their ethnic or religious background. Despite the proclaimed support for electoral reforms, the local political elite have

found it easier not to comply with the ruling. The Sejdic-Finci case not only revealed the depth of minority discrimination but also prompted a wide-ranging debate about the rule of law and the necessity of extensive electoral reforms. Moreover, the court verdict led to the suspension of the Stabilization and Association Agreement that was signed and ratified in 2008. For our discussion it is important to note that one frequently expressed opinion among the country's political elites has been that discrimination against minorities is not intentional but an ingrained aspect of a system that was imposed from the outside. The case thus illustrates a situation where institutional constraints make implementing the norm impossible in practice even though no one would say that they disagree with that norm. The difference in this case, however, is that the localisation of the norm in the end conflicts with legal norms.

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In Turkey we can find another clear example of how a norm promoted by the European Union can be re-articulated in a specific way without actually violating the EU's interpretation of the norm. The Turkish governing party, the AKP, has interpreted the norm of democracy in two different ways over the last fourteen years. An analysis of crucial party documents reveals that the party in the period from 2002-2008 interpreted democracy as what was described as 'conservative democracy' in a way that resembled the more mainstream understanding in the European Union. In the second part of the analysed period, from 2008-2016, in contrast, the AKP has made use of the elasticity of the norm to emphasise a version of democracy which is more likely to clash with an EU perspective. Nevertheless, given the plurality of interpretations of democracy within the EU, there are still clear similarities between the AKP's version and those of other political entities within the EU.^{39,40,41,42,43} Thus, like the example of minority rights in Estonia, the case of the AKP party in Turkey affirms the universality of the EU-promoted norm in the sense that it can be re-interpreted to a large degree according to the local context. At a more general level, we may conclude that the vague statement of EU norms makes it possible for all EU member states to agree on them, and, moreover, allows the norms to gain support from a bigger variety of actors and in a greater variety of contexts.

On the other hand, the elasticity of the norms may result in the watering down of original intentions. The elasticity of the norms also implies that domestic actors in the countries that are subjected to the

EU's normative power are crucial for how the norms are re-articulated and for any policy changes the norms eventually can contribute to.

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The EU as a 'Power' Deciding What is 'Normal'

The meaning of the 'power' part of the normative power concept has been discussed almost as much as the definition of 'normative.' As Forsberg points out, 'power' can have two meanings, referring either to the 'ability to cause effects' or to a 'powerful actor.'⁴⁴ Manners mentions several different mechanisms by which the EU can cause normative changes in countries internal or external to the EU.⁴⁵ These mechanisms include both materially-based incentives and normative persuasion. The EU is most clearly a 'powerful' actor in relation to the countries that are a part of the EU's enlargement procedure. In such cases, the countries are clearly subjected to 'procedural' and 'transference' diffusion, which occurs as a consequence of the countries' adaptation to EU's legislation but also through various financial and technical assistance programmes such as Phare and Twinning. Moreover, the literature has also approached the EU's normative power in relation to regional organizations in other parts of the world such as the ASEAN countries.⁴⁶ The EU's ambitions as a 'normative power', however, goes far beyond this to include also countries of the neighborhood policy lacking clear membership prospects and even all other countries in the international community due to its alleged ability to serve as a normative role model. Moreover, according to Manners the EU is a 'normative power' in relation to its own constitutional parts, even if this aspect of the concept has been less frequently discussed in the literature. In relation to the Union's own member-state, the concept of 'normative power' Europe comes to be nearly synonymous with 'top-down' Europeanization. For these member states, exposure to the EU's normative power is obviously a less straightforward process than it is for countries still acceding to the EU or concluding partnership agreements with the EU.

Returning to the issue of minority rights in Estonia – from the perspective of the political elites in that country, the EU's normative power has been viewed positively. The country's governing elite is making efforts to apply the same logic and similarly affect the understanding of what is normal in the countries of the EU's Eastern Partnership such as Ukraine, Georgia and Moldova. Yet despite these positive perceptions

of the EU, the capacity of the EU to influence one of its own member states on an issue outside EU legislation has been far from obvious, as is clear from the fact that more than a decade after its EU accession, Estonia still has one of the highest rates of statelessness in Europe and is constantly being criticised for its treatment of ethnic minorities.⁴⁷ There are signs that a new understanding of human rights is gaining prominence in the country, but it is less clear that this is an actual consequence of the EU's normative power. The Russian annexation of Crimea in 2014 might have been more important in that respect, given that it raised concerns in Estonia that the stateless Russian speaking minority could be a potential problem for the sustainability of the Estonian society. Thus, it could be suggested that when it comes to the expression of minority rights in Estonia after EU accession, the European Union has been less important than domestic actors who are concerned with the future of Estonian nation-building.⁴⁸ It is a problem and a weakness for the 'normative power' concept that the EU's influence on normative changes is rarely possible to separate from the influence of other factors. Therefore, it is more fruitful to look at normative changes as a broader process including a greater disparity of actors. This is not to say that the EU has been unimportant in the pursuit of the norm but rather that a genuine internalization process is likely to include more heterogeneous actors and a broader debate in particular society.

In Bosnia and Herzegovina, the EU has been directly blamed for deepening existing animosities among the ethnic groups in the country. Following the suspension of the Stabilization and Association agreement in 2011 that came as a result of non-compliance with the ECHR ruling, the EU has been perceived as sending two different and contradictory messages: as a representative of the 'West,' it is viewed as responsible for the defective constitution and, at the same time, it is punishing the country for having this system in place. From this perspective, the 'EU,' the 'West' and the 'international community' are often conflated, and Bosnia and Herzegovina is said to be a victim of the Dayton Agreement, which has locked the country into a frozen conflict. This, then, reveals the limits of the normative power of the European Union. In a context like Bosnia and Herzegovina where national sovereignty has been restricted over a long period and a range of external actors have imposed their decisions on the country, there may be some scepticism about the EU that goes beyond its current ac-

tivities. Moreover, since the prospect of EU membership exists in the remote future, the promise of future membership is less likely to have a direct impact on everyday activities. Bosnian politicians have already learned to avoid compliance and to ignore EU norms without facing any consequences.⁴⁹

In Bosnia and Herzegovina, the European Union has used the good governance norm to encourage consensus-building among the political elite at domestic level. In this case, domestic elites have developed a high level of resistance to EU pressures. Though aware that without these actions the country will not move closer to EU accession, these elites view the changes demanded as too ambitious and maintain for various reasons that it may be more convenient to remain in a dysfunctional state. This again points to the crucial role of domestic actors. If EU-promoted norms lack support from local groups who can use the EU as an argument when promoting the norm domestically, norm internalisation is unlikely to happen.

If we look to Turkey during the period 2003–2008, it seems that the EU exercised real normative power both in relation to the AKP party and the country in general. The EU was an important normative role model, not only based on considerations of potential EU membership but also because it was crucial for the AKP to gain EU recognition in order to achieve domestic legitimacy, i.e. acceptance from various domestic actors. In the second period analysed, the EU's power weakened. While there could have been many different reasons for the AKP's restatement of the democracy concept, they are clearly linked to the perception that the EU was less relevant as a normative power. This may be due to the reluctance within the EU to award Turkey EU membership, but it could also be explained by changes at the domestic level. Nevertheless, a plausible explanation is that the EU was a necessary part of the AKP's legitimisation strategy due to the party's uncertain position not only in Turkish politics but in Europe in a broader sense during the period up until 2008. In the period thereafter, however, the EU has become less important to the party's objectives and its influence as a reference point for concepts of democracy has therefore waned.^{50,51,52,53,54}

Conclusion

The paper argues for the relevance of the 'normative power' concept in the sense that it puts the attention on the issue of how the Euro-

pean Union influences and shapes countries in its neighbourhood, independent of if they become member states or not. The concept, however, would benefit from being firmly placed within the context of the broader literature on socialization and norm diffusion within international relations; coming from constructivist or sociological new institutionalist perspectives. Moreover, as it has been argued in more recent normative power Europe literature, the norms the EU promote do not necessarily have to be understood as universal per definition. Therefore, the possibility of the norms becoming internalized in countries targeted by the EU's normative power is largely linked to how both the norms and the EU are perceived in that particular context. Such a reformulation of the normative power concept highlights how crucial the domestic level of the receiving country is for the possibility of the European Union having a normative influence. The stress on the domestic level of the receiving countries also shows on the limitations of the EU as a normative power. But the argument that domestic actors in the countries being exposed to the EU's normative power are crucial for its potential success does not imply that the EU cannot be a normative power; it merely suggests that the view of how it can be such a power has to be modified. The three empirical cases discussed in the paper all show on how domestic contexts of countries being targeted by the European Union's normative power can influence the chances of the successful Europeanization of selected EU norms. The three examples highlight problems for the EU's normative power such as the vagueness of the promoted norms and contested understandings of the European Union as such. In particular, the three examples stress that the EU is faced with a dilemma of norm elasticity when it promotes norms in international politics. The problem is how to allow for suitable reinterpretations of the norms into the local contexts without these losing all practical relevance.

*Mats Braun
et al.*



MATS BRAUN is affiliated to the Metropolitan University Prague and may be reached at mats.braun@mup.cz

ADISA AVDIC is affiliated to the Metropolitan University Prague and may be reached at adisa.avdic@mup.cz

ANNA GROMILOVA is affiliated to the Metropolitan University Prague and may be reached at gromilova@mup.cz

CEJSS
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GABRIELA OZEL VOLFOVA is affiliated to the Metropolitan University Prague and the Oriental Institute, the Czech Academy of Sciences and may be reached at gabriela.volfova@mup.cz

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*Mats Braun
et al.*

International Terrorism

Current Challenges and Legal Means of Protection in the Czech Republic

Jiří Jelínek

The article analyses two current issues relating to the contemporary international terrorism. Firstly, it is the ingrowth or merging of international terrorism with organised crime, as a criminological or sociological problem. Secondly, it is the threat posed by the growing number of persons referred to as “foreign terrorist fighters,” i.e. persons leaving the countries of their origin and travelling to the world conflict areas with the intent to support and promote terrorist criminal offences, terrorist groups or to spread terrorist ideology. Upon return to the country of their origin, these persons pose a real threat not only to this country but also to other countries, especially for their possible contribution to the radicalization of local crime scenes in which they tend to be involved; also when connected with the domestic terrorist cells, they pose a risk to the society as a whole. The author analyses the amendment to the Czech Penal Code made by Act No. 455/2016 Coll. responding to this threat by the criminalisation of certain conduct that was not punishable in the past. The amendment to the Penal Code has brought further changes which shall eliminate the gap between Czech criminal legislation and the binding legal instruments of the European Union in the fight against terrorism.

Keywords: terrorism, fight against terrorism, organised crime, criminal law, foreign terrorist fighters, Czech criminal law



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Introduction

A series of terrorist attacks in Europe and elsewhere, along with new manifestations of international terrorism, has revived the interest in the means of legal protection against terrorism. The phenomenon of terrorism is not confined to the territory of one state; instead, it crosses borders and does not have any limitations of time or resources. Nowadays, we thus encounter the concept of international terrorism (transnational terrorism).¹

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International terrorism is an example of transnational crime; it is one of the global problems of humanity and one of its global threats. It is also one of the most serious attacks on democracy and the rule of law, i.e. the attributes of a modern European society. As such terrorism becomes more and more dangerous, the states need to take appropriate measures to combat it. Terrorism can no longer be perceived as a problem of only the states directly affected by it.

Terrorism is a particularly sensitive issue especially to its victims who may feel even more vulnerable than the victims of common crime since they have even less control over their destiny. They are not able to determine what went wrong or what could have been done to prevent their victimization, while there are not any clear instructions on how to protect themselves against further terrorist attacks.²

Terrorism presents a particularly dangerous threat to national security; since it first and foremost uses violence against the civilian population in order to maximise casualties and does not spare the lives of the terrorists' own combatants. The motive of a specific terrorist attack is sometimes difficult to identify, while the consequences can still be devastating for both the population and stability of political institutions.³ The global threat that terrorism poses for humanity naturally calls for reactions towards its suppression at global (UN),⁴ regional (OAS, Organisation for Security and Cooperation in Europe, Council of Europe),⁵ European (EU),⁶ and national level of individual states – members of the European Union.⁷

The fact that neither domestic nor international terrorism has significantly affected the Czech Republic does not relieve the country of its obligation to fight it. On one hand, the Czech Republic bears responsibility towards its own citizens and residents, to whom it shall ensure safety on its territory; on the other hand, the country bears responsibility also towards other countries to ensure that neither the Czech Republic nor its residents are involved in terrorism or unlaw-

ful promotion thereof. We also cannot underestimate any potential jeopardy of the interests of the Czech Republic abroad; e.g. concerning embassies, military missions, trade organisations etc.

A highly visible threat presents also the prospect of radicalization of domestic extremist groups or the “overgrowth” of all forms of intolerance and extremism in response to the manifestations of terrorism. We also cannot exclude any potential influence of persons departing abroad with the intention to participate in the terrorist activities in conflict areas, who return back to their countries to radicalise domestic extremist or criminal structures to terrorism; as will be discussed in the next section. It must be borne in mind that foreign terrorist fighters were linked to the recently planned and/or executed terrorist attacks in several member states of the European Union. Therefore, security threats are posed by both, Czech citizens travelling abroad for the purpose of terrorism, as well as any other nationals travelling to the territory of our country to carry out a terrorist attack or to support terrorist activities in the Czech Republic.

In addition, the European Union and its member states are facing an increased threat from individuals remaining in Europe who are being inspired or controlled by foreign terrorist groups.

Effective counterterrorism measures that a state possesses are both non-legal (technical, medical, communicational, organisational) and legal. The legal measures include both non-criminal and criminal legislation.

Non-criminal legislation includes, for example, the regulations governing the stay of foreigners in the territory of a state, the crossing of state borders, border surveillance, travel documentation, population registers, protection of important objects, cooperation with foreign countries and international exchange of information, powers of the secret services, regulating the availability and use of weapons, explosives, poisons or other hazardous substances, management of crisis situations for both peacetime and war etc. There are a long series of such legislations contextually usually falling under the provisions of constitutional or administrative law.

Criminal legislation is then a subset of anti-terrorism legislation which is, depending on the regulation of social relations, either substantial (criminalisation of terrorist offences and their sanctioning, or a prevention of crime) or procedural (measures to search, examine, and prove terrorist acts in criminal proceedings, protection of victims

of terrorist offences, protection of vulnerable witnesses of crime). An important role in protection against terrorism is also played by the criminal liability of legal entities enshrined in the Czech Republic on 1 January 2012. Under the current Penal Code amended by Act. No. 455/2016 Coll., all the “anti-terrorist” offences, i.e. a terrorist attack, terror, participation in a terrorist group, terrorism financing, support and promotion of terrorism, threatening to commit a terrorist criminal offence, can be committed by a legal entity (cf. Section 7(1) of Act No. 418/2001 Coll.).

Although the very concept of terrorism is controversial, or rather difficult to grasp,⁸ which applies also to the phrase “fight against terrorism,” a precise definition of these terms in national law is essential for their compliance with the principle *nullum crimen sine lege* as a basis for criminal liability. A precise definition of this concept is important also with regard to international and European cooperation in the fight against terrorism.

Czech criminal law has never defined the concept of terrorism, however, the Czech Penal Code (Act No. 40/2009 Coll.) before amended by Act. No. 455/2016, contained only two key offences for the prosecution of terrorist actions; they were the offence of terrorist attack (Section 311 of Penal Code) and the offence of terror (Section 312 of Penal Code). After the above-mentioned amendment, the Penal Code contains also the definition of a terrorist group, terrorist criminal offence, four special “anti-terrorist” criminal offences (Sections 312a to 312f), and several other changes, the common objective of which is the protection of society against the threat of terrorism by criminalisation of conduct that supports or promotes terrorism.

The article analyses two current issues relating to the contemporary international terrorism.

Firstly, it is the ingrowth or merging of international terrorism with organised crime. Secondly, it is the threat posed by the growing number of people travelling abroad for the purpose of committing terrorist offences, their support or training. These individuals are often referred to as “foreign terrorist fighters.”

Terrorism and Organised Crime

Terrorism is sometimes regarded as a subset of “organised crime.” However, some experts do not accept such a classification. According

to Novotný and Zapletal, the pursuit of monetary gain is not the dominant feature of terrorism, and thus it does not fall under the rubric of organised crime for which profit is a typical motive.⁹ The authors further state that we can distinguish between nationalistic, ideological and state-sponsored terrorism, as well as left-wing and right-wing terrorism. However, the very definition of terrorist conduct depends very much on the political orientation of the assessor.¹⁰

Recently, Šimovčák and Jalč discussed this issue in a study devoted to organised crime. While the main objective (and one of the defining traits) of organised crime is financial or other material gain, the main goal of a terrorist conduct (and also a fundamental defining trait) is a change of policy direction through pressure on public authorities.

The authors note that the Council of Europe defines organised crime and terrorism as two a priori different concepts. Most criminal groups and networks in Europe are involved in frauds and other forms of economic crime, in production and trafficking of drugs, smuggling and trafficking of human beings, but they are not involved in terrorist activities. However, there are some similarities and links between organised crime and terrorism, which are reflected especially in the financing of terrorism by the revenues from organised crime.

The similarities lie also in the fact that both organised crime and terrorism operate on an international level, are organised in the form of a network or cellular structures, benefit from diaspora communities, and last but not least, they need a safe haven and secrecy of their financial transactions.¹¹

The relationship between terrorism and organised crime is, however, somewhat more complex than how it is shown in the aforesaid sources; for example, difficulties lie in the fact that terrorists may organise themselves not only through the cells and networks but also with the use of modern communication technologies and may be managed not only from a central headquarters but also through internet coordination of like-minded people.

Terrorism and organised crime have certain features in common; although other features vary, they cannot be strictly separated from each other. Already in the past twentieth century, there existed their interaction, networking, and convergence; therefore, we talk about the theory of convergence of terrorism and organised crime creating a hybrid phenomenon.¹²

Both concepts are united mainly by the fact that they are difficult to generally define. There are a long series of definitions of organised crime and terrorism, however, none of is universally applicable. Both concepts are very general, vague and with a globalisation effect that has no limits and crosses national borders or even continents.

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Terrorism and organised crime are also similar in the fact that both of these phenomena pose a threat to the democratic rule of law and undermine the constitutional order, political and economic system of the state, and destroy the judicial system. Both the individual terrorist activities and the impact (manifestation) of organised crime consistently weaken and undermine the proper functioning of the official state structures.

However, organised crime and terrorism differ in their relations to the state. Although organised crime often tries to create a “state within a state,” and most often through corruption influences certain authorities; senior representatives of organised crime have an interest in creating or maintaining the apparent legality of their activities. Oppositely, terrorism acts openly against the state, it ostentatiously proclaims its opposition to state structures in order to gain public attention and to cause a reaction in society in order to destabilise the existing social order or to enforce a specific change. However, even terrorism may be exceptionally linked directly to the state; for example, in supporting terrorist groups directly by the government of a particular state. It shall be born in mind that a long-term objective of terrorist groups is a real communion with the state itself in sense of replacing its structures by a terrorist group itself.¹³

For both terms, there are typical (identical, similar) ways and means of committing offences. A typical manifestation of both phenomena is mainly the use of violence, threat of violence, and threat of another serious injury. The violence can function both externally, towards a person other than a member of a criminal or terrorist group, or it can be used to maintain control over a group of organised crime or a terrorist group. The use of weapons, explosives or other substances with effects on human life and health is also a typical attribute of both phenomena. To conceal their activities, both of them use various false identification documents, false documentations of origin and movement of goods; they also use information resources and technologies to create a false identity of their members or groups, and they create fictitious com-

panies to conceal their true activities etc. A certain current trend presents a creation of different legal structures serving as a cover for any illegal activities of the group. Until recently, this phenomenon used to be typical for organised crime; however. Nowadays it is becoming an example of takeover practices from organised crime to terrorism.¹⁴ Organised crime and terrorism are thus connected by a certain level of structure and organisation. Both phenomena work through criminal networks that are consistently changing; it increases their flexibility and reduces the risk of exposing their planned activities. Both phenomena often operate on principles similar to business operations.¹⁵

A successful attack within organised crime, such as a bank robbery; as well as a successful terrorist attack, often requires careful planning, the ability to work undercover in order to avoid unnecessary suspicion and thus to avoid revelation of the planned attack. For both organised crime and terrorism, certain organisational units are typical such as cells or networks, within which the offenders are organised. For the reasons of safety, these cells may be functionally independent so that every member has little knowledge about the other cells and other members. The members of individual cells can provide emotional support and maintain loyalty. Only the leader of the cell knows how to communicate with the other cells or with the control centre. Revealing identity of a single cell does not uncover the identity of other cells. The number of cells and their composition depends on the size of a criminal or terrorist group; it can be a local or national group having fewer cells, but it can also be a large international organisation operating in various states.¹⁶

While organised crime cannot by definition operate with a single offender, a terrorist attack may be performed even by a single terrorist (“terrorist loner,” “lone wolf”), which represent an exception to the existence of internal organisational structure as an attribute of both organised crime and terrorism. The reality of the danger resulting from presence of the lone terrorist (“lone wolves”) is evidenced by the new directive of the European Parliament on combating terrorism, the draft of which was approved by the European Parliament on 16 February 2017, and which repeatedly emphasises the seriousness and dangerousness of these persons and their activities.

The fundamental difference between organised crime and terrorist groups is the primary motivation of their formation and operations. While organised crime is absolutely dominated by its focus on profita-

bility and maximisation of gain, terrorist groups are primarily characterized by their ideological motivations constituting the basis for their activities. For the terrorist organisations, financial gain is not an objective, but only a tool to achieve other, “higher” and “noble” goals.

Organised crime, unlike terrorism, does not have any long-term plans for its activities, with an exception of its efforts to maximise returns. If possible, it fulfils its aim gradually, quietly, secretly, and without getting any attention of investigating and judicial authorities. Principally, organised crime is not against the state; it only tries to inconspicuously weaken the state and to make its powers less functional in order to gain room for its activities. More than the state, the true enemy of criminal groups is the “rule of law,” which poses an inherent risk for the activities and existence of organised crime.

Contrary to the organised crime, terrorism is principally future-oriented, the activities of terrorist groups are planned in a relatively long time perspective. The state is a natural enemy of terrorism with whom it fights for its legitimacy. Terrorist attacks are directed against the powers of the state, which terrorism tries to weaken, bring under its control, and take over their function.¹⁷ Contrary to criminal groups, terrorist groups do not restrict their membership. They are characterised by their effort to get as many members, supporters, and sympathizers as possible; and for this purpose, they do not hesitate to use social networks (while mafia, by the nature of things, will not advertise its needs for a skilled toolmaker, accountant or computer specialist).

There is a lot in common between terrorist organisations and organised crime; therefore, in many cases, terrorists may easily establish their contacts with organised crime, and start a successful and beneficial cooperation. The possibilities of cooperation between terrorist groups and organised crime stem also from the fact that terrorist groups might not possess the means to commit a crime through its own membership; however, they might be able to do so with the use of resources offered by organised crime.

Undoubtedly, there are other differences between organised crime and terrorism, such as a different motivation of members of organised crime and terrorist organisation members. Lately, there has been a mutual intertwining and influence between organised crime and terrorism; for example, when a terrorist group carries out the activities typical for organised crime in addition to its main “terrorist” activities, such as drug and human trafficking, extortion, kidnapping, robbery,

extortion of money for protection, oil smuggling, smuggling and trafficking of arms, cigarettes, counterfeit goods, human organs, cultural goods. Given the convergence of objectives, methods and the means of transnational terrorism and organised crime; it creates a new threat of a specific nature, for prevention and detection of which it is necessary to adopt appropriate measures.

Foreign Terrorist Fighters and Czech Criminal Law

One of the current problems linked to international terrorism in the last decade is a question of European citizens migrating to the world conflict areas and their involvement in terrorist training or operations. There is a growing number of persons travelling or attempting to travel to the countries whose they are not resident or nationals, and where they are involved in the planning of terrorist activities, preparation of terrorist attacks or where they even participate in combat operations. They can be motivated by several factors such as ideology, money, religion, family relationships, desire for adventure, desire to help a “good cause,” sympathies to the group involved in the armed conflict, inability to succeed in the country of their origin, or other motives.

These people, often referred to as “foreign terrorist fighters,” pose a real threat to the internal security of individual states of the European Union after their return; both in terms of organising the recruitment of other persons or the propagation of terrorism, as well as in terms of the potential use of their combat experiences to commit terrorist acts or their potential involvement in the structures of organised crime.¹⁸ The foreign fighters influence the duration of armed conflicts in a foreign country by the fact that they have no relationship (family, work) to it. Therefore, they only prolong the conflict by their conduct. As individuals accustomed to violence, they might, upon their return, radicalise the criminal structures in the countries of their origin, or they may directly introduce in the terrorist activities of foreign terrorist groups into the country of their origin.

Social seriousness of foreign fighters activities lies also in the fact that these persons are not often organised in conventional terrorist structures, and they are linked only by their common goal and common views (when leaving, they often do not even know to which country they will travel or to which terrorist organisation they will join).

To illustrate the topicality of this issue, we can refer to the statement of the French Prime Minister Mannuel Valls made in March 2016, according to which more than 6,000 people have left France to go to fight in the ranks of the Islamic state in Syria and Iraq, and additional 800 were ready to leave. According to this statement, the country makes daily efforts to trace the Islamist network, to locate their cells and arrest their members. Referring to the French secret service, Valls stated that also 283 women and 18 minors are believed to be fighting in the ranks of the Islamic state.¹⁹

Since then, the number of foreign fighters, returnees, dead and wounded persons has undoubtedly increased.²⁰

It was the extraordinary social seriousness of various acts of the so-called “foreign fighters,” as well as the belief that the Czech penal provisions do not adequately punish these acts, and the obligations arising from the legal instruments of international law and European criminal law²¹ that forced the Czech criminal legislation to react to this current social threat. It happened through Act No. 455/2016 Coll., amending the Penal Code and other related laws. The new legislation is effective from 1 February 2017; with its general objective to criminalise the conduct of individuals intending to join terrorist activities abroad, to plan and prepare them, and to participate in terrorist movements, or to receive terrorist training, etc.

Criminal prosecution of the so-called foreign fighters operating in the armed entities that do not belong to the army of another state is possible under the current Czech penal legislation under several offences, which are:

Terrorist Attack (Section 311 of the Penal Code): An offender with a terrorist intent²² performs a series of exhaustively enumerated acts, e.g. performs an attack threatening the life or health of a person with the aim of causing death or grievous bodily harm, seizes hostages or performs kidnapping, destroys or damages public facilities, transport or telecommunications system, including information systems, fixed platforms on the continental shelf, energy, water, medical or other important facilities, public spaces or property to a greater degree to endanger lives, equipment safety, systems, or an open space, or to put a property in danger of large-scale damage, disrupts or interrupts the water supply, hijacks an aircraft, ship or other means of passenger and freight transport or a fixed platform in shallow continental waters, or

takes control over such means of transport or platform, or destroys or seriously damages the navigation device, or interferes with its operation to a greater degree, illegally produces or otherwise acquires, possesses, imports, transports, exports or otherwise provides or uses an explosive, nuclear material, nuclear, biological, chemical or other weapons, combat equipment or material of a similar nature, or carries out research and development of nuclear, biological, chemical or other weapons or combat equipment or explosives prohibited by law or international treaty.

This provision protects also a foreign state to the same extent that it applies to the interests of the Czech Republic. (Section 313).

Terror (Section 312 of the Penal Code): An offender kills another person with the intention to damage the constitutional establishment of the Czech Republic.

Participation in a Terrorist Group (Section 312a of the Penal Code): An offender establishes a terrorist group or participates in the activities of a terrorist group.

Terrorism Financing (Section 312d of the Penal Code): An offender themselves or through another person financially or materially supports a terrorist group, its member, terrorist or the commission of a terrorist criminal offence, gathers funds or other items with the intention to use them for such a purpose.

Support and Promotion of Terrorism (Section 312e of the Penal Code): An offender publicly encourages the commission of a terrorist criminal offence or publicly approves a committed terrorist criminal offence or arranges another person to commit a terrorist criminal offence or provides another person with information or training concerning the use of weapons and explosives, or obtains information or the purpose of committing a terrorist criminal offence or provides or promises remuneration for the commission of a terrorist criminal offence. The provision further criminalises the cases of travelling abroad for the purpose of committing a terrorist attack or other listed terrorist criminal offences.

Threatening to Commit a Terrorist Criminal Offence (Section 312f of the Penal Code): An offender threatens to commit a terrorist criminal offence.

Section 312e of the Penal Code is of a fundamental importance in relation to the criminalisation of foreign fighters activities, as defined above. It is composed of three separate sets of constituent elements,

and one additional set of qualified constituent elements. The basic sets of constituent elements were adopted as follows:

*Section 312e
Support and Promotion of Terrorism*

*International
Terrorism*

1) Whoever publicly encourages the commission of a terrorist criminal offence or whoever publicly approves a committed terrorist criminal offence or publicly extols the offender of such an offence shall be punished by a prison sentence of two to ten years.

2) Punishment by a prison sentence of three to twelve years or also in conjunction with such punishment by forfeiture of property shall be imposed upon a person

a) who arranges another person to commit a terrorist criminal offence or the criminal offence of participation in a terrorist group (Section 312a),

b) who provides another person with information or training concerning the production or use of explosives, weapons, hazardous substances or other similar methods or techniques for the purpose of committing a terrorist criminal offence,

c) who obtains information or acquires skills concerning the production or use of explosives, weapons, hazardous substances or other similar methods or techniques for the purpose of committing a terrorist criminal offence, or

d) who themselves or through another person provides or promises remuneration or indemnity to or on behalf of another person for the commission of a terrorist criminal offence or organises a fund-raising collection for such remuneration or indemnity.

3) The same punishment as that referred to in Subsection 2 shall be imposed upon

e) a person who is a citizen of the Czech Republic if they travel to another State of which they are not a citizen, or in which they were not granted permanent residence, in order to commit a terrorist criminal offence, the criminal offence of participation in a terror-

ist group (Section 312a), threatening to commit a terrorist criminal offence (Section 312f) or a criminal offence referred to in Subsection 2 Paragraph b) or c), or a person who is not a citizen of the Czech Republic if they travel from the Czech Republic or transit through the territory of the Czech Republic to another State of which they are not a citizen, or in which they were not granted a permanent residence, in order to commit a terrorist criminal offence, the criminal offence of participation in a terrorist group (Section 312a), threatening to commit a terrorist criminal offence (Section 312f) or a criminal offence referred to in Subsection 2 Paragraph b) or c).

As follows from the content of this provision, it comprises a number of different sets of constituent elements for which was chosen not quite fitting overall title “Support and Promotion of Terrorism.”

The provisions of Section 312e(1) contain special forms of encouragement (Section 364 of the Penal Code) and approval of a criminal offence (Section 365(1),(2) of the Penal Code). Second subsection comprises the acts of preparatory and supportive nature (recruitment of persons to commit a terrorist criminal offence or to participate in a terrorist group; provision of information and training for the purpose of committing a terrorist criminal offence; receipt of information or training from another person and acquittal of skills or provision or promise of remuneration or indemnity for the commission of a terrorist criminal offence, or organisation of a fund-raising collection for such remuneration or indemnity).

Finally, Section 312(3) of the Penal Code criminalises the cases of travelling to another state in order to commit a terrorist criminal offence, participation in a terrorist group, threats to commit a terrorist criminal offence or to commit a criminal offence referred to in Section 312e(2)(a),(b).

The lastly mentioned criminalisation of travelling abroad for the purpose of committing a terrorist criminal offence, or for the support and promotion of terrorism can be briefly commented as follows:

By criminalisation of travels to another state in order to commit a terrorist criminal offence, participation in a terrorist group, and threats to commit a terrorist criminal offence or to commit a criminal offence referred to in Section 312e(2)(b),(c) of the Penal Code, the legislators fulfilled the international and European obligations requiring the prosecution of the so-called foreign fighters, or any other persons,

consisting of organisation or facilitation of the travels abroad in order to commit a terrorist criminal offence. Czech criminal law did not prosecute such a conduct till 1 February 2017. The legislators did so by separate sets of constituent elements contained in Section 312e(3) (a),(b) of the Penal Code.

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The legislation prosecutes both the departure of a person who is a citizen of the Czech Republic when travelling to another State of which they are not a citizen, or in which they were not granted permanent residence, in order to commit a terrorist criminal offence; as well as the arrival of a person who is not a citizen of the Czech Republic if they travel from the Czech Republic or transit through the territory of the Czech Republic to another State of which they are not a citizen, or in which they were not granted a permanent residence, in order to commit a terrorist criminal offence. For prosecution of these activities, it is not necessary if a person leaving the Czech Republic or travelling through the Czech Republic to conflict areas had a specific knowledge of the state to which they travel in order to commit a terrorist criminal offence, to which terrorist organisation they join, whether their participation consist of a direct involvement in a terrorist attack, or whether they would support terrorism logistically, materially, financially and organisationally, by propaganda or otherwise. It also applies to completely independent fighters called “lone wolves.”

In applying these provisions, the key factor is to demonstrate a specific purpose of the travels or a specific terrorist intent. Travelling to another country without any specific terrorist intent, even if there exists an internal or external conflict or its territory is controlled by terrorists, such as travelling for the purpose of kinship ties or humanitarian assistance, would not be enough for conviction. “Another State,” referred to in the relevant provisions, means any state other than the Czech Republic, including other member states of the European Union.

Criminal prosecution of the so-called foreign fighters does not have to be necessary limited to the fulfilment of the constituent elements contained in the offence of Support and Promotion of Terrorism under Section 312e of the Penal Code; depending on the circumstances, the foreign fighters may also be prosecuted for the criminal offence of participation in a terrorist group pursuant to Section 312a of the Penal Code, or for the offence of Service in Foreign Armed Forces under Section 321 of the Penal Code.

The offence of service in foreign armed forces under Section 321 of the Penal Code applies only to a citizen of the Czech Republic who, contrary to another legal regulation, served in the army or armed forces of another state.

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Therefore, the application of this provision to the so-called foreign fighters is limited by the following two factors. Firstly, an offender must be a special entity – a citizen of the Czech Republic. Secondly, the foreign fighters participate in the combat operations of entities that are not subjected to any state jurisdiction, but instead, they fall under a terrorist organisation or movement.

Conclusion

In recent years, the threats of international terrorism have intensified and developed. One of these threats is the phenomenon of so-called foreign fighters, persons travelling to conflict areas with the intent to engage in terrorist activities or to support terrorism in various forms. Upon return to the country of their origin, these persons pose a latent threat to the internal security of these states. In the past (till 1 February 2017), the Czech criminal legislation did not provide a sufficient reaction on the danger resulting from the presence of these foreign fighters. Therefore, in accordance with international and regional commitments, and pursuant to the obligations arising from criminal law of the European Union, the Czech Republic adopted Act No. 455/2016 Coll., effective from 1 February 2017, aiming to strengthen legal protection against terrorism and to criminalise conduct supporting or promoting terrorism, terrorist groups, or individual terrorists. The adopted legislation fully complies with international and European legislation, and only the future will show whether it provides effective and adequate protection against the threats arising from the contemporary forms of terrorism.



Prof. JUDr. JIŘÍ JELÍNEK, csc. is Head of the Department of Criminal Law at Faculty of Law, Charles University. He can be reached at jelinek@prf.cuni.cz

Notes

- 1 Cf. e.g.: Statistics on the number of victims of terrorist attacks in Western Europe in the period 1970-2015 available at <<http://eurodenik.cz/zpravy/statistika-pocty-obeti-teroristicky-ch-utoku-v-zapadni-evrope-v-letech-1970-2015>> [accessed 11 February 2017] or Overview of the largest terrorist attacks in Europe since 2000 available at <<http://www.security-magazin.cz/zpravy/nejvetsi-teroristicke-utoky-v-evrope-od-roku-2000>> [accessed 11 February 2017].
- 2 Brown, S. E., Esbensen, F. A., Geis, G.: *Criminology. Explaining Crime and Its Context*. 9th. ed., Oxon: Routledge, 2015, p. 456.
- 3 Jakš, J.: Mezinárodní terorismus jako klíčová hrozba mezinárodní bezpečnosti zítřka, in Souleimanov, E. (ed.): *Terorismus. Pokus o porozumění*. Sborník. Praha: SLON, 2010, p. 8.
- 4 UN Security Council Resolution 2178 of 24 September 2014 requiring states to criminalise certain conduct, such as travelling abroad or attempting to do so in order to commit, plan, prepare, or participate in terrorist activities, or to provide or receive terrorist training. Furthermore, to provide financial resources to support such activities, and to organise or recruit persons for this objective. Resolution 2178 was adopted under Chapter VII of the UN Charter, and thus is binding on all countries of the world. For analysis of the cited resolution, see Bílková, V.: *Idealisté nebo fanatici? Zahraniční (terorističtí) bojovníci z pohledu mezinárodního práva*, Jurisprudence č. 6/2015, s. 17-18.
- 5 Cf. e.g. Council of Europe Convention on the Prevention of Terrorism, available at <<http://data.consilium.europa.eu/doc/document/ST-9975-2015-INIT/cs/pdf>> [accessed 6. March 2016]. The abovementioned UN Security Council Resolution 2178, requiring the states themselves or under regional arrangements to adopt specific, mainly criminal law, measures against foreign terrorist fighters, gave rise to the draft of the Council of Europe Protocol to the Convention on the Prevention of Terrorism adopted in 2005.
The Protocol was opened for signature on 22 October 2015 and can be acceded by the state parties to the Convention on the Prevention of Terrorism. The protocol is more specific and narrow than the Resolution 1278, since it is of a purely criminal law nature and provides a list of the conduct that the states shall criminalise and sanction in their national law. This conduct includes participation in an association or group for the purpose of terrorism, receipt of terrorist training, travelling abroad for the purpose of terrorism, funding of such travelling or organising and otherwise facilitating such activities.
- 6 The cornerstone of the criminal justice of the European Union is the EU Council Framework Decision 2002/475/svv of 13 June 2002 on combating terrorism, amended by the EU Council Framework Decision 2008/919/svv of 28 November 2008 introducing, inter alia, the obligation of member states to criminalise the conduct linked to terrorist activities, such as

public provocation to commit a terrorist criminal offence, or terrorists recruitment and training. Reaction to the latest developments and the new threats of terrorism, especially to the phenomenon of foreign terrorist fighters called lone wolves (lone terrorist fighters who are not members of any group or association), is the new directive of the European Parliament and of the Council of the EU on combatting terrorism, approved by the European Parliament on 16 February 2017 that shall replace the EU Council Framework Decision of 2008. The parliament approved the directive by a large majority of votes: 498 (for), 114 (against) and 29 abstentions. The directive expands the list of offences that shall be considered criminal and contains the provisions on assistance to victims of terrorist attacks. To enter into force, the directive still needs to be formally approved by the EU Council (text written in February 2017). It will then be published in the Official Journal of the European Union and the member states will be given the period of eighteen months to convert the new rules into their national legal systems.

The European legal framework for combatting terrorism analyses Navrátilová, see Navrátilová, J.: Terorismus, in Jelínek, J., Gřivna, T., Herczeg, J., Navrátilová, J., Syková, A., et al.(ed.): *Trestní právo Evropské unie*. Praha: Leges, 2014, p. 82 and cf. Škohel, D.: Postavenie Európskej únie v boji proti terorizmu, in Ivor, J. (ed.): *Spoločnosť proti terorizmu*. Plzeň: Aleš Čeněk, 2014, p. 314 et seq. Cf. also Council of Europe Convention on the Prevention of Terrorism.

- 7 In the Czech Republic most recently the Act. No. 455/2016 Coll., effective since 1 February 2017.
- 8 For definition of terrorism cf. Jelínek, J.: Trestné činy teroru a teroristického útoku v evropském kontextu, in Jelínek, J., Ivor, J. a kol.(ed.): *Trestní právo Evropské unie a jeho vliv na právní řád České republiky a Slovenské republiky*. Praha: Leges, 2015, p. 201 et seq.
- 9 Novotný, O., Zapletal, J. et al.: *Kriminologie*. Praha: Eurolex Bohemia, 2001, p. 308. Identically Gřivna, T., Scheinost, M., Zoubková, I. Et al.: *Kriminologie*. 4. vydání. Praha: Wolters Kluwer, 2014, p.400.
- 10 Novotný, O., Zapletal, J. et al.: Id. at p. 275.
- 11 Šimovček, I., Jalč, A.: Národní a mezinárodní nástroje boja proti organizovanému zločinu. In Jelínek, J. (ed.): *Organizovaný zločin (trestněprávní, trestněprocesní a kriminologické aspekty)*, Praha: Leges., 2015, p. 73.
- 12 Malíková, E. V., Laciaková, L.: Terorismus a organizovaný zločin v 21. století. In Ivor, J. (ed.): *Spoločnosť proti terorizmu*. Plzeň: Vydavatelství a nakladatelství Aleš Čeněk, 2014, p. 163- 178.
- 13 Malíková, E. V., Laciaková, L. (2014) p. 167.
- 14 Malíková, E. V., Laciaková, L. (2014) p. 169.
- 15 Mallory, S., L.: *Understanding Organized Crime*. Second ed. USA: Jones and Barlett Learning, 2012, p. 260.
- 16 For details on terrorist group organisation see for instance Siegel, L. J.: *Criminology: Theories, Patterns and Typologies*. 10th edition. Wadsworth, 2010, s. 346.
- 17 Malíková, E. V., Laciaková, L. (2014) p. 169.

- 18 Kováč, R.: Aktuálne teroristické trendy: zahraniční bojovníci a osamelí aktéři, in Ivor, J. (ed.), id. at p. 435; Bílková, V.: *Idealisté nebo fanatici? Zahraniční (terorističtí) bojovníci z pohledu mezinárodního práva*, Jurisprudence č. 6/2015, p. 16-23.
- 19 <<http://www.novinky.cz/zahranicni/evropa/398174-z-francie-odjelo-valcit-za-is-600-lidi-dalsich-800-se-k-tomu-chysta.html>> [accessed 21 March 2016].
- 20 Cf. Statistics on the number of victims of terrorist attacks in Western Europe in the period 1970-2015, available at <<http://eurodenik.cz/zpravy/statistika-pocty-obeti-teroristicky-utoku-v-zapadni-evrope-v-letech-1970-2015>> [accessed 11 February 2017] or Overview of the largest terrorist attacks in Europe since 2000, available at <<http://wwwsecuritymagazin.cz/zpravy/nejvetsi-teroristicke-utoky-v-evrope-od-roku-2000>> [accessed 11 February 2017].
- 21 Cf. The international instruments listed in the notes 5-7 and in the literature, e.g. Navrátilová, J.: Id. at p. 82, listing the legal instruments. Cf. Also Jelínek, J.: Trestné činy teroru a teroristického útoku v evropském kontextu, in Jelínek, J., Ivor, J. et al.: *Trestní právo Evropské unie a jeho vliv na právní řád České republiky a Slovenské republiky*, Praha: Leges, 2015, p. 200-223.
- 22 With an intent to damage the constitutional establishment or the defensibility of the Czech Republic, disrupt or destroy the fundamental political, economic or social structure of the Czech Republic or international organisations, seriously intimidate the population or illegally compel the Government or another public authority or international organisation to do something, or fail to do or suffer

Jiří Jelínek

Iran's Regional Ambitions

The Rising Power of Azerbaijan's Neighbour

Lucie Švejdová

Bilateral relations between Azerbaijan and Iran are complex and filled with escalating tensions, demographic and territorial challenges, as well as mutually beneficial cooperation. With economic sanctions lifted (at the time of this writing) as a result of the Joint Comprehensive Plan of Action, Iran has embarked on a path towards economic recovery, a window of opportunity for reaching the status of regional power is opening. Whether the future scenario of post-sanctions Iran generates increased economic cooperation and regional stability, or whether Iran will emerge as a regional hegemon possessing nuclear weapons, is impossible to predict but the direction of Iran's post-sanction foreign policy is of a major concern to Azerbaijan, Iran's South Caucasian neighbour.

Keywords: Azerbaijan-Iran bilateral relations, Azerbaijan's foreign policy the Iran nuclear deal, conflict in Syria

Introduction

There is little doubt that due to its exceptional geostrategic position and natural resources Iran has the attributes of a regional power with both hegemonic potential and ambitions. Iran's geostrategic position provides the Islamic Republic with the potential to project its influence from Central Asia and the Caspian Sea region, across the Middle East, all the way to the Mediterranean.² Having a total 2440 km of



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coastline, the majority of which borders the (Persian/Arab) Gulf and the Gulf of Oman – which basically allows Iran to control the Strait of Hormuz – Iran enjoys direct access to vital maritime routes for crude oil transport. Since Iran is located in the centre of the world’s two major hydrocarbon-producing regions – the Middle East and the Caspian Sea region³ – the Islamic Republic naturally possess two vital “means of control” related to energy security: 1) Control over Resources (reservoirs in the Caspian Sea basin + oil-fields on its territory) and 2) Control over Transportation.⁴ These two factors themselves, control over resources and transportation, grant Iran natural potential of becoming an energy-producing power.

For decades this power-potential of Iran has been unfulfilled. Basically since the Revolution of 1979, Iran has intermittently faced isolation and heavy international sanctions. The sanctions, as well as the Iran-Iraq war of 1980-1988, have severely crippled the state’s national economy preventing it from fulfilling its regional-power potential. However, the Iranian regime has proven to be rather resilient, since not even the crippling sanctions prevented Iran from supporting its regional proxies such as Hezbollah, waging the strategy of subversion across the Middle East and pig-headedly pursuing its nuclear program.⁵

The outbreak of the civil war in Syria has proved to be a breaking point for the Islamic Republic. While Iran initially exploited the turmoil of “Arab Spring” to export its own revolutions to states such as Bahrain and Yemen⁶ projecting its influence and hoping to install Iran-friendly governments, the outbreak of civil war in Syria threatened the survival of Assad’s government – the Iranian major regional proxy.

The involvement in the conflict which has been dragging on since 2011 has been a heavy burden for the Iranian economy. On 14 July 2015, affected by these circumstances, Iran finally agreed to sign the Joint Comprehensive Plan of Action (JCPOA) and the international community has been since divided into two camps – those who perceive it as the new beginning of Iranian rapprochement and those who see it as the beginning of nuclear Iran.⁷

The JCPOA heralded the end of Iranian isolation and offered an opportunity of economic recovery that is likely to provide Iran with the conditions necessary to finally realise its regional-power potential. Whether the future scenario of post-sanctions Iran generates increased economic cooperation and regional stability, or whether Iran

will emerge as a regional hegemon possessing nuclear weapons, is impossible to predict.

That being said, it is precisely the uneasy task of predicting the foreign policy of post-sanction Iran that is of major concern to Azerbaijan, Iran's South Caucasian neighbour. So far, Iranian politics in the South Caucasus region, including its bilateral relations with Azerbaijan, has been primarily pragmatic.⁸ Iran's pragmatic behaviour towards South Caucasus is caused chiefly due to the strong presence of other two major powers – Russia and Turkey. As Kamal Gasimov explains, the three powers balance each other: 'In the South Caucasus there is a strong factor of the political interests of Russia and Turkey, so Iran cannot conduct such an aggressive policy as it does in the Middle East.'⁹

With the economic sanctions lifted and JCPOA in place, Iran might be tempted to reassess its pragmatic stance – a decision likely to generate significant consequences for Azerbaijan's national security. It is, indeed, the ambitious task of this article to analyse the bilateral relations between Azerbaijan and Iran and to estimate how these relations might be affected by the implications of JCPOA – while Iran's power is rising, will the Islamic Republic abandon its policy of pragmatism towards its South Caucasus neighbour?

Overview of Azerbaijan-Iran Relations

Bilateral relations between Azerbaijan and Iran have been rather complex, filled with periodically escalating tensions, demographic and territorial challenges, as well as mutually beneficial cooperation. The coexistence of Azerbaijan and Iran is rather complicated due to the fact that Iran possesses 'natural' claims over the Republic of Azerbaijan. This possessive tendency is based on historical, demographic, religious and geopolitical factors.¹⁰ Therefore, it has been rather challenging for Azerbaijan to maintain its full sovereignty while being in an immediate proximity of a regional power which attempts to incorporate Azerbaijan into its network of proxy-states.

The first such opportunity to turn Azerbaijan into its proxy was provided by the collapse of the Soviet Union in 1991 and the proximity of Iran has shaped Azerbaijan's foreign policy and security policy ever since. Once Azerbaijan freed itself from being one of the Soviet satellites in Caucasus, Iran expected to solidify its control over the newly-independent republic.¹¹

From a historical perspective, Iran perceived the collapse of the USSR as an opportunity to claim back the territory of modern-day Azerbaijan, which had been seized from the Qajar dynasty by the Russian Empire during the Russo-Persian Wars in the 19th century. Under the Treaty of Turkmenchay in 1828, the Qajars completely surrendered their holdings in the South Caucasus, including parts of modern-day Azerbaijan and Nakhchivan province.¹² After a brief independence between 1918 and 1920, Azerbaijan fell under the rule of the Soviet Union. Together with Armenia and Georgia, Azerbaijan was a part of a political entity called the Transcaucasian Soviet Federative Socialist Republic, later each recognised as separate Soviet Republics.¹³

Once the Soviet Union collapsed, Iran expected to fill the power vacuum and exploit the deep historical and cultural links with the South Caucasus.¹⁴ From Iran's perspective, particularly due to such deep historical and demographic ties (Azerbaijan has a 96.9% Shia population)¹⁵ Azerbaijan could have fallen into the Iranian sphere of influence rather effortlessly. In accordance with Article 11 of its constitution, which states that 'All Muslims are one nation. The Islamic Republic of Iran shall try to ensure political, economic and cultural unity of the Islamic world',¹⁶ Iran embarked on the strategy of "Revolution Export" in the South Caucasus. In the early 1990s, Iran launched a comprehensive program for the export of its 'Islamic Revolution' to the newly independent Caucasian states, including Azerbaijan. The program was aimed at prevention of pro-Western orientation and Islamic revival and included 'export' of fundamentalist clerics and their teaching, as well as creation of charity organisations.¹⁷

Despite Iran's efforts and expectations, partially because the years of Soviet rule had undermined the ties Shia Islam created between Azeris and Iranians, Azerbaijan decided to pursue independence and nationalism instead of accepting Iranian influence.¹⁸ Azerbaijan's determination to secure its full sovereignty stressed the significance of the two major factors linking Iran and Azerbaijan – demographics and geopolitics – since suddenly these ties no longer presented solely advantages for Iran, but challenges as well.

Although the challenges stemming from these factors are more threatening for Azerbaijan, due to the power-distribution between the two state actors, the demographic factor has proven to be a political challenge for Iran as well. The vision of sovereign and independent Azerbaijan surprised and alarmed the Islamic Republic, which feared

that Azerbaijan's nationalism would lead to separatist tendencies of the large Azeri population in northwestern Iran.¹⁹

The demographic realities that concern Iran are related to the fact that the population in the Iranian north-western provinces around the city of Tabriz, bordering Azerbaijan and Armenia, are Iranian Azeris – the ethnic descendants of the Oghuz Turks who migrated to the Caucasus Mountains and north-western Iran in the 11th century.²⁰ Altogether, Azeris form around a third of Iranian population and similarly to their ethnic counterparts in Azerbaijan, they tend to be more secular. The concentration of the Iranian Azeris along the border provinces nourished Iranian fear of their secessionist aspirations, particularly after it became clear Azerbaijan would not turn into an Iranian proxy anytime soon.²¹

On the other hand, for Azerbaijan the demographic factors present a constant source of vulnerability. Since Azerbaijan's population consists of a majority of Turkic and Shia Muslims, Azerbaijan's vulnerability regarding the Iranian strategy of 'revolution export' is relatively high. Despite the fact that the majority of Azerbaijan's population is secular, the conditions for Iran to spread its ideology are still favourable due to the mentioned cultural and religious ties. Azerbaijan's government, therefore, needs to be on a constant guard against the spread of subversive ideology originating in Tehran.

Furthermore, Iran can potentially exploit the secular nature of Azerbaijan's government by inciting religious groups against its secular rule in an attempt to charge Azerbaijan's government with violation of their religious freedoms – this modus operandi was adopted by Iran during the "Pearl Revolution" in Bahrain in 2011.²² Another aspect making Azerbaijan vulnerable to Iranian influence is that the large Azeri minority in Iran is highly integrated into the Islamic revolutionary elite - Iran's supreme leader Ayatollah Ali Khamene'i is Azeri, for instance.²³

From a geopolitical perspective, probably one of the key sources of friction, and of Iranian desire to control Azerbaijan, is the territorial division of the natural resources of the Caspian Sea in which six countries, Russia, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, and Iran are involved. Beneath the surface of the Caspian Sea, there are significant oil and natural gas offshore deposits. According to the US Energy Information Administration report published in September 2013, there were 48 billion barrels of oil and 292 trillion cubic feet (Tcf) of natural gas in proven and probable reserves within the basins of the

Caspian Sea and surrounding area in 2012.²⁴ It is estimated that there are another 20 billion barrels of oil and 243 Tcf of natural gas yet undiscovered but technically recoverable. However, the territorial disputes over the division of the territorial waters hinder further exploration.²⁵ From the Iranian perspective, a tighter grip on Azerbaijan, resulting in the transformation of the country into one under the Iranian spheres of influence, would naturally strengthen Iranian control over the resources located in the Caspian Sea.

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Together, both demographic and geopolitical factors make Azerbaijan highly attractive in the eyes of the Islamic Republic. Theoretically, this suggests that Iran is likely to perceive any instability within Azerbaijan as a window of opportunity to project its influence over Azerbaijan's politics with the ultimate goal to turn Azerbaijan into its proxy. This does not necessarily suggest that Iran would constantly attempt to orchestrate a *coup d'état* in Baku. However, the more pro-Iranian and less sovereign Azerbaijan is, the better it is from the Iranian political perspective.

There have been several historical precedents in which Iran attempted to exploit Azerbaijan's political vulnerability, the most evident being Iranian support of Armenia during the Nagorno-Karabakh conflict. The Iranian position on Nagorno-Karabakh can be interpreted as an attempt of 'divide and conquer.' On one hand, Iran recognised Azerbaijan's territorial claim over Nagorno-Karabakh, while on the other Iran tried to portray the conflict as 'a war between Azerbaijan and Armenians of Nagorno-Karabakh.'²⁶

During the conflict, Iran supported Armenia economically and turned a blind eye to the occupation of Azerbaijan's territory. Although Iran never wished the conflict to escalate into a full-scale war, the Islamic Republic has been more than interested in maintaining the status quo: 'It is considered that as long as the conflict continues, it will have a negative effect on the economic development and the strengthening of statehood of Azerbaijan.'²⁷ Such a stance implies the genuine interests of the Islamic Republic. Since it maintained this position in the very early stages of Azerbaijan's independence (the most crucial stage of state-building), it suggests Iran was never truly interested in Azerbaijan's consolidation of its sovereignty – quite the opposite. Iranian goal was to retard Azerbaijan's consolidation in order to maximise the influence over the newly independent republic. The Iranian position on Nagorno-Karabakh is therefore a historical precedent in which

Iran tried to seize the opportunity to weaken Azerbaijan's sovereignty.

Azerbaijan's awareness of its own vulnerabilities and Iranian interests prompts it to balance against Iranian influence and presence in the country. This is done by various means; one of the significant aspects of Azerbaijan's balancing is hampering the activity of Iranian proxies on its territory and thus preventing a penetration of its domestic sphere by Iran-sponsored Islamic extremists. This is a typical Iran-designed strategy through which Tehran expands its sphere of influence.

Azerbaijan's government has thus been constantly prompted to find a balance between curbing Iranian influence while simultaneously attempt to avoid antagonising its neighbour, gaining as much as possible from mutual cooperation in various spheres ensuring a peaceful and secure coexistence. Since Iran has not succeeded in turning Azerbaijan into its proxy state, the sources of tensions remain, to a various extent, affecting the bilateral relations even until today.

A slight change in Iranian approach towards Azerbaijan came when Hassan Rouhani was elected President. Contrary to the former Administration of Ahmadinejad, which was rather aggressive, Rouhani's approach is more pragmatic and focused on deepening cooperation between Azerbaijan and Iran. However, this does not imply Iran would abandon its claims over Azerbaijan and its wish to increase political influence over the South-Caucasus republic anytime soon. Iran still pursues these goals, nevertheless by other means such as diplomacy and cooperation in the sphere of energy, culture, trade and economy – the means of so-called 'soft power'.²⁸

The Iran Nuclear Deal: Implications

On 14 July 2015, (China, France, Germany, Russia, the United Kingdom, and the United States), the European Union (EU) and Iran signed the Joint Comprehensive Plan of Action (JCPOA) on Tehran's nuclear program.²⁹ According to this deal, Iran agreed to accept some limits on its nuclear programme, such as reduction of its stockpile of enriched uranium and monitoring of its nuclear facilities by the experts from the International Atomic Energy Agency, in exchange for lifting of the economic sanctions imposed by the international community.³⁰

In many ways the JCPOA might be understood as Iran's political enabler. The nuclear deal presented a window of opportunity for more

intense cooperation between Iran and the international community in various areas, given the fact Iran offers the world's last 'empty market.' However, after the years of isolation, the Islamic Republic will also gain opportunities for fulfilment of its regional-power aspirations.

Hand in hand with the increased potential for cooperation, the empowerment of Iran might allow a number of factors to carry and increase the level of uncertainty for Azerbaijan and its decision makers. The level of uncertainty relates to 'post-deal' Iranian intentions, direction and character of its policy towards Azerbaijan and the South Caucasus in general. The question troubling Azerbaijan's decision-makers is whether empowered Iran will maintain its policy of pragmatism, or whether Iran will become more aggressive in its efforts to influence Azerbaijan's domestic and foreign policy.

Like the rest of the international community, Azerbaijan now awaits what implications the Iran nuclear deal generates in the (near) future. Due to the close proximity and bilateral relations, Azerbaijan's security will be affected by the outcomes of the deal and the path Iran decides to take – either more moderate or increasingly aggressive.

The final outcome and implications of the nuclear deal, a significant achievement of the Obama Administration remains unclear. What is clear, however, is that Iran is currently enjoying a major comeback as a member of the international community. This may change under the newly elected Trump government. However this work limits itself to the conditions facing Iran and Azerbaijan in the immediate aftermath of the nuclear deal.

Regarding the area of the South Caucasus, the nuclear deal presents Iran's second opportunity, the dissolution of the Soviet Union being the very first, to spread its influence in the region more intensively. And it is highly unlikely Iran will miss this chance. The fact that Iran is on the rise is rather evident. Foreign investors had been queuing up even before the sanctions were formally lifted. Iran has, by now, finalised major commercial agreements with a number of European states. On his first tour to Europe after the sanctions had been lifted, Iran's President Hassan Rouhani agreed on a number of major deals, including a €22 billion contract to buy 118 Airbus planes and French carmaker Peugeot announced it had agreed to a joint venture in Iran worth €400m.³¹ Earlier in Italy, billions of dollars in business deals had already been signed, reportedly including infrastructure, ship-building, steel, and energy.³²

In the terms of its increased interaction with Azerbaijan, according to Iran Railroads International Affairs Director Abbas Nazari, Iran and Azerbaijan have signed an agreement to launch a railroad transit system from Tehran to Nakhichevan.³³ Azerbaijan is also interested in receiving ferry traffic from Iran.³⁴

Although such deals might contribute to regional development, and despite the fact that Iran currently seeks to portray itself as a reliable member of the international community, there are still certain sources of concern clouding future developments and Iran's intentions. As highlighted by Muath al Wari and Shlomo Brom,³⁵ there are two Irans – an 'aggressive one' headed by Ayatollah Khamenei and Qasim Soleimani, and 'moderate' Iran led by Hassan Rouhani. It is of great significance which of these fundamentally different models prevails and which one of them will dictate the politics of the Islamic Republic in the near future, therefore, generating far-reaching consequences for regional and international politics. Apart from concluding various international deals, Iran still may take the less peaceful path and choose to spread its regional influence more aggressively.

According to the predictions of the opponents of the nuclear deal, not only will Iran not stop developing nuclear weapons but the lifting of sanctions might accelerate the process. Also, Iran will be capable of increasing its support for its clandestine proxies and their subversion activities in the region. Another argument against the effectiveness of the deal is that, due to a high level of suspicion regarding Iran's intentions, it accelerates nuclear proliferation in the region, particularly in the Gulf.³⁶

Since a great deal of attention has been dedicated to the positive implications of the effects of post-deal Iran on Azerbaijan,³⁷ the following section provides an analysis of the sources of concern in order to balance the view.

Sources of Concern

Although the Iran nuclear deal presents a whole range of positive opportunities in a number of sectors: economy, trade, tourism, transportation, etc., there are still several sources of concern which should not be overlooked. These sources of concern suggest that despite the undeniable opportunities the deal offers, there is no firm guarantee Iran will abandon its hostile stance towards the West, cease its strategy

of regional subversion and transform itself into a moderate regional power. At this point, a scenario in which post-sanction Iran embarks on an increasingly aggressive path towards becoming a regional hegemon with the possession of nuclear arsenal cannot be dismissed. Particularly since it is too early to predict which path Iran will take – towards becoming a moderate regional power, or an aggressive nuclear hegemony – the following analysis focuses on these sources of concern: 1) Iran's determination to gain a nuclear arsenal, 2), US capability and credibility of the deal, 3) the relevance of ideology, and 4) Iran's revisionist nature and ambition. These may limit excessive enthusiasm regarding predictions about the course of Iran's future policy.

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Iran's Determination to Gain a Nuclear Arsenal

Iran perceives possession of nuclear weapons as the ultimate mean of survival. From Iran's perception, possession equals the ultimate means guaranteeing survival of the Islamic Republic and its theocratic regime. By building its own nuclear arsenal, and thus nuclear deterrence, Iran will minimise the risk of foreign intervention and will simultaneously enlarge its space for manoeuvring in both the Middle Eastern and the South Caucasus regions. Therefore, Iran's capability of pursuing regional hegemony would increase. This fact itself suggests it is rather unlikely Iran truly intends to abandon its nuclear programme completely.

The very conditions under which the JCPOA was signed might be perceived as a cause for concern, implying Iran is likely to renew its programme after it achieves economic recovery. Barack Obama consistently advocated renewal of engagement with the Islamic Republic when he was a presidential candidate.³⁸ Once elected, the engagement became a pivot of US foreign policy under Obama's administration. However, Obama's attempts to restore relations with Iran were repeatedly rebuffed by Iran's ayatollahs. Only after Iran's economic situation became truly dire, due to the effect of sanctions imposed by the US and EU in 2011-2012, Iran's leaders agreed to negotiate. Iran's decision to sign the deal is thus a result of soaring inflation, a collapsing economy and the financial burden of Iran's expenses related to its engagement in the Syrian conflict.³⁹ Prior the deal, Iran was experiencing a severe crisis threatening its national security and survival of its regime – accepting conditions of the nuclear agreement therefore should be per-

ceived as Iran's 'lifesaver', not as a guarantee of intentions to give up its nuclear programme once and for all.

Iran aspires to build a nuclear deterrence that would limit US intervention in the Middle East and interventions against Iran's regional policy – including Iran's policy towards South Caucasus. If Iran manages to acquire nuclear weapons, the US freedom of action regarding its policy and strategic planning in the region would be seriously limited.

In such a scenario, the credibility of US as an ally for the regional actors would suffer a severe blow. These states could no longer rely on the US pledge to protect them and 'they would be less likely to grant U.S. forces access to their soil out of fear of an Iranian nuclear attack.'⁴⁰

A similar effect would be seen in the South Caucasus – the US ability to intervene against Iran's actions would be fundamentally limited, therefore its credibility as an ally for Azerbaijan would further decrease. In the scenario in which Iran acquires nuclear weapons and embarks on an increasingly aggressive strategy to influence Azerbaijan's political sphere (e.g. through the strategy of the "Revolution export" and support of local radical Islamic organisations), the nuclear deterrence would prevent Azerbaijan's allies from intervening.

However, even in the case nuclear Iran becomes reality, Azerbaijan still enjoys significant advantage – particularly over the Gulf countries where the US does not have well-developed and institutionalized nuclear guarantees, as it does with NATO countries such as Turkey – Azerbaijan's closest ally.⁴¹ Considering the fraternal nature of relationships between Azerbaijan and Turkey, the risk of ally abandonment in the case of Turkey is minimal; therefore, Azerbaijan would still have the means, though limited, to balance the potential aggressive policy of nuclear Iran.

Balancing nuclear Iran would be, however, extremely challenging and the complete sovereignty of Azerbaijan's politics would be severely threatened.

US Capability and Credibility of the Deal

The second source of concern relates to both US ability to enforce conditions of the nuclear deal and to prevent potential offences – in other words, to US capability of ensuring Iran truly abandons its nuclear program completely and does not cheat. Although the deal is a serious effort to prevent Iran from building a nuclear arsenal, it has several

“gaps,” which are the major source of concern undermining the credibility of the deal’s enforcement:

Firstly, Iran has a total of 24 days to delay any inspections. This basically means that if any suspicion arises, the US needs to give Iran 24 days’ notice before the inspection takes place. Secondly, the only penalty for any sort of violation is the re-imposition of international sanctions – ‘That is like saying that for any crime – whether a misdemeanour or a felony – the punishment is the death penalty. In the real world, that means there will be no punishments for anything less than a capital crime.’⁴² In practise, if the UN Security Council orders the re-imposition of sanctions, all contracts and deals signed prior the re-imposition of sanctions will be immune – the sanctions renewal does not cancel contracts already signed. As stated in the agreement:

‘Iran considers a reimposition of sanctions as freeing it from all commitments and restrictions under the deal. In other words, the violation would have to be really big for the Security Council to blow up the agreement and reimpose sanctions. That effectively gives Iran a free pass on all manner of small to mid-level violations.’⁴³

The troubling question therefore is – what happens if US has to enforce the deal? Since the only punishment for violations is cancellation of the entire deal, it is likely the US will ignore minor violations. This logically leads to the likelihood of what Michael Mandelbaum calls the Iranian salami tactic – ‘small violations of the JCPOA that gradually bring the Islamic Republic closer to a bomb without any single infraction seeming dangerous enough to trigger a severe response.’⁴⁴

Another point undermining the credibility of the nuclear deal is the problem of detection – how will the international inspectors monitor and detect potential violations? Since the deal is far from perfect, Iran does not have to rely only on manipulating physical inspections, but can exploit the existing loopholes in the agreement – defending the potential violations as legal and in accordance with the agreement. For example, on 28 December 2015, a Russian ship left Iran carrying almost all of Iran’s stockpile of low-enriched uranium. Although ridding Iran of the material was a major goal of the multistep agreement, distributing the nuclear fuel amongst Iranian allies – in perfect legal accordance with the deal – is not an ideal option to prevent Iran from building the nuclear weapon sooner or later.⁴⁵ Lastly, it should be taken into consideration that the US never prevented a hostile, i.e. non-allied, country from obtaining nuclear weapons.

The Relevance of Ideology

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Ideology still remains *raison d'être* of the Islamic Republic of Iran. It seems so far Iran has pursued a strategy and policy of pragmatism regarding its relations with the states of the South Caucasus. Occasionally, this strategy of pragmatism has even contradicted the principles stated in Iran's constitution, as in the case of the Nagorno-Karabakh conflict, in which instead of supporting a fellow Shiite state of Azerbaijan, Iran sided with Armenia. This is one of the major arguments supporting the claim Iran is always pragmatic and, instead of blindly following its own ideology, Iran rather places the country's national interests first ahead of ideology, diminishing its significance.

This is not necessarily the case. What one needs to keep in mind while unravelling the true Iranian intentions is the greater geopolitical context plus the fact that Iranian national interest runs parallel with the ideological doctrine developed by Ayatollah Khomeini. For instance, it is a fact that by supporting Armenia against Azerbaijan Iran violated its ideological doctrine in a particular case, but is such a claim still relevant in a wider context and in the long term?

The conflict between Azerbaijan and Armenia can be perceived as an opportunity to increase Iran's power clout over Azerbaijan. From this perspective, the support of Armenia was in perfect harmony with Iranian ideological doctrine – to spread the Shiite corridor. Had Azerbaijan's government collapsed during the conflict, Iran would have with no doubts closed its grip on Azerbaijan.⁴⁶ From this perspective, violating the ideological doctrine at some occasions on a tactical level does not compel Iran to abandon it as the overall strategy, in fact, quite the opposite – small violations such as this seem to be phases necessary to achieve the final desired goals. Hence, it is perfectly fine for Iran to do the necessary 'evil' in order to achieve greater ideological goals. In a similar fashion, the nuclear deal with Iran's ideological enemy, the US, can be perceived exactly as such a 'phase of lesser evil' and might be even part of an Iranian strategy of deception.

This by no means aims to counter the argumentation that Iran prefers to pursue a strategy of pragmatism, particularly in the Caspian Sea region. Iran does pursue, and supposedly always will, policy of its own pragmatism – pragmatism that primarily secures survival of the Islamic republic. The survival of the state will always remain central since it equals the survival of Iran as a vanguard of Islam – the symbolic flagship of Shia Islamism. From this perspective, even the moves and

policies that seemingly contradict the Iranian ideological doctrine are only means to the end: the ultimate fulfilment of Khomeini's doctrine. In this case, the end justifies the means.

The Iranian ideological doctrine and the legacy of 1979 Revolution continues to shape Iranian national interests and foreign policy even today. Iran has never diverted from the path set by Khomeini's ideological doctrine. One must not forget the fact that Iran is a 'revolutionary exporter.' Iran uses the strategy of 'Revolution Export' to spread its regional influence and achieve its national goals – following the path of the 'legacy of the Revolution.'

The US under Obama's Administration, where the pro-Iranian mood is high, claimed that Iran and the US are 'natural allies.' The designers of JCPOA seem to hope and believe that the deal will set the path for restoration of US-Iran relations and simply continue as if 1979 never happened.

However, Iran of today is not pre-revolutionary Iran and, logically, there cannot be business as if the revolution did not happen. It seems the advocates of the JCPOA count only on the existence of the 'Moderate Iran' and completely ignore the aggressive rhetoric of the Iranian Supreme Leader – the most powerful man in the country who dictates Iran's domestic and foreign policy and who sets the country's political direction. In February 2013, Ayatollah Khamenei, the ultimate decision maker, admitted the negotiations with the West were a deception, publicly stating: 'I am not a diplomat. I am a revolutionary.'⁴⁷

Western decision makers and politicians, in particular, seem to suffer from a condition which makes them undermine the credibility of Iran's Spiritual Leader. They tend to pay less attention to the rhetoric of the Spiritual Leader, giving it less credibility. Instead, they choose to interact with the 'moderate' part, represented by Hassan Rouhani, and perhaps attributing him more power than he actually wields. This is, at the very least, reckless and irresponsible since for now it is the Spiritual Leader who wields absolute power over Iran's future. As long as this remains reality, perhaps more scepticism and caution is advised.

*Lucie
Švejdová*

Iran's Revisionist Nature and Ambition

As a state created by the Islamic Revolution in 1979, the revisionist nature is built-in in the mind-set of the Islamic Republic. Iran aspires to alter the regional status quo and become a regional hegemon.

Iran's revisionism is historically deeply rooted, long predating the 1979 Revolution. Iran's hegemonic ambitions date back to the 16th century when the Safavid Dynasty sought to distance itself from the Sunni Ottoman Empire. For this reason, Safavids established the Shiite branch of Islam as the main religion, Iran officially becoming a Shiite country in 1502. Already as the Shiite power, the Persian Empire competed with the Ottomans and expanded its control to the Gulf, Iraq, Afghanistan and to the areas in the south Caucasus.⁴⁸

In the modern times, the very establishment of the Islamic Republic of Iran and the legacy of the Revolution form the very essence of the state and its politics. Since 1979, despite decades of nearly complete isolation, Iran has never deviated from its quest to rise as a regional power. This eliminates the possibility that this political stance would change in the near future. Given the fact that even under heavy international sanctions Iran never abandoned its goals to influence regional politics, supporting its clandestine proxies such as Hezbollah,⁴⁹ the Islamic Republic of Iran is unlikely to make any significant alterations regarding its strategic goals once it is empowered.

The scenario in which Iran gives up its aggressive hegemonic ambitions and becomes a moderate member of the international community is likely to remain elusive as long as the Twelver system exists. Unless there are significant changes in the fabric of Iran's theocratic regime, Iran's revisionist ambitions, including the strategy of revolution export, will remain intact – for being the flagship of Shia Islam and the proliferation of Iran's Islamic Revolution form the *raison d'être* of the Islamic Republic even today.

The so-called “Arab Spring” provided Iran with the long-desired window of opportunity to pursue its regional aspirations. Thanks to a global tendency to generalise the origins of the revolutions that occurred in the spring of 2011, erroneously assigning the revolts a universal cause, Iran seized the opportunity to start turning its hegemonic ambitions into reality.

By exploiting international misperceptions about the origins of the revolutions, Iran orchestrated revolts in its target states where it attempted a *coup d'état*. By pursuing this strategy of revolution export (for which the blueprint was set during the Revolution of 1979), Iran sought to break out of its isolation and create a string of proxy states. The ultimate goal was to create the “axis” of proxy states by installing new pro-Iranian regimes that would be directly controlled by Tehran.⁵⁰

By this strategy, Iran could establish itself as a regional power and fulfil its long-term ambition of the regional hegemony. Perhaps the most evident example of this subversive strategy was the instigation of the “Pearl Revolution” in Bahrain, 2011.⁵¹ Besides Syria and Bahrain, Iran had also been actively involved in Lebanon and Yemen, operating via its proxies and “military advisors.”⁵² As stated by Hanin Ghaddar, ‘Iran believes that the Shiites in the region are the protectors of its political agenda and wants to unite all Shiites under its umbrella irrespective of the borders between countries or states.’⁵³

In the foreseeable future, due to its expenditures in the Middle Eastern campaigns, it is unlikely Iran would launch another large-scale campaign in the areas beyond the Middle East, such as the South Caucasus. However, due to the boost of confidence and rehabilitation of its position amongst the international society resulting from the nuclear deal, Iran’s ambitions for regional hegemony are likely to increase. Rather than intervening directly, the Islamic Republic is likely to actively and perhaps even more aggressively pursue its strategy of revolution export in the targeted states which Iran wishes to incorporate into its Shia corridor. Due to the given demographic factors, (which provide opportunity), geographic proximity and a long-term history of Iranian interest, Azerbaijan is indeed an attractive target.

The outbreak of the conflict in Syria and the rise of ISIS provided Iran with the long-desired window of opportunity. The chaos and the power vacuum in states such as Iraq, Syria and Yemen, have enabled Iran to gain control over these territories, spread the intended Shiite corridor and consolidate its power position in the regions of the Middle East and South Caucasus – now more than ever Iran has the real opportunity to abide by its constitution and spread the borders of its Islamic state.

Conclusion

The JCPOA does not ultimately prevent Iran from acquiring nuclear weapons in the future; it mainly delays the process of acquisition – in Obama’s own words: ‘the US decided for an imperfect deal.’⁵⁴

Not much has changed regarding Iran’s ‘Revolutionary Nature’ – Iran still aspires to achieve regional hegemony and export its ideology. The Islamic Republic still seeks to influence Azerbaijan’s domestic and foreign politics, still claiming historical rights to Azerbaijan’s territo-

ries. Azerbaijan continues to be theoretically vulnerable to Iran's influence, strategy of revolution export and expansionism.

So far, a single clear result of post-sanction Iran can be identified: Iran is emerging empowered, both politically as well as economically, no longer isolated. Foreign investors have already started flooding Iran's market and Iran has embarked on a path towards a full recovery.

The intriguing question, whether an empowered Iran will become increasingly aggressive in spreading its influence and interfering in Azerbaijan's political sphere, remains for now without a solid answer. However, there are facts which shall serve as a guide for predicting intentions and future course of post-sanction Iran's politics.

First, post-sanction Iran will have more resources to pursue its ideological doctrine by the 'old means' – the way it did prior to the deal – by supporting its proxies, subversive groups, radical Islamic organisations, exporting radical scholars, etc.

Second, post-sanction Iran will have a whole range of new methods of influencing regional politics, both in the Middle East and in the South Caucasus. Even if Iran continues its policy of pragmatism regarding its relations with Azerbaijan: it will have numerous new tools of influencing Azerbaijan's political sphere. Contrary to the old means of influencing regional politics, by signing the JCPOA Iran has gained the so-called means of 'soft power' such as financial investments, energy projects, tourism, deepened economy cooperation – availability of this means of power (on such a substantial scale) is unprecedented in the history of the Islamic Republic of Iran.

What might be of a particular concern for Azerbaijan, regarding this soft power, is the diplomatic power Iran is likely to gain within the international community. Along with Iran's economic recovery and opening up markets for foreign investors, Iran's diplomatic power is likely to receive a significant boost.

By using its increasing diplomatic power, Iran might translate its rising diplomatic influence into support of Islamist groups across the globe (such as the Muslim Brotherhood), this time within the legal political framework. In context of Azerbaijan, such lobbying might possibly lead to increased international pressure on Azerbaijan to legalise active participation of religious groups in state politics, for example to run in Parliamentary elections. The active participation of religious groups certainly does not pose any particular challenge by itself; however, the challenge emerges once the religious organisations are closely

linked to Iran. If, one day, pro-Iranian religious groups make their way into Azerbaijan's political life, Iran's influence in Azerbaijan will significantly increase. Limiting Iran's interference into Azerbaijan's domestic affairs might then become increasingly challenging.

Although claiming that Iran wishes to turn Azerbaijan into one of its proxy states, thus incorporating it into Iran's string of Shiite states, may appear extreme, it is an undeniable fact that turning Azerbaijan into an Iranian proxy would benefit Iran on its path towards becoming the regional hegemony.

Due to Iran's need to focus on economic recovery, its costly involvement in the Syrian conflict and subversive campaigns in the Middle East, it seems rather unlikely Iran would become increasingly aggressive in the South Caucasus region in the near future – the Islamic Republic cannot be interested in opening 'another front' while engaged in its campaigns in the Middle East – at least not while these campaigns last.

Since Iran's interest to influence Azerbaijan's political sphere persists it is likely to exploit the newly acquired soft means to do so. Therefore, the time to abandon the strategy of "soft" deterrence and balancing Iran is also at hand. The period after the lifting of sanctions is the time when caution, alertness and awareness is strongly advised due to the greater window of opportunity Iran currently possesses. Iran has, for the first time after decades of isolation, the opportunity to fully reach its status of regional power and that itself suggests caution and a potential pre-emptive approach for Azerbaijan.

The decision regarding economic integration and cooperation with post-sanction Iran made today will affect the level of influence Iran might have over Azerbaijan's politics tomorrow. To conclude, Iranian empowerment has nearly equal potential to contribute both to regional development as well as destabilisation.



LUCIE ŠVEJDOVÁ is affiliated to the Department of International Relations and European Studies at Metropolitan University Prague and can be reached at Svejdovalucie@seznam.cz

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*Lucie
Švejdová*

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Lucie
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Involved in the Middle East

George W. Bush versus Barack Obama

Aneta Hlavsová

This article evaluates the different foreign policy approaches of the United States Administration under the 43rd and 44th presidents, George W. Bush and Barack Obama, towards the Middle East. They each projected a completely different style of conflict resolution strategy. While George Bush is known as “war president,” Obama utilised a Wilsonian approach in his foreign policy attitudes, especially towards the countries of the Middle East. While in office, Obama managed to overcome the neorealist legacy of George Bush, to arrange a ground-breaking nuclear non-proliferation deal with Iran, to (at least partly) withdraw us troops from Iraq as well as Afghanistan, and to carry out the “new” Middle East military engagements in line with international laws or general support. This paper studies how Obama’s new foreign policy approach shifted some of the international and regional paradigms in terms of balance of power in the Middle East.

Keywords: George W. Bush, Barack Obama, Middle East, Iraq, Afghanistan, Libya, Syria, foreign policy, Islamic state

United States Foreign Policy

This article evaluates the different foreign policy approaches of two us presidents towards the Middle East. George W. Bush and Barack Obama each relied on different foreign policy mechanisms and forms of leadership, and while the former became to be known as a “war president” pursuing unilateralist and illegitimate or illegal military interventions in other countries, the latter projected a more multilateralist



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approach to international relations, gaining international support for his engagements in the Middle East.

Nonetheless, it is debatable whether the two presidents' foreign policy differs as to means and consequences. Therefore, this paper examines the decisions of two of the US leaders Administrations concerning Middle Eastern countries and societies and determines whether (and how) their different foreign policy approaches altered the balance of power within the region.

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Methodologically, the paper chronologically follows the relevant foreign policy decisions of George W. Bush and Barack Obama in order to compare and evaluate the different aspects of their military engagements in the Middle East. Concerning sources and literature, the paper builds on the main speeches and proclamations given by the two presidents as well as the *National Security Strategy* documents which frame the respective presidential doctrines.

The first part deals with the military interventions carried out by the Bush administration, that is, the US decisions to go to wars in Afghanistan and Iraq; the second part then follows the foreign policy of Barack Obama and his interventions in Libya and Syria. The executive summary provides a table summarizing US foreign policy towards the Middle East over the course of the past fifteen years, linking the other countries of the region into the overall balance of power system.

Military Interventions Under Bush

Researching the different foreign policy approaches of George W. Bush and Barack Obama, specifically the US foreign policy towards the Middle East from 2001 until the autumn of 2016, one may come across a problem inherent in the internal political system of the United States – the bipartisan mind-set of the American political scene. In reality, the discourse often transforms into a Democrat – Republican stand-off when Democrats fiercely criticize Bush for his foreign policy actions and subsequently the Republicans criticize Obama for his security strategy; additionally, when there were what initially appeared as sparks of democracy in the Middle East in the form of the Arab Spring in 2010-2011, voices attempted to vindicate Bush and claim he was right about his foreign policy decisions all along. For instance, Greenwald¹ asserted in 2011, speaking of the successes of the Bush administration in the Middle East, their fight against terrorism and the already-on-

going Arab Spring, that it ‘was the Freedom Agenda of the George W. Bush administration—delineated and formulated as a conscious alternative to jihadism—that showed the way’ to other Arab societies. In other words, in order to correctly evaluate the different foreign policies of presidents’ Bush and Obama, it is necessary to remain detached and look at the matter through a non-partisan lens.

Bush’s First Term in Office and the post 9/11 Foreign Policy Shift

The horrific terrorist attacks of 9/11 quickly changed the course of Bush’s presidency. However, it is debatable whether he would have become war-prone in his foreign policy attitudes if it had not been for the 2001 events. In retrospect, Bush’s foreign policy priorities before the attacks included the country’s relationship with Russia and China and building a ballistic missile defence system around the world. Concerning the Middle East, Bush’s attention was aimed at the Israeli-Palestinian conflict and whether a ‘peace settlement was in the cards.’² Therefore, originally, not much attention was to be attributed to the Middle East; nonetheless, this was promptly reconsidered following September 11, 2001.

Swiftly getting involved in Afghanistan, Bush in his January 2002 State of the Union Address heavily praised his own success in the country’s regime change and exclaimed, rather prematurely, that thanks to the skills of the US troops and American military might, “we are winning the war on terror.”³ Bush, in that same speech, also delineated the infamous *axis of evil* countries consisting of North Korea, Iraq, and Iran – a perilous legacy which Barack Obama diligently tried to overcome. It is also of some interest that Bush in this flagship address did not mention Saudi Arabia at all – obstinately taking Saudi Arabia as a US ally in the Middle East. The speech links the 9/11 attacks to Afghanistan (and by extent to Iraq) only, leaving Saudi Arabia and its possible connections to terrorism for the next president to address.

Nonetheless, the ensuing 2002 *National Security Strategy* document, published in September, left little to the imagination as to what was coming. As part of the already-commenced war on terror, the Strategy (along with the already ongoing invasion of Afghanistan) virtually paved the road towards the Iraq operation: ‘While the United States will constantly strive to enlist the support of the international community, we will not hesitate to act alone, if necessary, to exercise our

right of self-defence by acting pre-emptively against such terrorists, to prevent them from doing harm against our people and our country.⁴ Put differently, within the first two years of Bush's first presidential term, the US had already been militarily involved in Afghanistan as well as in Iraq, all the while offering the American public a strong rhetoric against Iran.

Additionally, the legality of the two wars and the corresponding debate play an important role in the evaluation of Bush's doctrine. Even though, again usually along the partisan lines in the US, there were people arguing for the legality of the operations, it should be noted that neither of the invasions received the appropriate mandate from the United Nations. In the case of Afghanistan, immediately following the 9/11 attacks, the Security Council passed two resolutions condemning the terrorist acts. Resolution 1368 expresses 'its readiness to take all necessary steps to respond to the terrorist attacks of 11 September 2001, and to combat all forms of terrorism';⁵ similarly, Resolution 1373 calls on states to combat terrorism and to cooperate in their fight⁶. Nonetheless, none of these documents specifically invoke UN Charter's Chapter 7. The 2010 report for the British House of Commons states that if the US pursued the 'all means necessary' clause from the Security Council, they would have possibly obtained it; however, the existing resolutions 'simply state the broad general requirement to take action to combat international terrorism.'⁷

Concerning the Iraqi operation, the unilateralist approach became even clearer. UN Security Council Resolution 1441 calls onto Iraq to cooperate with the international agencies concerning its weapons of mass destruction programs⁸; nonetheless, no resolution authorized the invasion per se. This is not to say that the current situation and instability in the Middle East is solely the fault of George W. Bush, owing to the fact that the roots of anti-Americanism in the region go much deeper into history. Ironically, pursuing unilateralist and interventionist policies in Afghanistan and Iraq deepened the Arab societies' distrust in American behaviour abroad.

Bush's Second Term in Office and the Perpetual War on Terror

In 2005, Bush's second inaugural speech underlined the general cause of virtually all the evil in the world, proclaiming that 'The survival of liberty in our land increasingly depends on the success of liberty in oth-

er lands,⁹ swiftly linking the idealist promotion of democracy abroad to US national security and suggesting that only democracies will not promote terrorism and therefore it is high time to end all tyranny in the world. It is noteworthy that such democracy promotion was a shift from his previous rhetoric as it ‘became an effective rhetorical device for blunting domestic critics.’¹⁰ The National Security Strategy of 2006 then continued on a similar note, praising the democratising effects of the US invasions of Afghanistan and Iraq;¹¹ while at the same time it reminded the general public that there still exist states in the Middle East that do not comply with American worldviews, such as Syria and Iran, which “continue to harbour terrorists at home and sponsor terrorist activity abroad.”¹²

As a summary of George W. Bush’s two-term presidency, the White House offers an online list of the president’s achievements – and especially those concerning the Middle East are noteworthy, being labelled as *Fact Sheet: President Bush’s Freedom Agenda Helped Protect the American People*. Directly resulting from the president’s second inaugural address, the fact sheet states that Bush “has kept his pledge to strengthen democracy and promote peace around the world”¹³ further suggesting that he “acted quickly and decisively to help end international crises.”¹⁴ Concerning Iraq, the fact sheet posits that as a direct result of the allied invasion, the US “freed 25 million Iraqis from the rule of Saddam Hussein, a dictator who murdered his own people”¹⁵ – the overthrow of Saddam Hussein being indeed an undeniable fact.

Even up to this day, the fact sheet continues to proclaim that the ‘U.S. and Iraqi forces have made significant progress in reducing sectarian violence, restoring basic security to Iraqi communities, and driving terrorists and illegal militias out of their safe havens’¹⁶ resulting in overall enhanced security which in turn paved the road for political and economic development. In general, the rest of the fact sheet speaks of Bush’s contributions to democracy in Afghanistan, Pakistan, Lebanon, Saudi Arabia, and Israel/Palestine.

Obama’s Twist on Bush’s Foreign Policy

What was the US legacy in the Middle East the newly elected president inherited in 2009? Two illegal (and costly) wars – one of them being completely illegitimate; an Arab society latently preparing for the unprecedented Arab Spring; Iran portrayed as part of the axis of

evil countries; but a firm alliance with Israel and Saudi Arabia. Nonetheless, the promotion of democracy by the Bush administration in the Middle East was to manifest itself soon after the inauguration of president-elect Barack Obama.

A vast study conducted by Bruce Gilley on the topic of Bush's democratization attempts in the Middle East provides interesting insights. Bill Clinton's administration's cap on democracy promotion spending in the Middle East was at \$ 3 million annually; however, during the Bush era, specifically between 2006 and 2008, the US spending reached an astronomical \$ 436 million,¹⁷ even excluding the spending on the Iraqi and Afghani wars. The author further posits that most of the money went to virtually 7 crucial countries – Egypt, Jordan, Lebanon, Morocco, Pakistan, and Yemen.¹⁸ Except for Pakistan, all the countries were to soon experience the Arab popular uprising of 2010-2011.

This is not to suggest that the Bush administration directly caused what came to be called the Arab Spring. The reasons for the Arab wave of protests against authoritarian governments run more deeply and complex than the simple US wish for a democratized Middle East. It is undeniable, however, that Bush pushed for the democratization of the region.

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Obama's First Term in Office and the Arab Spring

The succeeding president Barack Obama inherited a true conundrum. The United States' economy was crippled by a severe financial and economic crisis, the country was heavily (and expensively) involved in Iraq and Afghanistan, and the overall situation in the Middle East was becoming increasingly labyrinthine. 'Obama spent much of his first six months in office working to prevent the collapse of the US economy and with it the international financial system'¹⁹ and it became apparent to the new president that the Middle Eastern challenges were not to be resolved unilaterally. In fact, Obama proclaimed in *The Atlantic* interview that most importantly, having inherited the US foreign policy after George W. Bush, his task was not to do anything 'stupid.'²⁰ And indeed, the international developments were not particularly kind to Obama's position.

In December 2010, the Arab countries in Northern Africa and the Middle East experienced mass uproars against their establishments. Most countries of the Arab world participated in the general wave

of protest, including all seven of the countries where Bush's freedom agenda was heavily supporting democratization through financial flow.²¹ At first, Obama was being quite hopeful as he 'continued to speak optimistically about the future of the Middle East, coming as close as he ever would to embracing the so-called freedom agenda of George W. Bush, which was characterized in part by the belief that democratic values could be implanted in the Middle East.'²² However, the president quickly grew sceptical as the events were turning out to be more to the detriment of the countries involved when honest calls for democratizations gave way to brutality and different kinds of oppression. Goldberg then continues to write that 'what sealed Obamas fatalistic view was the failure of his administrations intervention in Libya, in 2011.'²³ This is where Obama should have learned the lesson from his predecessor.

Contrary to unilateralist decisions made by George W. Bush concerning interventions in Afghanistan and Iraq, Obama managed to employ a more diplomatic and multilateral stance. In general, Obama's foreign policy is described by neoliberals as multilateral, internationalist and/or Wilsonian. When Ikenberry differentiates between the two respective presidents, he notes that Obama 'is more sceptical about the use of military force than the last President, but he is manifestly more internationalist in his embrace of the wider spectrum of partnerships, institutions, and diplomatic engagements that make up the American-led order.'²⁴

Hence, concerning the Libyan crisis, the intervening coalition consisted of not only the us and NATO European states, but Middle Eastern parties as well (namely, Saudi Arabia and Jordan, Turkey as a NATO member), which granted the coalition even more credit. The United Nations Security Council passed *Resolution 1973* with 5 abstentions (Germany, Brazil, China, Russia, and India) establishing a no-fly zone over Libya and allowing the coalition to take 'all necessary measures'²⁵ to protect the country's civilian population. 'Obama did not want to join the fight,'²⁶ however, pressure from the British and the French along with factions within us internal politics forced him to join in.

The intervention could be considered a success in that it did prevent the anticipated massacres of civilian population in Benghazi. It also had a spillover effect when on 30 October 2011, the empowered (and enraged) opposition captured and (possibly unlawfully) killed Muammar Qaddafi. Nonetheless, the intervention proved to be the lowest

point in Obama's presidency – as he learned one lesson from Bush, but not the crucial one. The United States along with the coalition forces “planned the Libya operation carefully – and yet the country is still a disaster.”²⁷ Obama criticized the British and the French prime ministers for their roles in the operation; however, according to *The Guardian* report, he admitted that ‘the biggest mistake of his presidency was the lack of planning for the aftermath of Muammar Gaddafi's ouster in Libya that left the country spiralling into chaos and coming under threat from violent extremists.’²⁸ And in the flagship Goldberg's interview, Obama similarly acknowledged that the US prognosis of the tribal division of Libyan population was inadequate.

Unfortunately, Obama added to the list of US foreign policy failures a repeated pattern. Planning a military offensive, an invasion, or an operation carefully and then swiftly seeing it through is undeniably a fantastic quality of the Americans. However, planning for what comes next (after a regime is overthrown or an operation is finished) and actually understanding the Middle East is what the United States repeatedly failed to do. Due to these grave mistakes, three out of the three countries where the US (along with the coalition forces) intervened are in complete turmoil now, that in turn calls for a serious attention of the international community – the most obvious example being the ISIS threat to peace and security and balance of power in the entire region.

Obama's Second Term in Office and the “War on Terror”

Similarly to Bush who whose presidency was challenged by the traumatic and unprecedented 9/11 attacks, Obama observed a rebirth of terrorism in the Middle East in the form of the now notoriously-infamous Islamic state. Even though the beginnings of this organization are linked directly to the war in Iraq and the coalition's behaviour in the region (Gerges writes that the many detention camps and US-run prisons in Iraq clearly served as incubators of future Islamic fundamentalists and radicals, since for instance ‘former detainees compare Camp Bucca to an “Al Qaeda school,” an institution that produced jihadists in a factory-like environment,’²⁹ and the Islamic state per se was first proclaimed on 13 October 2006), its biggest success came only in 2014, already under Obama's watch, when it swept through vast regions of Iraq and Syria gaining significant portions of the two

countries in which to proclaim their Islamic state. In retrospect, the US involvement in Syria and Iraq under the umbrella of a fight against terrorism was nothing short of a chaotic foreign policy filled with the pursuit of many old-time national interests. Firstly, Obama's intervention in Syria was troubled, to say the least, even before there was any actual involvement. Tragically, and ironically enough, the Americans had been calling for the removal of Bashar al-Assad even before the Syrian people had the same objective in mind – dating back to Bush's suggestion that Syria was harbouring terrorists, combined with the fact that Assad's regime has strong ties with Putin's Russia. The United States wanted to oust the Syrian president Bashar al-Assad (since a general blueprint for democratization of the Middle Eastern countries is to remove its authoritarian leaders and then 'hope for the best'). However, the first wave of popular protests in Syria had a different shape – the original protestors were calling for genuine economic and legislative reforms as years of neo-liberal economic reforms gravely damaged the agrarian sector and produced strata of poor, disengaged, and unemployed people.³⁰ These people started to call for new economic opportunities, not the removal of Assad. Nonetheless, with the ensuing brutal governmental crackdown on the protesters, the range of their demands consequently broadened.

After months of pressure from the Republican and the hawkish-Democratic camps in Washington, Obama drew the adversarial 'red line' for Assad concerning the regime's chemical weapons program in August 2012.³¹ Nonetheless, Obama then failed to gain congressional support for a military intervention, and hence, the red line was never enforced by the United States. Ironically, 'a *deus ex machina* appeared in the form of the Russian president, Vladimir Putin'³² when the Russians subsequently secured the removal of chemical weapons from the Syrian war-torn country. This may have been the last point at which the national interests of the United States and Russia did somewhat converge concerning the security situation in Syria.

The year 2014 complicated the entire Middle East geopolitical scene at large. Nonetheless, it wasn't only due to Islamic state's vast successes which marked 2014 as fierce. It was also the Crimean crisis and the Russian annexation of the peninsula which has shaped the uneasy US-Russia relations until today. Unfortunately, as the relations between the two countries deteriorated, the fight against terrorism, which should have been carried out as a joint effort of the international community

became focused on the pursuit of different national objectives rather than a collective victory over Islamist jihadism.

Put differently, despite the initial rapprochement between the US and Russia at the beginning of Obama's first term (in the form of a New START treaty signed in 2010), the two countries' mutual relationship disintegrated after the Crimean annexation in 2014. Their relation turned into black and white Cold War logic, which negatively influenced their combined stand against the Islamic state in Syria and Iraq. The United States, already displeased with the annexation of Crimea and the re-election of Bashar al-Assad for the third time, became more upset when the Russian forces became directly involved in Syria in the autumn of 2015 (at the request of the Syrian government). The decision of Russians to join the fight against militant Islamic fundamentalism has been widely debated. Russia has a large Muslim minority and has dealt with fundamentalists in the past; therefore, Putin rightly feared the spread of Islamist radicalization further north from the Middle East. Unfortunately, what should have been a joint effort of the US and Russia to combat terrorism turned into a petty 'you-did-it-no-you-did-it' nihilist standoff between Obama and Putin.

On the other hand, 2015 represented the biggest shift in a positive direction in the US-Iranian relations. The two countries' mutual relations were strained, to say the least, for the better part of a half of century – culminating in Bush adding Iran to the axis of evil countries in 2002. Nonetheless, the goodwill of Barack Obama led to great results in this case because he “had assumed that if the United States moderated its tone, reached out to foreign capitals, stressed common interests and then decided to lead, others would follow.”³³ And luckily enough, quite a number of European countries, including Germany and France, followed.

The permanent members of the Security Council (the US, the UK, France, Russia, and China) plus Germany finally struck a deal³⁴ with Iran on 14 July 2015. As revolutionary as this American-Persian rapprochement was, it further complicated the already complex relations within the region. Iran's fundamental foes, Israel and Saudi Arabia, were particularly not pleased with the developments. However, Obama was determined to see this historical deal to its end. He suggests that Iran as well as Saudi Arabia need to acknowledge the new Middle Eastern dynamics, and that ‘they need to find an effective way to share the neighbourhood and institute some sort of cold peace.’³⁵ The

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Saudi-Obama relations were nonetheless complicated from the very onset of his presidency (long before any Iran deal negotiations started to take shape) as Obama was soon portraying himself to be much less likely than his predecessor to side with the Arabian ally: “They had never trusted Obama—he had, long before he became president, referred to them as a “so-called ally” of the U.S.’³⁶ And Obama has been indeed clearly unenthusiastic about the US-Saudi alliance as well.

	<i>George W. Bush</i>	<i>Barack Obama</i>	<i>End Result*</i>
<i>Afghanistan</i>	Operation Enduring Freedom UN SC Res. 1373 and 1368 -		2005: 11 th 2016: 9 th most fragile state in the world
<i>Iraq</i>	Operation Iraqi Freedom UN SC Res. 1441		2005: 4 th 2016: 11 th most fragile state in the world
<i>Libya</i>		Operation Unified Protector UN SC Res. 1973 – Chapter VII of the UN Charter invoked	2005: 63 rd 2016: 25 th most fragile state in the world
<i>Syria</i>		Operation Inherent Resolve UN SC Res. 2249	2005: 29 th 2016: 6 th most fragile state in the world
<i>Iran</i>		Iran Nuclear Deal of 2015	2005: 57 th 2016: 47 th most fragile state in the world

* *Fragile States Index*, retrieved online

The Fragile State Index, as developed annually ever since 2005 by the Fund for Peace Washington-based think tank, puts the US foreign policy towards the Middle East in a new perspective. It has been demonstrated that the behaviours of George W. Bush and Barack Obama in the international arena were different – up to a certain degree.

The military operations aimed at combating terrorism in the Middle East under the Bush administration were unilateralist actions. They did not receive the ‘all means necessary’ clause from the United Nations Security Council, nor did Bush ‘win the war on terror.’ In fact, the actions of the coalition forces were an additional factor in the creation of a new wave of Islamist jihadists, this time under the umbrella of the

so-called Islamic state. Additionally, after going into Iraq under false pretences, Bush must have changed the overall rhetoric during his second term in office – ‘democracy promotion’ in selected countries became the bread and butter of the US foreign policy decision making and public rhetoric.

On the other hand, the Libyan military intervention was both a legal and a legitimate action of the international community as Obama and the coalition forces first received the appropriate mandate from the United Nations Security Council. In the case of the Syrian bombing operation, the question of legality was discussed as well – even though the UN SC Resolution 2249 had been passed unanimously under Chapter VII of the UN Charter calling on the member states to combat the Islamic state, the ‘all means necessary’ clause was technically still absent from that resolution. Nonetheless, there seems to be a consensus among the international community ‘that US strikes against ISIL in Syria are probably illegal but widely recognised as legitimate.’³⁸

Hence, the 44th president of the United States partly managed to learn an important lesson from his predecessor. However, in terms of the well-being of the states involved, Obama did not learn the most crucial one – that is, regardless of the legality of the operations, all the countries of the Middle East where the United States became militarily engaged during the past 15 years are currently worse off.

Receiving the appropriate mandate from the Security Council and gaining support of the international community are indispensable for a new-age military doctrine of any world leader. However, in reality, this does not matter much to the people physically involved. Libya is still a “mess” – overthrowing a regime by a coalition force is “easy,” unlike the post-involvement reconstruction of the state which no one paid attention to. As a direct result of this fatal omission, the country is currently in complete disarray; and so are Afghanistan, Iraq, and Syria.

Additionally, concluding the nuclear deal with Iran seems to have altered the regional balance of power even further. Obama’s natural distrust in the Saudis and his not-so-fundamentalist support of the Israelis allowed the United States, along with the countries of the Security Council plus Germany, to negotiate a ground-breaking treaty with a long-time foe of the international system. Possibly, this could mean for the future that Iran may have a strengthened position for the bid for regional hegemony as opposed to Saudi Arabia, which is trag-

ically involved in its own military operation in neighbouring Yemen. Iran could use this diplomatic success and ease its isolationism within the region.

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Conclusion

The paper has attempted to study the different foreign policy approaches of George W. Bush and Barack Obama towards countries of the Middle East. Particularly, it scrutinized the Bush's administration involvement in Afghanistan and Iraq – which were two illegal wars with vast negative consequences for the security of the region. Further, it examined the foreign policy of Barack Obama towards Libya and then his combat against terrorism in Syria and Iraq with relation to his approach to Russian engagement in Crimea and Syria.

As a result of the analysis, the paper has argued that due to gross mismanagement (and possibly grave misunderstanding of the Arab societies) of the post-conflict reconstruction of the states (namely, Afghanistan, Iraq, and Libya), the countries in which the United States, along with a coalition of their aides, militarily intervened during the past fifteen years are currently worse off than ever before.

Put differently, the three countries where the US openly intervened are in a state of chaos. Having compared the foreign policy measures taken by Bush and Obama, a shift in the US foreign policy is evident. Obama, contrarily to Bush, relied on the mechanisms of the United Nations and made sure – trying to learn the lesson that Bush did not, that the Libyan operation was a legal and a multilateral effort at the same time. However, in the end, Obama made exactly the same mistakes as his predecessor – he underestimated the complexities of Arab societies and failed to plan for 'what comes next.' Unfortunately, the end results for Iraq, Afghanistan, and Libya are all quite similar.

It is the historic rapprochement with Iran which needs to be carried on. Obama managed to overcome the unilateralist legacy of George W. Bush and together with the international community signed a historic deal with this 'rogue' Middle Eastern country, a long-time open foe of the United States. It is still too early for us to tell if President Donald Trump will continue on this note. It is also this historic Iran Deal which may have the biggest opportunity in changing the regional balance of power, provided that Iran continues its diplomatic engagement with the international community and that the relationship between

the United States and/or Saudi Arabia and Israel remains not-so-fundamentalist and questionable as they were under the Obama administration. Only then might there be enough space for Iranian political manoeuvring in its bid for a regional hegemonic presence.

Aneta
Hlavsová



ANETA HLAVSOVÁ is Ph.D. student at Jan Masaryk Centre of International Studies, Faculty of International Relations, University of Economics, Prague and may be reached at hlavsovaa@seznam.cz

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Involved in the Middle East

Polish-Ukrainian Relations Euromaidan and the Donbass Conflict

The Challenges For Warsaw

Miron Lakomy

This article contributes to the discussion about the multidimensional consequences of the crisis and conflict in Ukraine. It focuses on the rarely discussed subject of the implications of the events in this country since 2013 for Polish-Ukrainian relations from Warsaw's perspective. This article has three major goals: firstly, to present the historical determinants influencing contemporary Polish-Ukrainian relations; secondly, to characterize the reaction of Poland to the events in Ukraine since 2013; and finally, to point out major implications of the crisis and conflict for bilateral relations from a Polish standpoint. The paper concludes that, contrary to many domestic official statements, the Ukrainian crisis and conflict brought more challenges and dilemmas than tangible benefits for Poland. Obviously, bilateral contacts with Kiev are nowadays much better than a few years back, but this does not mean that Warsaw profits greatly from this situation. Moreover, new and rather unexpected challenges emerged in these relations, concerning, among others, Ukraine's historical policy, the activities of right-wing extremists and the lack of prospects of joining the EU and NATO, which is a long-term Polish ambition for her neighbour.

Keywords: war in Donbass, Polish foreign policy, Euromaidan



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The recent crisis and conflict in Ukraine has become an object of a great deal of insightful scientific analyses. Some of these have focused on the very roots of this war, explaining the intricacies of inter-Ukrainian relations, most notably the visible rupture between the western and eastern part of this country.¹ Others attempted to analyze the course² or the geopolitical background of events in Kiev, the Crimean Peninsula and Donbass, with a special emphasis placed on relations between the United States, Western European powers and Russia.³ In the plethora of books and papers on the Ukrainian conflict, one topic is usually omitted or neglected: its strictly regional dimension. It is surprising as the events in Ukraine since the end of 2013 have a substantial connection with the dynamics of international relations in Central and Eastern Europe.

In this context, this paper aims to fill this gap by presenting the Euromaidan revolution, the annexation of Crimea, as well as the conflict in Donbass from the Polish perspective. Adopting such a scientific approach is justified as it is the only Central European state that is a member of NATO and the EU, which in turn played a certain role in the initial phases of the Ukrainian crisis. This is also the only Central European actor that perceives an independent and pro-Western Ukraine as a long-term and fundamental goal of its foreign policy in the East. Thus, the study has three major goals. Firstly, it aims to present the historical determinants influencing contemporary Polish-Ukrainian relations. Secondly, it will characterize the reaction of Poland to the events in Ukraine since 2013. And finally, it will address major implications of the crisis and conflict for bilateral relations from Warsaw's viewpoint.

Ukraine in Polish Foreign Policy: a Historical Perspective

The roots of contemporary Polish-Ukrainian relations can be traced back to the Middle Ages, when the Kingdom of Poland in the 14th century started its expansion eastward, towards territories previously held by the *Kievan Rus* ("Red Ruthenia").⁴ From that time, Poland for several hundred years focused on the subordination of wide reaching territories that belong today to contemporary Ukraine. This process was strongly determined by Poland's personal, and later real, union (the Union of Lublin in 1569) with the Grand Duchy of Lithuania, which resulted in the incorporation of Ukraine, including the so called Wild Fields, to the Polish Crown. Under the rule of the Polish-Lithuanian

Commonwealth, former *Kievan Rus* territories were subjected to various processes, such as colonization by the magnates, Tartar incursions from the Crimean Peninsula, the foundation of Cossacks, the creation of the Ukrainian Greek Catholic Church and repetitive uprisings against Polish rule.⁵ They visibly contributed to the creation of the Ukrainian national identity, which was later built partially on historical resentments, fueled by economic and religious differences.

Historically, Polish-Ukrainian relations were almost always influenced by the 'Russian' factor. It is due to the fact that at the same time, the territories of Ukraine were a subject of long-term rivalry between the Polish-Lithuanian Commonwealth and the Grand Duchy of Moscow/Russia that aimed to unite all the principalities formerly under *Kievan Rus* control.⁶ These tendencies manifested themselves in a series of wars between Russia and Poland, e.g. 1654-67. In time, due to the slow decline of the Commonwealth, Moscow gained the upper hand, which resulted in the partitioning of Poland at the end of the 18th century, and in effect, seizure of Ukraine by Russia. From that time both nations were subjected to foreign domination. According to Szeptycki "even if Poland was not any more an independent country, the relations between the Polish and Ukrainian communities remained conflictual and asymmetrical. The already existing religious differences were doubled by an economic and social conflict."⁷

This specific rivalry over Ukraine between Poland and Russia resumed at the beginning of the 20th century. Both Poles and Bolsheviks perceived Ukraine after World War I as a strategic area which should be seized in order to secure crucial foreign policy goals. Moscow sought to conquer Ukraine not only due to its economic importance. They also perceived control over this territory as a *sine qua non* requirement to launch a global Communist revolution. Poles, on the other hand, perceived this area as a pivotal 'buffer zone,'⁸ which would separate the Second Polish Commonwealth from the imminent Bolshevik threat.⁹ Moreover, many decision-makers and representatives of the political elite believed that, without Ukraine, Russia would cease to be a great power. There were generally two Polish concepts concerning relations with Ukraine during the interbellum. The first, promoted by the right-wing leader Roman Dmowski, suggested that Poland should seize only limited territories in the east. Dmowski aimed to control areas with a dominant Polish national element, which would allow eventually for the assimilation of the rest of the inhabitants. Thus, only a small

part of western Ukraine, including Lviv, should be incorporated into the Second Commonwealth. The rest, according to Dmowski, would remain within the Russian empire. The second concept, pushed by Poland's leader Józef Piłsudski, envisaged a broad confederation of Poland with nation-states in the east, these being: Lithuania, Belarus and Ukraine.¹⁰ Both Polish and Bolshevik concepts clearly neglected rising Ukrainian ambitions to gain independence.

These contrary interests clashed during the Polish-Bolshevik war 1919-1921, in which the Ukrainian factor played a major role. Poles and some Ukrainian leaders (Symon Petlura) cooperated against the Communists during the conflict.¹¹ However, the 1921 Riga peace treaty once again divided Ukraine between Poland and Bolshevik Russia, which naturally disillusioned and angered its inhabitants, as well as the former leaders of the Ukrainian People's Republic. The reinstatement of Warsaw's rule over Western Ukraine in effect raised armed opposition, organized mostly by the Organization of Ukrainian Nationalists, which was repressed by the Polish government.¹² Simultaneously, Ukrainians on the other side of the border were subjected to Communist repressions and the greatest famine in Ukraine's history – *Holodomor* – which killed around 4 million people. Despite this fact, during September 1939's German and Soviet invasion of Poland, many Ukrainians supported both invading armies.¹³

In this context, it has to be stressed that World War II contributed to the huge historical controversies between Poles and their eastern neighbors. It is due to the fact, that since the Third Reich's invasion of the Soviet Union in 1941 many Ukrainians with nationalistic attitudes flirted or sided with the Nazis. This was perfectly visible in the activities of the OUN (Organization of Ukrainian Nationalists) and UPA (Ukrainian Insurgent Army).¹⁴ Despite the fact that initial Ukrainian hopes to obtain sovereignty with Hitler's help proved to be trivial, many of them still cooperated with Germany in the form of the creation of the 14 Waffen-Grenadier-Division der SS, composed of Ukrainian volunteers. This division was involved in counter-insurgency operations against Polish rebels, as well as responsible for war crimes against the civilian population.¹⁵ Much more serious crimes against Poles were committed by the Ukrainian Insurgent Army (UPA) – which was responsible for brutal ethnic cleansing (or, as many Polish scientists and journalists insist – even genocide) of Poles in Volhynia and Galicia, which resulted in the deaths of more than 100 000 people in 1943 and 1944.¹⁶ In Polish

historiography these tragic events are usually denominated as the 'Volhynia slaughter' (*rzeź wołyńska*).

The experiences of World War II deepened divisions among Ukrainian society, which became visible in the Post-Cold War era and played a certain role in the eruption of conflict in 2014.¹⁷ Similarly, they also opened a serious wound in Polish-Ukrainian relations, as both societies blamed one another for their sufferings. On the one hand, Poles remembered the genocide in Volhynia, as well as the attitude of many Ukrainians during the invasion of September 1939 and the following occupation of the Second Commonwealth. On the other hand, Ukrainians stressed their mistreatment during the interbellum period, the *Vistula* operation against UPA/OUN members and supporters (1947-1950), as well as forcible expulsions from Poland after the war.

After World War II, these resentments were largely buried by Communists from both sides, as the Soviet decision makers focused on new challenges concerning rivalry with the West. Moreover, it has to be mentioned that the Polish People's Republic, dependent on the USSR, obviously forgot about any ambitions concerning Ukraine. Thus, the proactive stance towards this state could only resurface during the democratic transition period of 1989-91. As the dissolution of the Soviet Union approached, independent Poland adopted the so called 'two-way policy'. On the one hand, new Polish decision makers officially declared that they aimed to maintain good relations with the Kremlin, which was at the time crucial due to national security reasons. On the other hand, the leaders of the Third Commonwealth supported movements that were struggling to regain independence from the Soviet Union. In this context, many politicians in Warsaw assumed the traditional approach towards Ukraine, dating back to the beginnings of the 20th century, which was however adapted to the international reality of the Post-Cold War era. To begin with, decision makers hoped that an independent Ukraine would help to dismantle the Soviet Union and weaken its successor – Russia. Otherwise, the Kremlin's domination of Central and Eastern Europe might be reinstated. Moreover, they also supported the idea of Ukraine's integration with the European Union and NATO. This, in effect, would effectively mean that Poland would not have to be a border state of both organizations. And finally, the realization of this goal would fulfill the traditional objective – the creation of a strong 'buffer zone' between pro-Western Central Europe and the Federation of Russia.¹⁸

From Moscow's standpoint, Ukraine was perceived as a part of the so called 'Near Neighborhood' zone, vital for Russian national interests. According to Moscow's decision makers, control over Ukraine was crucial not only for domestic reforms and influence in the Post-Soviet area but also for relations with the West. Paradoxically, they also perceived Ukraine as a specific kind of 'buffer zone', which in time could separate Russian borders from the NATO zone of influence, which was still perceived as a major threat to the Federation's security.¹⁹

Thus, in the Post-Cold War era the traditional regional rivalry over Ukraine was, in a certain sense, resumed. It was initially proven by Warsaw's decision, as the first state in the world, to recognize the independence of Ukraine.²⁰ In the following years Poland remained interested in supporting Ukrainian sovereignty, as well as its democratic and capitalist reforms. Both states tried to omit difficult historical experiences and focus on similar interests in the international environment. Warsaw attempted to bind Kiev with Western organisations; however, it was not ready to sacrifice its own European ambitions to reach this goal. This was manifested by the failure of the so-called 'Kravchuk plan', which was rejected by Poland due to fears that it would ruin its own integration with the NATO and the EU. In effect, despite the fact that the atmosphere of bilateral relations was rather cordial, decision-makers in Warsaw failed to reach their most important goal concerning Kiev.²¹ This situation was obviously beneficial for the Russians, who successfully kept an edge over relations with Ukraine. Taking into consideration cultural similarities, as well as strong political, economic and military ties between both states, it was relatively easy for the Kremlin to preserve its unofficial domination. This was especially visible during Leonid Kuchma's presidency.²² Moscow's activities towards Kiev usually included such tools as strengthened political and economic cooperation, as well as the containment of Western presence.²³ To recapitulate, in the clash between contrary Polish and Russian interests in Ukraine, Moscow held the upper hand.

This rather stable situation slightly shifted at the beginning of the 21st century. Internal political crisis in Ukraine, transformed into the Orange Revolution in November 2004, proved to be a perfect opportunity to change the tide of the Polish-Russian rivalry over Ukraine. As electoral fraud during the presidential election sparked huge public protests, the Polish political elite sided vigorously with demonstrations against pro-Russian politicians: Kuchma and Yanukovych. Many

of Poland's most popular politicians travelled to Kiev in order to express their support to the democratic movement and its candidate Victor Yushchenko.²⁴ Its eventual success proved to be a major setback for Moscow and a great opportunity for Warsaw, which expected to benefit from this change. Warsaw hoped that under Victor Yushchenko's presidency, Ukraine could be permanently drawn to the Western zone of influence. Therefore, Polish decision-makers attempted to enter into multidimensional strategic cooperation with Kiev, which was manifested, for example, by their constant support of Ukraine's candidature to NATO and the European Union. Warsaw and Kiev also coordinated their policies during the Georgian-Russian war in 2008.²⁵ Russia on the other hand, perceived the fall of Yanukovych and Kuchma as a major failure, as well as a threat to the Near Neighbourhood policy. Therefore, it attempted to change this state of affairs using, among others, political and economic tools. As a side effect, the Orange Revolution also contributed to the deterioration of Polish-Russian relations. Moscow used many opportunities to manifest its negative stance towards Warsaw, which was proven by, for example, the establishment of a national holiday commemorating the expulsion of Poles from Kremlin in 1612.²⁶

Unfortunately, the presidency of Victor Yushchenko proved to be not only a great disappointment for Ukrainian citizens but also for the Polish political elite. He did not meet their hopes for rapid pro-Western transformation. Moreover, during his term, the difficult history finally resurfaced in bilateral relations, as he officially glorified UPA and OUN members. Moreover, he granted the title of the Hero of Ukraine to one of the most controversial leaders of UPA – Stepan Bandera. Such a policy was negatively received in Poland, due to the aforementioned responsibility of UPA for the genocide of Poles during World War II.²⁷ Thus, from the Polish perspective, results of the strategic cooperation with Ukraine between 2004 and 2010 were considered a failure.²⁸

As a result, another political change in Ukraine in 2010, i.e. Victor Yanukovych presidential election success, was met in Poland with somewhat limited interest, as decision makers became weary of 'strengthened cooperation' with Kiev. Obviously, they were aware that he aimed to maintain close, strategic relations with Russia, which made all potential attempts of rapprochement futile. Hence, while the atmosphere of bilateral contacts was still positive, they had lost their former drive. Before the crisis Warsaw still supported Kiev in its asso-

ciation process with the EU, but its level of commitment, compared to earlier periods, decreased. Also Poland's domestic mass media became relatively less interested in Ukrainian politics.

Poland's Reaction to the Ukrainian Crisis from Caution to Limited Commitment

*Polish-
Ukrainian
Relations*

These trends reversed in 2013 due to the Revolution of Dignity in Kiev. In November, when the Euromaidan protests erupted, the political elite in Poland quickly realized that it was another chance to 'pull out' Ukraine from the Russian zone of influence. This time, however, the initial reaction of Warsaw was much more cautious than during the Orange Revolution. Despite the fact that again many representatives of political parties travelled to Kiev (e.g. Jarosław Kaczyński from the Law and Justice party), in order to support protesters, the government limited itself to overly diplomatic statements and declarations, which sided with the pro-Western ambitions of Ukrainian citizens.²⁹ As the internal crisis deteriorated at the beginning of 2014, Poland, alongside Germany and France, mediated between conflicting sides in order to avoid further bloodshed. Its role was symbolized by the February 21st 2014 agreement. However, as Victor Yanukovych fled the country, the treaty was immediately cancelled.³⁰ As it soon became clear, this was the apex of Polish political engagement in the crisis.

The following emergence of the new pro-Western government was naturally considered in Warsaw to be a major benefit which could end its long-term rivalry with Russia over Ukraine. It was due to the fact that its association with the European Union created mechanisms, which were somewhat difficult for the Kremlin to nullify with the use of traditional instruments of the 'Near Neighbourhood' policy. Therefore, it was not a surprise that Prime Minister Donald Tusk decided to recognize Arsenij Yatsenyuk's government, despite its violation of the February 21st agreement. This laid strong foundations for rapid rapprochement between both states. It must be noted that no one at this point in Poland expected a military reaction from Moscow or the upcoming civil war in Donbass. Thus when the Russian 'green man' started to seize strategic points on the Crimean Peninsula, Polish decision-makers took a much firmer position than during Euromaidan, stressing that the territorial integrity of Ukraine must be maintained. Moreover, they stressed that the international community should in-

crease pressure on the Kremlin in order to force it to withdraw.³¹ The subsequent Russian aggression on Crimea and the war in Donbass fundamentally changed the reception of Ukraine's events in Poland. Public opinion shifted from satisfaction of the transformation in Kiev to rapidly rising anxiety concerning the conflict's negative influence on national security. It was mostly due to the fact that relations with Russia quickly deteriorated, as a rising scale of political incidents between both parties occurred. For instance, in October 2014 a spy scandal in Poland broke out, as the security services arrested two Poles accused of gathering intelligence for the Kremlin. This was followed by the decision to expel four Russian diplomats.³² Moreover, numerous military incidents between the Federation and NATO troops, a Russian embargo on Polish fruit and vegetables imposed in July 2014, as well as unexpected military drills near the Polish border also played a certain role.³³

As a result, many experts, journalists and even some politicians contributed to the widespread fear of an immediate Russian invasion against Poland.³⁴ Obviously a scenario of imminent Russian aggression was impossible at the time.³⁵ Nevertheless, the Kremlin was rightly categorized as a rising military threat to Poland's security. This was confirmed by the 2014 National Security Strategy, which stated: 'In the vicinity of Poland there is a risk of regional or local conflicts, which may involve it indirectly or directly. Poland is also not free from the forms of political pressure using military arguments. In its vicinity there is a high concentration of military capabilities, also with offensive configuration.'³⁶ Between the lines, this obviously referred to the Federation of Russia. This situation therefore created another dilemma for Polish foreign policy, concerning the development of a new and efficient *modus operandi* in relation to a clearly hostile Kremlin.

It is unsurprising that Poland chose to visibly support Ukraine during the conflict in Donbass, which reflected the cordial atmosphere of bilateral contact at the time. There are several examples to support this statement. To begin with, in August 2014 The Polish Ministry of Defence decided to send 320 tons of humanitarian aid to Ukrainian soldiers.³⁷ Secondly, during the most intensive battles, domestic associations gathered equipment which could be used in support of Kiev's efforts in the east. One of them transferred eight off-road vehicles to the Maidan Self Defence troops.³⁸ Thirdly, in July 2014 2000 bulletproof vests and 6000 helmets produced in Poland were sold to the Ukrainian

National Guard.³⁹ Other military deliveries from Poland were concluded after two years, in mid-2016, with the condition that they will only concern non-combat equipment.⁴⁰ Finally, aside from strictly material help, Warsaw launched political and economic initiatives, aimed at stabilizing its eastern neighbour. Among others, it supported internal reforms in Ukraine, promoted democracy and human rights through various state-sponsored grants.⁴¹ It also provided financial help, which was symbolized by the 100 million euro loan program, granted in January 2015 for 10 years.⁴²

Considering Ukrainian shortages during the war, the amount of Polish involvement was somewhat insignificant mostly due to the scarcity of Poland's own resources. Economically and militarily, Warsaw was not ready to provide greater help, which would have made a difference in Donbass. It was well understood by the Ukrainians themselves, which were much more interested in cooperation with the United States and Western European countries.⁴³ It is thus unsurprising that the political significance of Poland in the international debate over the events in the east dropped significantly in 2014 and 2015. From one of the key mediators in February 2014 in just a few months Warsaw's role was reduced to only one of many foreign supporters of the new government in Kiev.

The War in Ukraine and its Implications for Poland

Careful analysis of Poland's foreign policy goals towards Ukraine before and during the war indicates that almost none of them have been reached so far. Warsaw traditionally pushed for Kiev's rapid integration with NATO and the EU, which would ensure its democratic political system, internal stability, and hence, the creation of a strong 'buffer zone' separating Central Europe from Russia. In effect, Poland would lose its border state status, which entails serious security and financial challenges. Moreover, Poland's decision-makers maintained ambitions to play the role of Ukraine's "advocate" in their relations with the West. As Andrzej Szeptycki put it: "Such a position stems from the importance of Ukraine for Poland, but also from a will to strengthen the position of Poland in the international arena (in particular in the European Union). In consequence Poland considers that it should be consulted on the Ukrainian issues."⁴⁴ Finally, Warsaw attempted to minimize the negative effects of the conflict on its own national secu-

rity. None of these aims have been met so far, despite the fact that currently the Ukrainian government can be perceived as pro-Western. In this context, the events in Ukraine since 2013 have created several important challenges for Warsaw concerning bilateral relations with Kiev.

To begin with, Poland was visibly sidelined in the international negotiations over the events in Donbass. Early in the crisis, Warsaw played an important role in mediations between the opposition and the Yanukovych government. However, immediately after the failure of the February 21st agreement,⁴⁵ the new Ukrainian leaders ceased to be interested in Poland as a partner and mediator in negotiations with Russia, focusing mostly on the aforementioned cooperation with the United States and EU leaders.⁴⁶ This unwillingness was quickly noticed with surprise by many journalists and politicians in Poland, which were until now convinced that the pro-Western shift in Ukraine would strengthen the international position and influence of Warsaw.⁴⁷ This was confirmed by the lack of Kiev's visible initiatives to include its western neighbour in the Milan (during 2014 10th Asia/Europe Summit) or Minsk talks. President Bronisław Komorowski summed up the unexpected Ukrainian *désintéressement* in 2014 with a meaningful statement: 'a good advocate is one that helps when you request it, and not the one that forces assistance.'⁴⁸ This sentence symbolically reflects the failure of Polish ambitions to be included in high-profile negotiations on the Ukrainian conflict, which were visible in multiple statements of, for example, Prime Minister Ewa Kopacz and Foreign Affairs Minister Grzegorz Schetyna.⁴⁹ This situation may be considered a serious problem for Poland, which had not only suffered a prestigious setback but also had lost even minimal influence on negotiations over issues which hold great importance for its national security. It is worth noticing that Kiev's stance has not changed even after the emergence of a new government in Poland in 2015, despite its numerous friendly gestures towards Kiev.⁵⁰

Secondly, it has to be stressed that, despite Polish hopes, Ukraine currently has barely any visible perspectives of joining the European Union or the North Atlantic Treaty Organization. This was suggested several times by the top European and Euro-Atlantic leaders, for instance, by the European Commission President Jean-Claude Juncker who stated that 'Ukraine will definitely not be able to become a member of the EU in the next 20 to 25 years and not of NATO either.'⁵¹ This meant that despite Ukrainian hopes expressed during the Euromaidan

revolution, association with the EU was not the first step for accelerated integration. This statement is not a surprise considering not only the Copenhagen criteria but also the fact that the EU and NATO will never accept a member that is coping with a serious internal crisis. Furthermore, several Western European states are traditionally sceptical towards such a scenario due to the logic of relations with Russia⁵². Poland was and is, due to the aforementioned interests, a strong advocate of Ukrainian membership in both organisations; however its influence on European and Euro-Atlantic decision-making processes is too insignificant to make a real difference.

In this context, the current impossibility of Kiev's accession may be considered as another setback for Polish foreign policy, as the 'buffer zone' scenario is currently in tatters. Without membership in the EU/NATO, Ukraine will remain in a geopolitical vacuum, a grey zone of security, located between two hostile blocks –The Federation of Russia and NATO. Such a position is challenging not only for its own security and internal stability, but also for the security of its neighbours, including Poland, exposed to negative processes appearing within Ukraine now and in the future. Considering such problems as the smouldering conflict in Donbass, the still high tension in relations with Russia, widespread corruption, activities of oligarchs, economic crisis, energy supply problems and the rise of organized crime, it is not a surprise that many Western journalists and experts debate the risk of Ukraine's serious destabilization.⁵³

The possibility of such a scenario has already been manifested by the subversive activities of armed formations which are not subordinate to the government in Kiev – i.e. the Right Sector. In July 2015 three people died and seven were injured in a firefight between local armed group and the Right Sector battalion in Mukachevo.⁵⁴ As the Carnegie Endowment for International Peace *Ukraine Reform Monitor: August 2015* authors stated: 'The armed confrontation in the town of Mukachevo in July 2015 between a private security group working for a Rada deputy and members of the nationalist Right Sector political party cast a spotlight on significant internal security problems in Ukraine. The problems stem from a combination of organized crime, corrupt law enforcement agencies, illegal trafficking of goods and weapons, proliferation of weapons in the country, and the increasing militarization of some political groups.'⁵⁵ This sparked legitimate concerns that Ukrainian security services are inefficient, and hence, that such phenomena

may endanger the security of the Polish border. Thirdly, the Donbass conflict may be considered to be one of the causes of the unexpected phenomenon of mass Ukrainian migration to Poland. The annexation of Crimea and the civil war caused internal displacement, estimated at around 1.5 million people.⁵⁶ According to United Nations estimates in 2015, around 800 000 have fled Ukraine due to the conflict.⁵⁷ It is unknown how many left the country due to the deteriorating economic situation and how many due to the threat of military mobilization, which was announced in 2015 and encountered serious problems due to draft dodgers.⁵⁸ However, the fact is that one of the most important directions of the recent outflow of Ukrainians was and is Poland. This naturally sparks some controversies, both domestically and in the international environment.

The new Polish Prime Minister Beata Szydło stated at the beginning of 2016 that 'Poland has accepted around a million refugees from Ukraine, people whom nobody wanted to help.' This statement, used as an argument against the EU's relocation system proposal, was quickly criticized by Ukraine's ambassador to Poland Andriy Deshchytzia. According to him, these citizens cannot be categorized as 'refugees' as they are simply 'economic migrants.'⁵⁹ Obviously the statement about a million refugees can be seen as an exaggeration, but it is a fact that hundreds of thousands of Ukrainians have arrived in Poland since the beginning of the crisis, usually as workers or students.⁶⁰ The inflow of a huge wave of Ukrainian migrants to Poland usually sparks few controversies among society, mostly due to their cultural proximity.⁶¹ However, it has to be stressed that there are two apparent challenges emanating from this situation. On the one hand, this is a serious problem for Poland's integration policy which is currently non-existent. So far there has been little to no public debate on its coherent vision and plans to integrate about one million foreign workers and students in Poland. The lack of such may have serious social and internal security consequences in the future, as Western European examples prove. On the other hand, there is the burning issue of an increasing wave of Ukrainian right-wing extremist incidents in Poland, including these of anti-Semitic and Nazi backgrounds. Some were connected to activities of the Nazi and neo-pagan organization called the Misanropic Division (MD), related to the infamous Azov volunteer battalion, which possesses firearms and combat experience due to its former activities in Donbass.⁶² This sparked legitimate concerns about the possible ef-

fects of these trends on Poland's national security, especially taking into consideration that the MD has even opened a Polish branch.

Fourthly, the new Ukrainian political elite have promoted a new vision of Ukrainian history since February 2014, which is highly controversial from the Polish perspective. According to Kiev, UPA/OUN members, including one of their leaders and ideologists, Stepan Bandera, are national heroes, meritorious for the fight for Ukrainian independence. This approach was adapted with complete disregard of their cooperation with the Third Reich, 'ss-Galizien' war crimes during the World War II and the UPA genocide in Volhynia and Galicia, which spark obvious controversies in Poland. In this context it is surprising to note that Kiev, despite its grave geopolitical situation and lack of tested allies, made several provocative gestures towards Warsaw concerning the perception of bilateral history. One of the most debated gestures concerned the visit of the Polish President Bronisław Komorowski to the Ukrainian parliament in April 2015. The same day, this parliament decided to honor UPA/OUN as "combatants for freedom and the independence of Ukraine."⁶³ Many journalists, intellectuals and politicians naturally considered this move to be a serious insult to Poland. Moreover, one can mention the Ukrainian Verkhovna Rada move in September 2016, which criticized Polish parliament for its July 2016 resolution on the genocide in Volhynia. Ukrainian deputies described the decision to commemorate this tragedy as a politicization of history.⁶⁴ Such a reaction suggests that Kiev is not ready for historical debate and reconciliation with Poland, as once happened between Poland and Germany. This is visible among the Ukrainian political elite, even if President Petro Poroshenko paid homage to the Volhynia massacres victims during his visit to Warsaw in July 2016, which in itself was an important gesture.⁶⁵

What is even more interesting is that current Ukrainian historical policy has had so far relatively little influence on the course of the eastern policy of Poland. Despite the aforementioned controversies, which cooled the atmosphere of bilateral relations, the decision makers seem to be torn between the long-term dogma of supporting Ukraine as a crucial buffer zone and the need to defend historical truth about the Volhynia and Galicia events, recently commemorated by the Sejm after a long debate. Usually a pro-Ukrainian stance prevails, which was manifested symbolically by the 2015 statement of the Foreign Affairs Minister Grzegorz Schetyna. He stressed that the criticism of Ukraini-

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an nationalism can be perceived as support to the Russian narrative.⁶⁶ In reality, it is just the opposite. Such an approach basically hampers any Polish initiatives to launch a proper historical dialogue, based upon truth and mutual forgiveness. And without the overcoming of historical differences, sooner or later a political crisis in relations between Poland and Ukraine will emerge. Moreover, without full historical reconciliation between both nations, a postulated Polish-Ukrainian partnership will never be possible. And such a scenario is certainly in the interests of Vladimir Putin.

Summary

The dynamics of events in Ukraine, especially since February 2014, surprised the majority of the political elite in Poland, which failed to develop a coherent plan of action. While general foreign policy goals have not changed, their substantiation and realization has left much to be desired. Warsaw, which traditionally perceived Ukraine as a crucial partner in the east due to the logic of its long-term but uneven rivalry with Russia, has been strongly interested in supporting the pro-democratic and pro-Western movement since November 2013. Its *modus operandi* was, however, rather cautious. After the outbreak of war in Donbass, Poland attempted to strengthen its neighbour, but the scale of the support provided failed to meet Kiev's expectations and needs. At the same time, new Ukrainian decision makers since day one have not met Warsaw's hopes for better bilateral relations. Thus, the Revolution of Dignity, which was expected to bring great advantages, instead has had rather mixed outcomes for Poland. Obviously, bilateral relations are officially perceived as strong, dynamic and cordial. The political shift in Kiev allowed new kinds of cooperation, which were unattractive or impossible before. Both states have developed contacts in such areas as education, the military industry, hi-tech industry and science.

Nevertheless, the current situation in relations with Ukraine can be barely classified as a great success for Poland's foreign policy. The good atmosphere in relations with Kiev is obviously an asset which should be recognized and appreciated, but it does not affect several important issues for Warsaw. Firstly, Poland was sidelined and became a passive observer of "power politics" conducted by stronger actors around Ukraine. Kiev is partially to be blamed for the marginalization of Poland in negotiations over Donbass, which visibly weakened its internation-

al position in Central and Eastern Europe. Secondly, the “buffer zone” exists only in theory, as Ukraine has little chance of joining the EU or NATO soon and its internal stability is lacking. Moreover, it has to be stressed, that so far there has been little debate on how to counter new and unconventional challenges to the security of Poland emanating from this crisis, i.e. the activity of right-wing extremists, which may be linked to the inflow of Ukrainian migrants to Poland. Finally, the biggest dilemma emanates from the historical policy adopted in Kiev. This stance, which is highly controversial from the Polish perspective, will have to be altered in the future if both countries seek to develop bilateral contacts.

In conclusion, in contrary to many domestic official statements or opinions in the press, the Ukrainian crisis and conflict brought more challenges and dilemmas than tangible benefits for bilateral relations from the Polish perspective. Obviously, contacts with Kiev are nowadays much better than before, but this does not mean that Warsaw experiences great profit from this status quo. The aforementioned challenges, if not addressed properly, in time may transform into serious problems, which will be beneficial only for one country – Russia. Finding efficient solutions to these dilemmas requires, however, political will and courage, which currently seems to be lacking in both states.



MIRON LAKOMY is affiliated to University of Silesia and may be reached at miron-lakomy@wp.pl

Notes

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 - 7 Andrzej Szeptycki (2016), 'Poland-Ukraine relations,' *UNISCI Journal* 40, p. 60.
 - 8 This article exploits the term of a "buffer zone," which is frequently used by the Polish academics, experts and journalists in debates over Ukraine. This term, however, does not have a traditional meaning of the demilitarized area between two states. It broadly refers to the role of Ukraine as a friendly and stable state, which would separate Poland from the potential threats generated by the Federation of Russia. See e.g. Katarzyna Czornik, Miron Łakomy and Mieczysław Stolarczyk (eds.) (2015), *Implikacje konfliktu ukraińskiego dla polityki zagranicznej i bezpieczeństwa Polski. Aspekty polityczne, wojskowe, gospodarcze oraz społeczne*, Katowice: RODM.
 - 9 Anna Radziwiłł, Wojciech Roszkowski (2001), *Historia 1871-1939*, Warszawa: PWN, pp. 191-192.
 - 10 L. Osińska (2011), 'Refleksy myśli politycznej Józefa Piłsudskiego oraz Romana Dmowskiego w powojennych koncepcjach polskiej polityki wschodniej,' in E. Krasucki, T. Sikorski, A. Wątor (eds.), *Epigoństwo czy twórcza ciągłość? Ideowe dziedzictwo głównych nurtów politycznych Drugiej Rzeczypospolitej w refleksji politycznej po zakończeniu II wojny światowej*, Toruń: Wydawnictwo Adam Marszałek, pp. 201-2016.
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- 33 See e.g. Thomas Frear, Łukasz Kulesa and Ian Kearns (2014), 'Dangerous Brinkmanship: Close Military Encounters Between Russia and the West in 2014,' *European Leadership Network Policy Brief* November 2014; Małgorzata Kubicka (2015), 'Zachodnie sankcje wobec Rosji - przegląd sytuacji,' in Katarzyna Czornik, Miron Lakomy, Mieczysław Stolarczyk (eds.) *Implikacje konfliktu ukraińskiego dla polityki zagranicznej i bezpieczeństwa Polski. Aspekty polityczne, wojskowe, gospodarcze oraz społeczne*, Katowice: RODM, pp. 405-419.
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The Future of Diplomacy

Antonio Calcara

“The Future of Diplomacy” – written by Philip Seib (Professor of Journalism, Public Diplomacy and International Relations at the University of Southern California) – is an inspiring book that reflects on how diplomacy has changed over the past twenty years. The author’s underlying argument is that ‘the future of diplomacy is inextricably tied to the future of the media’ (p.3). Mobile technologies and the Internet have produced a more informed and connected public opinion. New media, therefore, affects the ‘insularity of diplomacy’ now subject to new pressures from a more empowered public and by a new transnational audience. Seib, thanks to clear writing and a number of concrete examples based on current international events, starts from two exploratory research questions: ‘How has diplomacy changed?’ and ‘Where are we going?’

The book is structured in five chapters; in the first one, the author analyzes the relationship between media and diplomacy. Seib notes how historically each technological innovation has impacted both diplomatic activity and the public knowledge of diplomacy. For example, if the telephone changed interstate political dialogue by increasing the linkage among diplomats, the television radically diminished the insularity of diplomats’ professional environment. The Internet and mobile phones have also marked a qualitative change; the amount and the speed of information require new strategic thinking by diplomats and foreign policy practitioners.

The second chapter focuses on the concept of public diplomacy, which differs from traditional diplomacy because it is concerned with the relationship between the government and the public, rather than classical inter-state negotiations. In this chapter the author makes also

an interesting excursus of public diplomacy's activities of the major global players: us, China, Russia (and the peculiar case of Israel).

The third chapter highlights how diplomacy today is shaped by governmental and non-governmental actors. Industrial corporations, financial corporations and multinationals have their own independent foreign policy that often diverges from the interests of the country in which they formally reside. Particularly interesting is the case study of the Islamic State's public diplomacy, which has been able to use new media to spread its message in order to find followers and allies around the world.

In chapter 4, Seib investigates the complex relationship between diplomacy and domestic politics. The fact that the public is increasingly informed and attentive to international affairs means that diplomatic activity is subject to stronger political pressures. Through the example of past us administrations, Seib describes an increasingly politicized process of diplomacy, with the appointment of political figures for ambassadorial role. The author envisages a contradiction in this new development: 'partisanship can impair effective diplomacy, but it can also provide essential democratic balance to the mandate under which diplomats work' (p.107).

Finally, in chapter 5, Seib puts forth possible future scenarios for diplomacy. According to the author, the future of diplomacy will be based on a two-tier pattern: a complex mix of traditional inter-state negotiations and public diplomacy, directed towards public opinion. Thanks to a more informed and connected global public opinion, diplomatic activities should face new and exciting challenges, and new media will be a required core competency of diplomats. The time of closed diplomatic activity among a small representative of sovereign countries is over.

This book contributes greatly to our understanding on the interaction between diplomacy and new media. Particularly interesting are the empirical references to the coexistence of two types of diplomacy: the persistence of traditional diplomatic procedures in inter-state relations and an increasingly active participation of the public. The agreement between Western powers and Iran in 2015 is an interesting case in point; while governments gathered to find the terms of an agreement, governments' representatives simultaneously interacted in real time with their own public opinion through the use of social media. This book also prescribes how a diplomat should train to be able

to effectively carry out its work in this changing diplomatic environment. Seib, indeed, proposes that – in addition to cultural, linguistic and political knowledge – diplomats should possess a high degree of awareness of technological skills.

The book is written in a clear and simple manner and it is directed to a wider audience than a classical academic publication. It is reasonable, therefore, that this volume does not address more complex theoretical and empirical issues. From a theoretical point of view, it would be useful to assess the relationship between the concept of public diplomacy and that of soft power (J.Nye), as well as if and how these two concepts differ from each other. From the empirical point of view, I have two concerns: first, the use of new technologies, while increasing, is still far from reaching broad sections of the population, especially outside large urban centers. Second, the fact that new media has become part of the daily life of a large public does not necessarily mean that the public is better informed and more sensitive to political issues than it was in the past. As the massacre in Syria tells us, in spite of a huge amount of images and information, the fate of Syrians depends on traditional diplomatic negotiations among great powers. Public opinion and civil society, rather than a proactive factor, are set aside from traditional power politics.

However, this is a ‘must-read’ book for every diplomat, student interested in international politics and to all those who want to understand how diplomacy and new media are inextricably linked and how this relationship is shaping our international political landscape.

Book Reviews

John Kaag and Sarah Kreps, *Drone Warfare*, Polity 2016
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Drone Warfare

Daniel Connolly

John Kaag, a philosopher, and Sarah Kreps, a political scientist, share a concern that drone technology is developing faster than our ability to understand its implications. The result of their collaboration, *Drone Warfare* (2014, Polity Press) is an interdisciplinary synthesis of the legal, political, and moral arguments surrounding the United States' use of armed drones to conduct targeted killings of suspected terrorists. Their treatment of us drone policy, while largely critical, is nevertheless more measured than some other books dealing with the topic, such as Medea Benjamin's *Drone Warfare: Killing by Remote Control* (2012) or Grégoire Chamayou's *A Theory of the Drone* (2015). Kaag and Kreps, far from calling for an outright ban on the technology, are confessedly pragmatic: 'Perhaps they are a necessary evil, but part of this book is meant to determine how necessary and how evil' (p. 13).

Kaag and Kreps concede that drones are a precise weapon system that is tactically successful at attacking Al Qaeda and other terrorist groups while minimizing American and civilian casualties. In this regard, drones are a positive development and may even have 'significant utility...in very specific scenarios' (p. 51). Nevertheless, they conclude that the long-term consequences of the United States' drone policy is deeply troubling for normative as well as practical reasons. Despite apparent short-term success, they characterize American drone warfare as a strategic failure, which is most evident in the form of 'the visceral opposition' that they create among targeted populations in the Middle East (p. 14). But blowback is not the main thrust of their argument. In subsequent chapters, Kaag and Kreps demonstrate that the failure of drone warfare has troubling consequences for democracy, international law, and ethics.

One of the reasons why drones are so attractive is that they effectively lower the costs of war for democratic countries. Although fiscal savings are important, the real advantage occurs at the level of domestic politics. Waging war with drones allows democratic governments to avoid negative publicity from friendly casualties, sidesteps the question of what to do with captured terrorists, and apparently enjoys strong support from the citizenry itself. Poll data suggests that a majority of Americans support drone warfare, even if they do not know much about it (see Table 3.1 on p. 62). More troubling, Kaag and Kreps argue that the evolution of drone policy in the United States has been marked by the erosion of traditional democratic checks and balances. Neither Congress nor the judiciary has exercised adequate oversight over the executive branch's use of drone strikes. Ultimately, drones threaten to detach war-making from the democratic constraints that have traditionally regulated it and thus exposes 'a loophole in Kant's democratic peace theory' (p. 65).

Although the Obama administration characterizes its drone policy as compliant with international law, Kaag and Kreps argue that aspects of it actually violate the requirements of *jus ad bellum*, the international legal principles governing when states may go to war, as well as *jus in bello*, the rules by which war must be conducted. First, the administration's legal justifications for conducting targeted killings outside declared battlefields, such as Pakistan and Yemen, rely on overly broad interpretations of what counts as self-defence and imminent threat. Second, even though drones are highly accurate weapons systems, the targeting decisions governing their use, such as signature strikes on unidentified individuals who are judged to fit a pattern of terrorist activity, and the overall lack of transparency surrounding death counts, raises worrying questions in regard to the principles of distinction and proportionality.

The chapter on the ethics of drone warfare steps back from specific legal and political issues and tangles with the broader moral implications of killing by remote control. This technology creates a "moral hazard" whereby policymakers and military personnel are increasingly drawn to risky behaviour because they do not have to worry about the consequences of their actions. In this fashion, the expediency of drone violence comes to overshadow the more important question of whether or not these strikes are morally right in the first place. Yet, there is a glimmer of hope. This new distance from the passions of hand-to-

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hand combat can create a space for the practitioners of remote warfare to potentially reflect on the moral and legal nuances of their job. However, this will require new forms of training and a willingness to ask difficult questions. The alternative is a world in which drone strikes, and their long-term negative consequences, become increasingly commonplace.

Written in accessible and clear prose, this book will be useful for anyone interested in learning more about the emerging issue of drone warfare. That being said, this book is primarily aimed at an American audience. The pragmatic approach espoused by Kaag and Kreps revolves around calculated appeals to American self-interest, accentuated by the fear that proliferation is inevitably putting this technology in the hands of a growing circle of foreigners. This frightening future, they warn, can only be avoided by American self-restraint and the creation of an international regime controlling the use of drones. In the end, this book implies that a reformed version of drone warfare will better sustain American hegemony than the model currently being followed.