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Legitimacy and effectiveness in the use of military force

Essentially, smart power means employing all the tools available, in as wise a fashion as possible, to meet policy goals. Smart power, therefore, also includes armed force. Here follow ten suggestions about when to employ such power, in Europe.

Even smart power relies on the means to coerce – among other things – and this includes the use of armed force. Smart power, in essence, is what the classical concept of statecraft means: the art of combining all instruments, hard and soft, which a state has at its disposal, and to do so wisely. With smart power, the use of force or the threat of it is *ultima ratio* and should be the continuation of politics by other means.

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This Clausewitzian notion has often been misinterpreted. It does not mean that the use of force begins where politics end: even the use of force needs to be guided by a political strategy; leaders must not employ their armed forces without knowing what political results they want to achieve.

A LESSON WORTH LEARNING. This is a key *monitum* for today's discussion in the United States, the European Union, the United Nations, and most states that have been contributing troops to international peace operations. Even in the future, military confrontations between great powers as well as regional wars – particularly those between emerging powers over territory or resources – cannot be excluded. States in most regions of the world will continue to hedge against challenges and military threats from neighbors and competitors. No state is likely to cede its right to individual or collective self-defense, as enshrined in the Charter of the United Nations.

The risk of major wars, however, has been greatly reduced since the end of the Cold War, particularly for those countries that were located at its center. Europe, as the EU's European Security Strategy rightly notes, "has never been so prosperous, so secure, nor so free." In many other parts of the world, too, the end of the Cold War has reduced tensions. Globalization has brought about a more economically and socially integrated world, with a much stronger interest in "harmony" and "win-win situations", peaceful international relations, and stability. Indeed, the most war-prone regions today (the Middle East and sub-Saharan Africa) are also the least "globalized", or the least globally integrated.

It is therefore not so much the traditional interstate confrontations as rather the so-called "new security threats" that have triggered discussions about remaining risks and challenges (both to the security of states and to that of individuals and societies), and how to address them. These threats are partly transnational; they may involve state and non-state actors and they can become more virulent or more difficult to contain as a result of globalization and the interconnectedness of the world.

112 The European Union, in its security strategy, lists the following as sources of potential conflict: terrorism, the proliferation of weapons of mass destruction, regional conflicts, state failure (which can fuel extremism, terrorism, and other threats that may spread beyond the conflict region), organized crime, and the competition for natural resources. Global climate change has been added: it is seen as a threat-multiplier that undermines stability and may trigger conflicts as well as large-scale population movements.

COOPERATION IS KEY. The general notion is that all these challenges can only be dealt with cooperatively – ideally on a global scale. At the same time, it is recognized that military power, when employed aptly, plays a role – not only in states with a tradition of military intervention (such as in the United States, Great Britain, or France), but also in the EU, Japan or in the United Nations. The European Union, for example, is developing its European Security and Defense Policy, building up planning and command capacities of its own, and aiming at fielding up tens of thousands of troops for up to 19 parallel crisis missions and peacekeeping operations. Indeed, the number of military personnel deployed in UN missions has been continuously on the rise (from some 10,000 in 1997 to close to 80,000 in 2008).

The question of where and when individual states, the European Union, or the United Nations should intervene militarily cannot be answered on the basis of a general check list. There is no clear checklist of criteria, to be ticked off in order to decide

whether or not to send troops to deal with particular contingencies. This remains a political decision each state has to take with regard to its own interests, preferences, and capabilities. Generally, however, there are two criteria which the international community and its members should consider in their decision-making about a possible military response to a crisis: namely the legitimacy of an intervention, and the effectiveness of the use of military force.



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Both of these criteria are connected in more than one way. The legitimacy of an intervention – i.e. its acceptance by the relevant actors – is not only necessary to generate support for it, but is also an element of any operation's success. On the other hand, a mission that is ineffective, or seen as a failure, will soon lose its legitimacy (irrespective of its legality) in the eyes of both local and regional actors as well as in the eyes of those countries contributing troops.

On this basis, the following ten considerations may encourage a deeper discussion. For countries that intervene, the legitimacy of the use of military force beyond self-defense is mainly related to the purpose of a given intervention. The EU has defined a functional list of forms and levels of interventions called the "Petersberg tasks". The EU wants to be prepared to intervene in cases which it generally regards as legitimate (and thus permissible, in the sense of pursuing a benign intention, or even the common good). Such cases include humanitarian and rescue tasks, peacekeeping tasks and crisis management, including peacemaking. As useful as this categorization is, the fact that a mission falls under the Petersberg tasks, or that it responds to the need

to enforce international law, does not necessarily give it international legitimacy. International legitimacy depends critically (though not solely) on the mandate. The legality of a given mission is key. From a European perspective, interventions should never be carried out unilaterally, should always be developed within a multilateral framework, and should necessarily be authorized by an international mandate – ideally from the United Nations Security Council (UNSC). Mandates from regional organizations authorizing intervention in regional crises may also be seen as legitimate. Self-mandating (as by NATO in the 1999 Kosovo war) is a dangerous exemption; it certainly does not give international legality to an intervention, nor does it necessarily render it legitimate. The same would apply to a mandate from an alliance of democracies, or any other coalition of like-minded states.

Even the legitimacy of the UNSC is not absolute. An international mandate may still not give sufficient legitimacy to an intervention in the eyes of all relevant actors – particularly in a regional context. The UNSC's authorization (after the invasion) of the US presence in Iraq did not make these troops legitimate in the eyes of many Iraqis and their neighbors. On the contrary, resistance to these troops was seen as legitimate by **114** many citizens and leaders in the region which, in turn, greatly undermined the effectiveness of the mission. To ponder a theoretical situation, we might imagine the UNSC authorizing an intervention into Sudan in order to arrest president Bashir, on the basis of the arrest warrant of the International Criminal Court. Much of the international community, as represented in the Security Council, would certainly see this as legitimate. Many African and Arab states, however, would not.

Legitimacy, therefore, also rests on the broadest possible consensus of local and regional actors. There is not only “international legitimacy”, but also regional and local legitimacy. This was taken into consideration after the overthrow of the Taliban in 2001, for example, when (almost) all local forces and regional powers were invited to the Bonn Conference on Afghanistan. Such an inclusive regional approach will also be needed to deal with the insurgency and to secure the long-term stabilization of Afghanistan.

For the local population, the legitimacy of a foreign intervention ultimately depends on whether it is seen as improving their situation or not. Unfortunately, this cannot be determined with regard to one set of more or less objective data (such as economic growth, or the number of schools built). Human security (the protection of the life, health and property of the local people) is certainly key; but the feeling of improvement also includes such difficult-to-grasp notions as dignity, justice, and proper gov-

ernance, as well as "development". Intervening states should focus not only on civilian security in their troop deployment, but on building trust with the people: in the end, that one's own troops are accountable, that local police forces and justice systems are built up quickly, and that local authorities respond to the basic demands of good governance becomes even more important than the elimination of enemies.

The key question for any state that considers military intervention is to what extent a given situation (civil war, regional war, state failure, spread of organized crime, etc.) can be dealt with by military force alone. In the Indian Ocean, for example, it remains to be seen what an armada of modern battleships actually can do against piracy originating from a country like Somalia.

In the absence of basic elements of effective statehood and development in that country, it may have been much more effective and less expensive to help Somalia develop its own fishing industry. In Afghanistan, the United States and its allies had to learn (again) that a war against an insurgency cannot be won by military means alone. A comprehensive approach is needed that combines both military and civilian efforts and allows an effective coordination of all players.

An international mandate authorizing an intervention – here again, so that legitimacy meets effectiveness – has to be appropriate to the tasks of a mission. It needs to be robust (authorized under Chapter VII of the UN Charter, for example) and it needs to authorize a sufficient number of personnel so that international forces will be able to fulfill their tasks, even in the face of armed resistance. The use of force is the *ultima ratio*, but not necessarily the last instrument to be employed in a crisis. Much bloodshed could probably have been avoided if the UN troops in Bosnia or in Rwanda had had a more robust mandate.

In the same sense, states that intervene (and the mandate that authorizes their intervention) need to define the tasks of a mission very clearly. Those who carry out the mission must have no doubts; guidelines must leave no room for confusion, but rather help to deploy the appropriate combination of military forces and civilian experts. Communications to local and regional actors about the meaning of the intervention must also be clear. Well-defined tasks are also necessary in order to then determine the success of a mission: is it a police mission to apprehend a group of criminals or terrorists, or is it about stabilizing a fragile state, or about quelling violence between local groups? Is it about state building, and to what extent is success defined by criteria such as the holding of democratic elections, establishing a stable democracy, or the implementation of human-rights standards? Goals must not be set too high or be

too vague, lest a mission creates expectations which it cannot fulfill (thereby again undermining both its legitimacy and effectiveness).

Area- and country-specific knowledge is another element of success. Decision-makers have occasionally to be reminded that not all local and regional conflicts can be resolved with the same mixture of instruments. Traditions, local political cultures, cultural sensitivities, and, of course, the nature of local and regional conflicts have to be properly understood to make interventions a success. This does not only mean that policy-makers should seek the advice of area specialists; more importantly, perhaps, it underlines the need to involve actors from the region as much as possible in decision-making as well as in implementing such missions.

Peace operations and crisis interventions almost always last longer than originally envisioned. Sometimes, the very presence of foreign troops provides a reason to extend a mission: foreign soldiers are easily perceived as occupiers – even if they do not see themselves that way – and may consequently be confronted with an insurgency that requires yet more troops. This is what we are experiencing in Afghanistan, for example. More often, however, an international political and military presence creates dependencies, which at least some local actors may find quite comfortable. Local leaders may feel they can leave fundamental social problems and political conflicts unaddressed, as long as international troops are there to prevent new outbreaks of violence or civil war. Finally, when governments do send troops on an international mission, they should carefully evaluate their own national interest: that interest must be strong enough to maintain engagement even if success does not come about as quickly as originally planned. In many cases, the long-term effects of a failed or aborted mission are worse than if no intervention had taken place.

116 While it is true that not every conflict can be solved by diplomatic means alone, it is also true that military forces do not solve political problems. Military forces can stabilize a situation; they can give local and international actors breathing space to work out political solutions, but their success will ultimately depend on the political endeavor to resolve the underlying conflicts.