



Resolving Hostage Crises: Lessons from Colombia



2009 Conference Agenda March 29 – 31, 2009
Charlottesville, VA - The University of Virginia

Monday, March 30 – Afternoon Sessions – Newcomb Hall, South Meeting Room

1:15pm – 2:00 pm **Panel I - *To the Shores of Tripoli: Resurgence of Piracy and its Impact Upon the US, Europe and Saudi Arabia***

Presentation by Mark Kimmitt – Former Assistant Secretary of State for Political-Military Affairs, Former Deputy Assistant Secretary of Defense for Middle East Policy

MR. KIMMITT: First of all, thank you for the opportunity to be here today. And again, thanks to the CIAG team for another great conference.

In 1786, the American Minister to France wrote a letter to his government bemoaning the depredations of the Barbary Pirates, the scourge of the Mediterranean. He had been unsuccessful in building a European coalition against piracy, as those nations felt it more important simply to pay the ransom. In this letter, he said, "From what I learn from the temper of my countrymen, the American, I feel it would be more easy to raise ships and men to fight these pirates into reason than to bribe them." Now, that minister, of course, was Thomas Jefferson. In many ways this university owes its legacy to Thomas Jefferson and, quite frankly, the United States Navy and the United States Marine Corps owe their legacy to Thomas Jefferson and piracy.

More than 200 years later we yet again are talking about piracy – piracy off the coast of Somalia. The issue is piracy, but it's also a great case study in bureaucratic politics as was discussed this morning in the Colombian hostage situation. But it's also a case study on what John Robb was talking about yesterday- fighting fourth generation warfare. How do advanced nations of the world deal with a challenge as old as piracy, and why can't we get it right?

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I would like to entitle this discussion "why bother," because the fundamental problem with piracy, in particular off the coast of Somalia, is simply that it hasn't been a big deal for the United States of America.

Now, what do I mean by that? Yes, piracy has emerged from a deteriorating situation in Somalia. Yes, there have been some consequences as a result of nations encroaching into the fishing waters which can be used as justification for piracy. But for a long period of time, piracy simply did not rise above the "why bother" status in Washington, D.C. We have been worrying about Iraq, we've been worrying about Afghanistan, we've been worrying about Colombian hostage situations, we've been worrying about a lot of things, and quite frankly, the magnitude of the problem is such that, in terms of scale, it just really isn't a problem... so we shouldn't care.

This map shows the scale of the problem. When people talk about piracy off the coast of Somalia, we're really talking about this area right about here (Indian Ocean). A little bit off the coast of Somalia, about 300 miles off the coast is where the Sirius Star was captured. But if you really want to know where the piracy problem is, it is right here (Gulf of Aden). Every year you have 15,000 ships pass through that channel, ships that handle a large percentage of the world's oil supplies as well as other commercial activities.

The pirates not only attack from the coast of Somalia, but they have now found it convenient to sortie from small ports in Yemen and then go back and forth from there. While this area appears small on the map, it's roughly one million square miles. There's roughly 1,800 miles of coastland off Somalia, another 1,200 miles of coastline off Yemen. Out there are hundreds and hundreds of small boats (dhows) that look like fishing boats.

It's also important to note that in many ways, we don't have a piracy problem, we have a hostage problem. It only takes 15 minutes for that dhow, placidly floating on the water, to pull back the canvas, pull out the RPGs, pull out the machine guns, and be on your ship's bridge with a pistol to the head of the captain. Then you no longer have a piracy problem- you have a hostage situation. And, like most hostage situations, you can pay your way out of that problem. Despite the massive ink use to print articles about piracy, the fact is that only 40 of the 15,000 ship which transited this area last year were held hostage, and only \$30 million was paid in ransom.

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So, if you're in the maritime business, if you're in the shipping business, that's not bad. Those odds aren't bad to start with. And if you've got a high freeboard or fast cruising speeds, you're in pretty good shape. The majority of the shipping companies know that they are not at risk, but even if you're low and slow, low free board, low speed, you can take some actions and effort towards self-defense.

But, why bother?

Again, this is multibillion-dollar industry passing through the Gulf of Aden, and the total ransom collected in all of 2008 was \$30 million. That's about one-third the value of one oil tanker's cargo and about one-fifth the value of the tanker itself. So despite everything you read in the press about this huge problem, economically it's not a big deal. More is paid in insurance than is paid out in ransom costs. So, for the average shipping company or transport line, this is not a big problem. The Sirius Star ransom was only \$3 million. That's less than one-half of one percent of the value of the ship and its cargo. So why not just pay that off?

Why bother?

One might say, well, there are some principles involved. If the industry doesn't care we should care as an international community. Our Navies should care. There are the principles of international navigation and freedom of the high seas. These are principles of a civilized international order.

But, let me put you in the shoes of Pat Walsh, then Kevin Cosgriff, now Bill Gortney, the most recent commanders of the US fleet that operates out of Bahrain. They have responsibility for the area involved in piracy. If you look at the “in-basket” every morning, here are some of the major tasks for that commander:

- Conduct flight operations in Iraq and Afghanistan.
- Keep open the bab al-Mandab and the Persian Gulf.
- Maintain supremacy of the Persian Gulf.
- Deter Iran from military misadventures in the region.
- Prevent the proliferation of weapons of mass destruction.

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- Train navies and naval forces in the region.

Quite frankly, piracy doesn't really crest too high on that list. And in Washington piracy is not a large problem. And look what industry is saying- "Sure, we could put Blackwater teams on our ships. Sure, we could pay a million dollars to put long-range acoustic devices, noise blasters, water cannons, slippery goo, barbed wire around the free board. Sure, we could do that. That will cost millions per year per ship. It ain't worth it."

The fact is if ships just stop and their crews offer no resistance; there is little risk to the crews. There's no risk to the cargo. There's no liability from crew deaths killed in resisting. While some would say, "Let's blow them out of the water, let's arm the crews", the fact is that any injuries which result are a tort lawyer's dream. So, in the minds of industry, doing less is best and let's just pay this problem off.

In international conventions, there are agreements such as the SUA, suppression of unlawful acts at sea, and, yes, we used to have a maritime convention where pirates were seen as a danger to the human race and you could toss them off the side of the boat. But in this day and age the last thing our navies want to do is go after these pirates, because they may end up being PUC, persons under control of the navy that captured them, and then what happens next? There are no functioning courts in Somalia. Who are we going to turn these people over to? Kenyans don't want them. Djiboutians don't want them. Our own countries don't want them. So all of a sudden navies now have persons under control, and the last thing they want is to be accused of running a floating Guantanamo.

So, there are a number of logical reasons that result in the response, "Why bother?"

Well, it does matter. It should bother us.

It does matter, and it matters to people that understand the larger issues involved, as Thomas Jefferson did, that sometimes principle is more important than pragmatism. Guys like Juan Zarate who ran the policy from Washington, D.C. As was said earlier by John Robb, there are Westphalian principles of international freedom of navigation on the high seas, international

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jurisprudence, and international economics. And if we allow this area become another safe haven, another ungoverned space, if its \$30 million this year, it's going to be many more million the next year, it's going to be a hundred million in the near future. We've got enough problems with the ungoverned FATA in Pakistan; do we want to a maritime FATA in the Gulf of Aden?

But as we all know in Washington, D.C., it's okay to have principles, it's okay to have policies, but what causes people to come to the working group meetings, to the DCs and PCs, is a catalyzing event that cause the bureaucracy to take this out of the hands of the desk officers and elevate it to the national security apparatus of the United States and the international community.

There were three events in the fall of 2008 that took piracy off the back burner and put it in the hands of Juan, the State Department, DOD and the Treasury Department. The first event was in the early fall when the World Food Program shipments were interdicted, raising the risk of another humanitarian crisis in Somalia. Nations understood that they could not be seen to be doing nothing. Action must be taken.

The second event was the seizing of the Ukranian MV Fiana in September. This was the most significant attack of the year. What made this attack significant was that its cargo hulls were holding T-72 tanks and a significant amount of arms and ammunition heading into the Southern Sudan, possibly to be used in Darfur. So we had a tough situation. You had arms that were either going to Sudan or could well end up in the hands of al-Shabab. In either case, it was not a situation that could just let idly go by. The fact that two days later the Russian captain died of a heart attack brought in the Russians and they started steaming one of their ships into the region. In the wake of recent activities in Georgia, our relations with the Russians were strained, and now we were seeing Russian warships heading into an area that for some years they had not been active.

And then in November the SS Sirius Star, one of the largest oil tankers in the world, was captured off the coast of Kenya with a million barrels of oil, about one-third of the daily production from the Saudi oil industry, worth about \$60 million.

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Initial demands for the Sirius Star were \$25 million. \$3 million was finally paid. But, these three events caused the piracy problem to crest the "why bother" standard in Washington, D.C. And frankly, in the last days of the Bush administration there was a tremendous amount of work done on this issue to the point where I personally feel we're in pretty good shape. The pirate season is about to start, but in the space of the last 90 days of the administration, we were able to get a new United Nations Security Council resolution, a new national security policy, a new international coalition, an international judicial solution to a problem that had been vexing us for some period of time, and an international convention from the maritime industry on best practices on their ships.

Secretary Clinton mentioned that the solution set is a good example of "smart power". I find it interesting that in the latest set of testimony it is noted that "counterpiracy efforts could become mutually beneficial platforms for regional capacity building programs and provide a noncontroversial basis for security cooperation in the maritime domain with nontraditional partners such as China, Russia and India."

So it has been fascinating to see how we've gone from "why bother" to a problem set that needs to be addressed, through a lot of international negotiations and inner-bureaucratic negotiations, to a sound policy and path ahead for policy execution. We seem to be in a fairly good position now, and the White House policy on counter piracy, "Countering Piracy off the Horn of Africa: Partnership & Action Plan for the United States," published in December 2008 is part of the reason. It was a masterful document put together by Juan's people that brought the interagency together to agree on a U.S. policy. For example, where the Department of Defense was reluctant to go after pirates because of the lack of a judicial track, that judicial track is now in place. As a result, we have more Navies now operating in the area, not simply the U.S. Fleet and coalition operations, but non-U.S. operations being conducted by EU NAV and NATO, and also unilateral operations being run by, of all people, the Chinese, the Russians and the Indians.

We also have standards that industry is now willing to adhere to. We were able to achieve agreement by threatening to demand that they have armed security guards on their ships. Once the industry recognized that if they didn't take action, we were going to take action for them, the BIMCOs and the INTERTANKOs have been pretty good about moving forward even to the point where they published new standards.

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So if you take a look at everything that has been done, the new policy ramrodded through by Juan and his people, a new international policy in United Nations Security Council Resolution 1851, which it does not simply allow us to go after pirates on the open water but gives us authority to go against pirate bases on the land mass of Somalia, an enhanced industry policy where they are now willing to do more so that the military has to do less- all of these point the way to an achievable reduction in piracy off the coast of Somalia. .

Other significant achievements- any pirates captured by Americans with a sufficient evidentiary trail can be turned over to Kenyan prosecutors for prosecution and we currently have two shiploads of them in Kenya at present. An international contact group formed as part of the United Nations resolution where 29 nations and five international organizations continue to work together every three months to move this whole issue forward. These achievements give me good reason to think that in the days and weeks and months ahead, that if we continue to take away the excuses of bureaucracies to say "why bother", that if we facilitate the ability of our navies, our industries and our governments to take action, then we can make a dent in the amount of piracy in that area. We are just now getting into the pirate season as the waters are starting to calm down a bit, but we will see if the combination of this comprehensive approach of more aggressive maritime self-defense, more aggressive Naval action, more aggressive prosecution of those that are captured is going to have an effect.

I think we've left this situation in pretty good shape for the next administration. It will be some time, as was mentioned earlier, before we get the political appointed into the new administration that can drive it with the same amount of effort shown by Juan Zarate at the NSC, Sean Connaughton of the Maritime Administration, and by Teresa Whelan at the Department of Defense. But I think that this is one of those areas that can turn out to be a good news story in the long run.

With that, I've been given the hook, and I will turn it back over to our moderator.