



PEACE NEGOTIATIONS
POST-CONFLICT CONSTITUTIONS
WAR CRIMES PROSECUTION

January 3, 2012

Dear Friends and Colleagues,

I am pleased to announce that The Public International Law & Policy Group (PILPG) cooperated with the Marine Corps University (MCU) and the Minerva Initiative to implement a successful simulation entitled “Negotiating Reconciliation in Afghanistan.” The success of our recent simulation at Quantico marks a new opportunity for United States military education and research institutions to engage their faculty and students in similar exercises. Negotiation simulations allow participants to surface key points of impasse and compromise. They also provide the opportunity to approach conflicts from the interests and perspectives of adversaries and partners. Our team of lawyers and research associates cooperated with the Middle East Studies department at MCU to draft the simulation materials and prepare this brief report. The attached report highlights the key points surfaced during the simulation.

As part of its policy planning practice area, PILPG has conducted similar simulations with our clients for the past 15 years in order to prepare them for peace negotiations and constitutional negotiations. PILPG’s prior negotiation simulations have addressed a range of issues in Aceh, Burma, Darfur, the Democratic Republic of Congo, Iraq, Kashmir, Kosovo, Libya, Nepal, Sri Lanka, and Sudan. We often deploy a team in country, when possible, to conduct these exercises. PILPG has also prepared simulations for professional training institutions such as the Foreign Service Institute. For more information on our previous simulations, check <http://pilpg.org/library/negotiation-simulations/>

PILPG is a highly collaborative organization and we welcome opportunities to prepare and implement similar exercises with United States military education and research institutions. While this latest simulation focused on reconciliation in Afghanistan, PILPG negotiation simulations are highly adaptable for application to any conflict. If you would like more information regarding customized PILPG negotiation simulations, please contact Tyler Thompson at tthompson@pilpg.org. We look forward to hearing from you.

Finally, I’d like to give special thanks to Dr. Norman Cigar, Dr. Amin Tarzi, and Ms. Stephanie Kramer at MCU for their contributions and support in making the simulation at Quantico a great success.

Sincerely,

A handwritten signature in black ink that reads 'Paul Williams'.

Paul Williams

President

Public International Law & Policy Group

Public International Law & Policy Group

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On 12 December 2011, the Minerva Initiative and Middle East Studies at Marine Corps University, Quantico, Virginia, in collaboration with the Public International Law and Policy Group (PILPG), which has extensive experience advising on real-world negotiations, conducted an Afghanistan Reconciliation simulation exercise.

The intent of this event was to involve a variety of participants in order to simulate negotiations related to crafting an end to the conflict in Afghanistan. Reflecting the real-world situation to the greatest degree possible, we expected the proceedings to draw attention to issues of discord and to highlight potential roadblocks in future negotiations, as well as to stimulate thought on developing potential work-arounds and to delineate areas of common ground. One of the principal intended benefits of this simulation was to develop its utility as a teaching tool that could be replicated for those preparing to deal with the Afghanistan issue or for students of the Middle East or of general foreign affairs.

We were fortunate to be able to bring together a wide variety of participants, some having dealt with Afghanistan over many years, others without such direct personal experience but with wide-ranging expertise in other applicable fields. Participants included military officers, government and think tank analysts, diplomats, journalists, academics, NGO representatives, and contractors.

The players were divided into four teams representing Afghanistan (the current government and the political opposition), the Neo-Taliban, Regional Actors, and the United States and Non-US NATO. In most cases, within each main category, players were assigned to represent specific national or factional entities, reflecting the spectrum of interests and positions even within a single broad category. Players were asked to focus on four principal issues in their negotiations: the cessation of hostilities, the current and future U.S. military presence, constitutional issues, and minority and women's rights.

In preparation for the negotiations, each participant received a read-ahead with both general background and specific guidance on the positions for the entity he/she was to represent. Over a four-hour period, various sessions were structured to enable individual delegations to formulate their positions on the key issues, to negotiate with other delegations, and to engage in shuttle diplomacy across delegation lines. Rapporteurs from PILPG followed the negotiation proceedings, recording the key ideas that emerged, and drafted this synthesis of the results.

The Minerva Initiative is a Department of Defense (DoD)-sponsored, university-based social science research initiative launched by the Secretary of Defense in 2008 focusing on areas of strategic importance to U.S. national security policy. The goal of the Minerva Initiative is to improve DoD's basic understanding of the social, cultural, behavioral, and political forces that



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shape regions of the world of strategic importance to the United States. The Marine Corps University has hosted a Minerva Initiative Chair since September 2010.

The mission of Middle East Studies at Marine Corps University is to serve as a center of expertise on Iran, Pakistan, Afghanistan and Arab states of the Persian Gulf as well as other Middle East areas of interest to the USMC. Middle East Studies strives to deepen the Marine Corps' understanding of this critical region and to link the Marine Corps to the broader academic, intergovernmental, and international Middle East studies community.

Our sincere thanks to Ms. Stephanie Kramer, the Minerva Initiative Research Assistant at Marine Corps University, for her significant academic research, planning, editing, and administrative support, and to Tyler Thompson, Law Fellow at PILPG, for managing the project. Both were key to our ability to hold this event.

Dr. Norman Cigar
Minerva Initiative Chair
Marine Corps University

Dr. Amin Tarzi
Director, Middle East Studies
Marine Corps University

January 2012

CONTENTS

Introduction.....1
Parties and Their Objectives.....2
Key Points of Impasse & Compromise.....3
For More Information.....5
About PILPG Negotiation Simulations.....6

This report on to the Afghanistan negotiation simulation was prepared by PILPG.

ABOUT PILPG

The Public International Law & Policy Group (PILPG) is a 501(c)(3) non-profit organization, which operates as a global *pro bono* law firm providing free legal assistance to developing states and states in transition involved in conflicts. To facilitate the utilization of this legal assistance, PILPG also provides policy formulation advice and training on matters related to conflict resolution. To date, PILPG has advised over two dozen countries on the legal aspects of peace negotiations and constitution drafting, and over twenty states and groups in Europe, Asia and Africa concerning the protection of human rights, self-determination, and the prosecution of war crimes.

Negotiating Reconciliation in Afghanistan

A Review of Lessons Learned From a Negotiation Simulation Held at the Marine Corps University

INTRODUCTION

Afghanistan has experienced continual power struggles and factional violence throughout its tumultuous modern history. Each centralized regime that has attempted to govern Afghanistan engaged in efforts to foster reconciliation with anti-government forces and insurgencies. The current conflict in Afghanistan is complex and multi-faceted, with many interested actors. Since September 11, 2001, the United States, NATO, and other international actors have experienced resurging interest in the design and outcomes of these reconciliation processes.



In an effort to develop negotiation skills and to provide policy planning for ongoing reconciliation efforts, the Public International Law & Policy Group (PILPG), the Minerva Initiative, and Middle East Studies at Marine Corps University organized a simulation at the Marine Corps University in Quantico, Virginia, with the support of the Marine Corps University Foundation. Participants included members of the U.S. military, policy experts, and individuals with regional expertise in Afghanistan and Central Asia. Participants found this simulation useful in surfacing key issues and potential solutions to points of impasse arising during reconciliation efforts in Afghanistan.

The materials for the negotiation simulation were prepared by PILPG with input from Marine Corps University using the methodology employed by the United States Department of State's National Foreign Affairs Training Center, which runs similar simulations to train U.S. diplomats prior to negotiations. Each participant received a briefing packet with an overview of the principal interests of the parties to the conflict, the relevant issues to be discussed, and instructions for the delegations.

The negotiation agenda included discussions regarding the cessation of hostilities, U.S. military presence, constitutional and sharia issues, and minority rights.

The views cited in this report reflect comments made by individual participants and do not necessarily reflect the consensus views of all participants in the simulation, Marine Corps University, or PILPG.



PARTIES AND THEIR OBJECTIVES

While the simulation was intended to reflect the current state of reconciliation efforts in Afghanistan, certain assumptions were made to simplify the negotiations. Negotiations were conducted quadrilaterally between participants representing regional actors, the United States, Non-U.S. NATO, Afghanistan, and the Neo-Taliban, without an official mediator. The principal interests and primary objectives of the delegations were described in the materials for the simulation. A brief summary of those positions follows:

Regional State Objectives

The regional states delegation consisted primarily of regional players affected by the prolonged war in Afghanistan. The delegation included participants representing India, Iran, Pakistan, Saudi Arabia, and Turkey. Predictably, there were existing tensions between certain states. However, for the majority of the delegation, the regional states' objective was to ensure the

stabilization of Afghanistan. In order to achieve this, the majority of the delegation sought assurances that safe havens for terrorist groups would be prevented. Most members of the delegation, but not all, were opposed to a continued large-scale U.S. military presence. The delegation was generally not opposed to factions of the Neo-Taliban participating in engagement talks but generally recognized that a successful reconciliation agreement would involve a reintegration of the Neo-Taliban.

United State and NATO Objectives

The U.S. and NATO delegation's overall goal was to combat threats to international security originating in Afghanistan. The U.S. and NATO delegation sought a full transition of security responsibilities to Afghan leadership by 2014. However, it recognized that the transition may not immediately result in a complete withdrawal of international forces, especially if the Government of the Islamic Republic of Afghanistan (GIROA) invites troops to stay in a training capacity. The U.S. and NATO delegation was open to engaging with certain Neo-Taliban elements, if they agreed to respect the Afghan Constitution, cease hostilities, and sever ties to Al-Qaeda or other terrorist groups. However, the delegation was cautious to avoid the reversal of major human rights progress made in Afghanistan since the overthrow of the Taliban-led government.

Afghanistan Objectives

The Afghanistan delegation included representatives from GIROA and those from the ethnic Tajik, Uzbek, and Hazara political opposition. Although there was considerable tension between the political opposition and GIROA, the Afghanistan delegation's main objectives were to create a peaceful and secure nation, establish an effective and respected government, build a strong and robust national economy, strengthen regional relations, and continue collaborating with the international community. The Afghanistan delegation maintained that successful reconciliation with the Neo-Taliban must involve an immediate cessation of hostilities, acceptance of the Afghan Constitution, and agreement to sever all ties to Al-Qaeda or other terrorist groups. GIROA was

concerned that the U.S. might “abandon” Afghanistan after its military drawdown and was in favor of extending Afghanistan’s military and economic relationship with the U.S. after 2014.

Neo-Taliban Objectives

The Neo-Taliban delegation included members from the Quetta Shura Taliban (QST), the Haqqani Network, and Hezb-e Islami Gulbuddin (HIG). While there were differences among the three members, the delegation's main objectives were to discredit the current Afghan government, to secure the Neo-Taliban’s position as the "rightful" leadership in Afghanistan, and to force the withdrawal of foreign troops from the country. The Neo-Taliban delegation was completely opposed to foreign troop presence and supported the withdrawal of all foreign forces from Afghanistan. The delegation accused GIRoA of being weak, corrupt, and politically unstable. The Neo-Taliban delegation was not interested in participating in the current government or making concessions to President Hamid Karzai. The delegation also sought the return of a "true" Islamic state to Afghanistan and a larger role for sharia law.

the most significant challenge to the reconciliation process was bringing Afghans together. The Neo-Taliban and Afghanistan delegates would not talk directly with each other. This lack of communication had more impact on the progression of the talks than any other factor. Another key stumbling block was the Neo-Taliban’s perception that time was on their side with the projected U.S. withdrawal. The Neo-Taliban was reluctant to make any concessions to the Afghan government, which they consider weak, ineffective, and on the road to collapse.

Cessation of Hostilities

Participants began by attempting to secure a ceasefire, primarily as a confidence-building measure among GIRoA, regional states, and the Neo-Taliban. A compromise seemed imminent when participants from the Pakistani delegation told GIRoA that they might be able to convince the Neo-Taliban to accept a 90-day *in-situ* ceasefire. The ceasefire would require an end to all attacks on minority groups in exchange for an end to drone attacks and U.S. and NATO night raids. This proposed agreement reminded participants of the crucial role Pakistan will play in securing support from the Neo-Taliban throughout the reconciliation process.

Participants on the U.S. delegation, however, said that they would only agree to end attacks for a very limited period of time, two weeks at most. As a counter proposal, the U.S. and NATO delegations tried to organize a phased cessation of hostilities tied to engagement benchmarks. The U.S. and NATO wanted to include benchmarks in order to protect progress made in Afghanistan over the last ten years. The benchmark proposal is also indicative of their desire to demonstrate gains made in Afghanistan, and that enough has been achieved to warrant leaving. Participants noted that international perceptions were important to the U.S. and NATO. The Neo-Taliban delegation recognized this interest, commenting on the U.S./NATO desire for a “dignified” withdrawal of their forces.

The Afghan political opposition groups, who seemed to agree initially, grew skeptical of the phased cessation of hostilities as the simulation



KEY POINTS OF IMPASSE AND COMPROMISE

Early on in the simulation, most parties agreed that their goal should be to achieve stability in Afghanistan. Regional states voiced their support for reconciliation talks and the inclusion of the Neo-Taliban in the discussion. Participants realized that

progressed. To complicate matters, the Neo-Taliban maintained their precondition that all foreign forces must withdraw before a cessation of hostilities would be possible.

U.S. Military Presence

The major point of impasse that surfaced during the simulation was the Neo-Taliban delegation's unwillingness to talk to GIRoA until all foreign forces left Afghanistan. They were willing to negotiate with the United States through a third party, but only about a complete withdrawal of American troops.

Participants on the Pakistani delegation suggested that all actors have a common interest in the United States and NATO withdrawing from the region. The Iran delegation echoed this sentiment. However, India and Saudi Arabia voiced their support for a continued, but limited, U.S. presence in Afghanistan. The GIRoA delegation stressed that the presence of U.S. and NATO troops is important to its stability. GIRoA also expressed a desire to keep a contingent of foreign troops in Afghanistan long-term, which participants read as a lack of confidence in its governance and security institutions. GIRoA support for a foreign troop presence was a point of agreement with the Tajik, Uzbek, and Hazara political opposition factions.

Participants debated the purpose of maintaining U.S. bases after a large-scale withdrawal. In response to regional concerns, the U.S. delegation agreed not to use Afghan air or ground space to launch military operations in neighboring states. Heightened tensions between the U.S. and Pakistan over surveillance flights and drone attacks in Pakistani territory underpinned the discussion. Iran was also worried that the United States would use Afghanistan as a staging area to launch an attack. However, the United States did not commit to ending Intelligence, Surveillance, and Reconnaissance (ISR) programs. The U.S. delegation said its military goal is to eliminate the potential Neo-Taliban threat to the United States and the international community. This diverges from GIRoA's goal of securing national reconciliation while maximizing civilian safety. Additionally, Afghan political opposition factions highlighted that part of their strength comes from the foreign

military presence in Afghanistan. Without the United States or NATO, political opposition factions are concerned that they will be marginalized by larger ethnic groups or by the Neo-Taliban. Participants noted that the outcome of these contrasting positions could be a U.S. military withdrawal before GIRoA and the Afghan political opposition are comfortable.



Constitutional Issues and Sharia

The major debate over the Afghan Constitution was whether a future reconciliation processes would take place under the current constitution and whether the constitution would be revised. The Neo-Taliban delegation rejected the Afghan Constitution entirely, arguing that it was imposed by foreigners and that it is not representative of Afghan values. The Neo-Taliban delegation did not have specific grievances against the constitution, but maintained only that it needed to change. They also rejected the legitimacy of GIRoA. In response, many participants supported GIRoA as the internationally recognized government in Afghanistan. At the same time, the Neo-Taliban fostered some acknowledgment for their shadow governance structures, which provide justice and security in areas where GIRoA is “ineffective.”

Regional states, like India and Saudi Arabia, maintained that the Afghan people themselves should decide on the legitimacy of the Afghan Constitution, not outside actors. Participants realized that if reconciliation were to be meaningful

in Afghanistan, the Neo-Taliban would have to participate in the government apparatus in some capacity. The parties did not agree if this meant that a new constitution should be drafted or if the Neo-Taliban should use existing structures to establish their political legitimacy.

All parties to the reconciliation talks seemed willing to accept that Afghanistan was an Islamic state and that Afghans should resolve sharia issues. Delegates from Saudi Arabia and Turkey agreed that sharia should be used in Afghanistan, but according to the wishes of the Afghan people. The Neo-Taliban delegation was unwilling to discuss specific issues of sharia, claiming that they, alone, held the true interpretation of Islam. Participants on the GIROA delegation were concerned with the Neo-Taliban's strict interpretations of sharia. Talks demonstrated that a compromise would have to be forged between respecting human rights and enforcing strict sharia law.

Minority Rights

All sides made it clear that a failure to agree on minority protections would likely cause resumed hostilities. Generally, participants on the U.S. and NATO delegation pushed respect for basic human rights, but would not get involved in internal Afghan issues. Most of the regional states recognized that minority rights are important for overall stability in Afghanistan. The Saudi and Pakistani delegations voiced particular support for Sunnis and Pashtuns, respectively.

The Neo-Taliban seemed unwilling to discuss any specifics regarding minority rights, claiming that all Afghans were Muslims and brothers. Some factions of the Neo-Taliban delegation, like the QST and HIG, said they would consider a more inclusive Afghan government under Islam once foreign forces and influences withdrew from Afghanistan. The Neo-Taliban delegation used GIROA's shortcomings to make appeals to minority opposition groups for support.

VISION FOR FUTURE SIMULATIONS

Participants appreciated the number of sub-delegations, as they provided the necessary nuance for the complex situation in Afghanistan. For future simulations, participants suggested more time for delegations to formulate strategies and conduct shuttle diplomacy. Future simulations could also include a United Nations delegation. Additionally, hypothetical scenarios could be inserted throughout the exercise for additional insight.

The objective of this simulation was to stimulate thinking and provide familiarity with a broad range of relevant and practical issues relating to Afghanistan reconciliation. Participants agreed that similar simulations can be valuable teaching tools for soldiers, negotiators, and policy makers for any conflict in which they may be involved. Participants expressed enthusiasm for the experience, noting the value in sharpening thinking and exploring ideas beyond those endorsed by the current policy positions of their institutions.



FOR MORE INFORMATION

The background materials used for the Afghan reconciliation simulation will be made available at: <http://pilpg.org/ceasefire-project/>. Anyone who would like more information on how to replicate the Afghanistan simulation or prepare and implement similar simulations, please contact Tyler Thompson at tthompson@pilpg.org.

ABOUT PILPG NEGOTIATION SIMULATIONS

As part of its policy planning practice area, PILPG has conducted similar simulations with our clients for the past 15 years in order to prepare them for peace negotiations and constitutional negotiations. PILPG's prior negotiation simulations have addressed a range of issues in Aceh, Burma, Darfur, the Democratic Republic of Congo, Iraq, Kashmir, Kosovo, Libya, Nepal, Sri Lanka, and Sudan. When possible, we often deploy a team in country to conduct these simulations. We have also prepared simulations for professional training institutions such as the Foreign Service Institute. For more information on our previous simulations, check <http://pilpg.org/library/negotiation-simulations/>.

