# COMBATING TERRORISM AND ITS IMPLICATIONS FOR THE SECURITY SECTOR

Editors: Amb. Dr. Theodor H. Winkler, Anja H. Ebnöther, Mats B. Hansson


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# Introductory Remarks

HENRIK LANDERHOLM

Combating terrorism has become the focus of security structures all over the world since the tragic events of 11 September 2001. In many countries, old methods have been revised in order to organize and prepare modern society to meet so-called new and existing threats (i.e. terrorism), instead of focusing on the territorial defence of the Cold War era.

It could be argued that this current refocusing is too late. Why didn't European and American societies respond to these emerging threats during the 1990s? Why didn't we analyse and evaluate the world as it was and change at the time? These and other questions are addressed in this anthology, which is the result of close cooperation between the Geneva Centre for the Democratic Control of Armed Forces and the Swedish National Defence College.

The publication gives a general overview of current trends in the area of Security Sector Reform linked to combating terrorism. A range of issues is comprehensively covered by the authors. Some of them, including Alyson Bailes, discuss the origins as well as the definitions of terrorism, while at the same time giving a broad picture of the problems connected with the tightening of rules, regulations, and procedures.

Terrorism is nothing new. Even if most people tend to define the world differently before and after 9/11, one should not forget that the incident was the eighth terror attack in a row against U.S. targets. All the earlier attacks were met in different but perhaps not always comprehensive ways. In other words, the strategy behind these responses could be questioned and debated.

On the other hand, were the simultaneous attacks against the World Trade Center, the Pentagon and, in all likelihood, the White House or the U.S. Capitol, met with a comprehensive and coherent response? Questions are asked in this book as to whether the responses in the security sector have been appropriate. The aims of these new transnational groups have, without doubt, been to provoke and show strength but also, in all probability, to get responses that create the grounds for political change. Therefore, Western interests can be put at risk even if we act strongly and decisively.

Security Sector Reforms—a term that subsumes a number of items: tougher attitudes in the transportation sector, a changing focus for the

armed forces, and an emphasis on special operations capabilities and enhanced intelligence services, among other things—can of course increase the risk of alienating the general public in a way that perhaps in the long run actually helps terrorist groups. If our open societies act in a way that is not perceived to be in line with our fundamental values, we definitely are at risk.

A balanced approach toward terrorism must consist of double balances. On the one hand, there should be a better balance between the current focus on terrorism and other old and new threats; and on the other hand, a balance between ways and means must be achieved. Security structures, legislation, and regulations in our countries should, therefore, not be allowed to move in the direction of "terrorism-only." Such a suboptimisation of resources—public as well as private—cannot be justified. Terrorism is without doubt a deadly threat, but it is not the only threat to modern society. Reactions after 9/11 have in that sense tended to be focused too narrowly.

In addition, the threat must be dealt with in a way that is consistent with the fundamental values of our societies. Recent security measures in some countries have had a definite and perhaps unreasonable effect on the personal freedoms and rights of citizens. To what extent this is an effective approach is still an open question. The fact that there has been a huge and positive spillover effect is indisputable: more criminals have been caught—but has it really made life more difficult for ambitious and resolute terrorists? Finding the right balance between personal integrity as a central fundamental value and the necessary security arrangements is still an unresolved problem.

Finally, let me express my pleasure in the close cooperation with DCAF in producing this report. Hopefully it is but a first step in a continuing and deepening relationship between our two organisations. When the result is as good as this it really has showed how fruitful such a collaboration can be. I look forward to further joint projects in the future.

# Content

The study focuses on three aspects, namely a) the evolution of terrorism and how counter-terrorism agencies can effectively and efficiently intervene (chapters 1–4), b) an analysis how different state agents adapted to the new threats (chapters 5–11) and finally c) non-state actors and their involvement (chapters 12 and 13).

In her introduction, Alyson J.K. Bailes, the Director of SIPRI, points to the fact that terrorist acts are probably as old as mankind and have been frequently used in conflict situations. What was different on 9/11 and since is the dimension and international aspect of the attacks and how they changed the agenda of the United States of America which later on became a global agenda. In order to adapt the security actors' strategies, the author stresses the need of an appropriate definition of what terrorism is.

In chapter 1, Dr. Rod Thornton shows how the British Army, a typical 'counter-insurgency' army, changed gradually from a small, low-conflict army of the Empire via a counter-insurgency army in its homeland (Northern Ireland) to an army engaged in counter-terrorism in the framework of an international coalition (Afghanistan, Iraq). He explains the British principle of Minimum Force before giving the reader an insight to the civil-military cooperation practiced in the past with the colonial government and today with the civilian administrators in Afghanistan and Iraq.

Fred Schreier shows in his chapter (2) how terrorism has superseded the guerrilla warfare common in the past century, though without being a new phenomenon. He shows that this asymmetric and unconventional type of warfare partially neutralizes the defensive advantages of the attacked country and thus increases its vulnerability. The author then presents four lines of defence likely to counter the terrorist threat.

In chapter 3, Prof. Rohan Gunaratna deals specifically with Al Qaeda, explaining how the network adapted its structure and strategy after the 9/11 attacks in order to avoid destruction. He then briefly analyses the differences in counter-terrorism policy and law enforcement between the US and Europe and the effect of the wars in Iraq and Afghanistan on Muslims in Europe. The last part of his exposé deals with the question of how Western security agencies have to adapt in order to efficiently combat Al Qaeda.

In his chapter on 'Counter Terrorism Policy and Strategies – Keys to Effective Inter-Agency Cooperation and National Security' (chapter 4), Michael Chandler points out that the coordination between different agencies of the same country respectively between different countries does not work as well as it might and should. In his discussion, he indicates three steps necessary to improve co-operation, namely: a) to thor-

oughly assess the threat, b) to ensure that the available resources are structured to deal with the threat and finally, c) to look what structures are already in place and how they can be adapted to best fight the new challenges.

Accordingly to Willem van Eekelen (Terrorism and Parliamentary Control), the 9/11 attacks spurred the EU into action, particularly in the filed of money laundering and justice and home affaires. Nevertheless, he criticizes that most European politicians did not feel at war. The author then briefly presents legislation and conventions adopted either by the EU or the Council of Europe before 9/11 before exposing the concrete actions taken since. A part of the chapter is dedicated to the issues parliamentarians will have to deal with when it comes to terrorist incidents while the last sub-chapter analyses the consequences of the attacks in Madrid on 11 March 2004.

In chapter 6, Andrzej Karkoszka shows the challenges most Eastern European countries have met since the regime changes in 1989 through the example of the Polish Army. Political and economic changes were hampered by an economic slow-down which, in turn, had important repercussions on the defence budget. On the other hand, the remaining money had largely to be spent on defence reform rather than on modernizing the material which was crucial for a rapid integration of the Polish Army into NATO. The second half of the résumé is dedicated to the mission of the Polish Armed Forces in Iraq, its tasks, the means at disposal and the lessons learned. The last part of the chapter focuses particularly on the impact of the anti-terrorist campaign on the Polish Armed Forces.

In the next chapter, Mihaela Matei explains the transformation of another Eastern European Army, namely the Romanian Armed Forces. The author starts with explaining the new principles, new missions and new military capabilities that will govern the reform of the Romanian Army. She then concludes her texts with a brief outlook on the military and political transformations NATO is currently undergoing.

Combating terrorism has also profound implications on the intelligence as shown by Fred Schreier in the next chapter (8). After a brief presentation of the major findings of the enquiries after the 9/11 attacks, the author deals with four key issues: a) what is the essence of combating terrorism (defeating terrorist organizations, deterring future acts of terrorism etc.), b) what makes combating 21st century terrorism so difficult?, c) what are the challenges and problems for intelligence? (human intelligence collection, signals intelligence collection, analysis etc.) and d) if there is a need for a new approach to intelligence.

In his chapter, Otwin Marenin analyses how the fight against terror has influenced the policing systems. He states that the fight has had and will continue to have a negative impact on democratic policing, be it in established democracies or in countries that seek to democratize. The

author then briefly explains the basic assumptions that underline this argument. The main part of the chapter is dedicated to the values, goals and operational styles of community oriented policy (COP), such as: intelligence, prevention and pre-emption, political manipulation of law and its enforcement, enhance the power and autonomy of the police etc.

Chapter 10 examines the question of how border security agencies can contribute to the war on terror. He sees an active role for border security agencies when it comes to inter-agency co-operation and intelligence sharing. The author then explains the principle of the 'four tiers' of border security (activities in third countries, international border co-operation, border management and other activities inside and outside the Schengen states). Any gain of co-operation can be measured against a quality cycle which is explained and illustrated in a separate sub-chapter.

In his chapter, General Vaultier shows the changes the French Gendarmerie had to undergo in order to optimize the capacities of the French government to fight terrorism. These changes included the restructuring of the headquarters, the improvement of co-ordination between the gendarmerie and other state services and the elaboration of a global and consistent strategy. The author then explains how the gendarmerie is involved in transport issues, maritime, road and railway counter-terrorism and the fight against nuclear, biological and chemical terrorism. The last part of the chapter deals with its involvement on the international level.

Marina Caparini finally introduces the third part of the book with her chapter on private military firms (PMF). The author shows how the downsizing of armies after the Cold War has led to the creation of PMFs, a phenomenon amplified by the change from international conflicts to civil war. While more and more countries make use of PMFs, be it for financial or political reasons, not much progress has been made when it comes to legislation. Caparini clearly shows the danger of this vacuum. A sub-chapter is dedicated to the different companies existing, the services they offer and their main users, followed by a detailed listing of the pros and cons of PMFs.

In the last chapter, Per Broström and Diana Amnéus analyse the impact of the fight against terrorism on the international law as specified in the UN Charter (jus ad bellum) and the international humanitarian law as specified by the Geneva Conventions (jus in bello). With regards to the 9/11 attacks, the authors particularly stress the fact that for the first time in the history of the UN, article 51 of the UN Charter was invoked after a terrorist incident and analyze the relevance of the international law in the war in Afghanistan and Iraq, whether there has effectively been a collapse of international law in the fight against terrorism and, if yes, what the causes and effects are.

# Preface

ANJA H. EBNÖTHER

The highlight of the 2004 activities calendar of the Partnership for Peace Consortium of Defence Academies and Security Studies Institutes (hereafter: the Consortium) was the seventh Annual Conference, held in Bucharest, Romania.

Not only was the Annual Conference a place to display the remarkable work achieved by the different working groups, but it was much more besides: a platform for exchanging new ideas, of presenting policy-relevant studies, of launching new projects, of discussing unconventional approaches in a professional environment, and meeting experts employed in many fields: government ministries, military organizations, the diplomatic corps, and the academic departments of defence universities and security studies institutes.

The Consortium has proven over the years to be a flexible tool in helping assemble experts in the security sector in a forum in which they usually do not meet or talk. Therefore the Consortium offers the opportunity to bring together experts of different backgrounds, especially in times in which the concepts of "threat" and "security" have changed and become a much more prominent part of public discourse.

The structure of the Consortium allows a broad approach to international security, limits neither the ideas nor the access to participate, and offers a unique possibility to cooperate where useful and necessary.

This structure has been created in order to improve coordination between the various existing working groups, particularly in the preparation of the Annual Conference, and to create an environment in which leading institutions in the field can provide a strong backbone to the working groups. Four tracks have been created: Regional Stability, Education and Training, European Security, and Security Sector.

The present publication reflects the collaboration of the security sector track. This track is composed of two working groups: the Security Sector Reform Working Group and the Combating Terrorism Working Group.

The Geneva Centre for the Democratic Control of Armed Forces (DCAF) has as its core mission the analysis and assessment of security sector reform, its governance, and its further development. Therefore, in 2001 it had taken the responsibility to build and lead a working group on security sector reform. Given Swiss involvement in the Con-

sortium since its early days, DCAF was willing to collaborate with the Combating Terrorism Working Group for the 2004 Annual Conference.

The topic for the security sector panel at the Annual Conference was easily found: "Combating Terrorism and Its Implications for the Security Sector," with a special focus on the implications for armed forces in selected cases.

The current publication goes beyond the armed forces, and gives examples of the implications for other security sector actors such as border guards, police, intelligence services, Gendarmerie Nationale, parliamentarian control, and international humanitarian law. Most of the articles were provided by members of the PfP Consortium for the Annual Conference. They give a broad overview and collection of the major aspects, but it is not alleged to be inclusive, exhaustive, or coherent in its approach to the problems posed.

DCAF thanks the Swedish National Defence College, not only for its expertise on the subject and its representation in the Consortium's Security Sector Reform Working Group, but especially for being a partner in contributing to the current publication.

# Terrorism and the International Security Agenda since 2001

ALYSON J. K. BAILES

## Introduction: Action, Reaction, Re-evaluation

The use of terror as a weapon against enemies, in the sense of an excess of brutality designed to shock and intimidate, is probably as old as mankind. It is still a ubiquitous phenomenon in every kind of conflict, and few if any actors can claim never to have resorted to it. What we refer to today as "terrorism" is generally understood to be something much more specific: the activity of groups that for a political/ideological rather than criminal purpose employ violence against non-combatants in non-war circumstances and often against an ultimate target that is stronger than themselves. This is admittedly an imprecise, inexpert description, and the experts themselves have never managed to find a formal, legal definition of terrorism that can be universally agreed upon and universally applied.[1] Nevertheless, the international community has been sufficiently aware of terrorism as a threat to security, and sufficiently united as to its undesirability, to take concrete measures against it since at least 1937.[2] In more recent times, waves of terrorist action and corresponding peaks of international concern can be identified from all three of the closing decades of the twentieth century. The radical effect of one day's events—the attacks carried out by Al Qaeda on 11 September 2001 against the United States—on the world's thinking and behaviour thus calls for a special explanation, over and above the fact that they came after some years of global decline in terrorist activity. It may be found in the nature of the attacks, their target, and of the subsequent reactions.

First, the destruction of New York's World Trade Centre and the assault on the Pentagon by flying hijacked civilian aircraft into them horrified and gripped the world's imagination, through the magnitude of the loss of life and material destruction, the use of aircraft as weapons,

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1 See G. Simpson, "Terrorism and the law: past and present international approaches," *SIPRI Yearbook 2003: Armament, Disarmament and International Security* (OUP for SIPRI), August 2003.

2 When the League of Nations adopted a Convention for the Prevention and Punishment of Terrorism.

the small number of hijackers involved, and the simplicity of their equipment. This was mass-effect, "hyper-terrorism" of a kind rarely if ever experienced in the modern world. Second, the fact that the attacks succeeded against the United States, the world's (now) sole superpower, made them a particularly stark illustration of the *asymmetrical* nature of terrorism: a weapon of the weak against the strong, a technique apparently not susceptible to being blocked or deterred by any kind of traditional power or defence. Also important was the identity of the adversary and the reason why the United States became a target. Al Qaeda was not a home grown terrorist movement, nor one stemming directly from any former U.S. act of power or defeat at the United States' hands. It was led by a Saudi millionaire whose original motives included outrage at the U.S. troop presence in Saudi Arabia during the 1992 Gulf War, but its ideology had grown into a generalized hatred of the West's power and secularized lifestyle and of those in the Islamic world who colluded with it. This was *transnational*, globalised terrorism of a kind distinct from most previous movements tied to specific local grievances and well-delineated fields of action. Third and not least, the United States reacted both with the outrage of a community shocked into recognizing its vulnerability and with the full force of the superpower and world leader that it was. President George W. Bush declared "war" on terrorism and pursued with great energy two essentially novel lines of action: (1) a huge new programme for the United States' own "homeland security"; and (2) a doctrine and practice of overseas intervention designed to punish the terrorists and their abettors and to anticipate further attacks.[3] The conceptual reflection of this policy was the notion of "pre-emptive" attack, enshrined in the United States' new National Security Strategy of 2002[4]—where it was envisioned also as a response to threats connected with the proliferation of weapons of mass destruction (WMD) and humanitarian outrages like genocide. Its practical results were the U.S. military actions first against Afghanistan (October 2001) and then against Iraq (March 2003), resulting in the fall of previous anti-American *regimes* in both countries.[5]

The United States' new agenda inevitably also became the world's agenda. It spread initially on the tide of international sympathy after the 9/11 attacks, boosted by others' increased threat awareness, but was

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3 For a description of these measures, see chapter 1, sections II-III, of *SIPRI Yearbook 2003* (as note 1 above).

4 *The National Security Strategy of the United States of America*, with foreword by President George W. Bush, 17 September 2002, http://www.whitehouse.gov/nsc/nss.pdf.

5 See the chapters by A. Cottey on Afghanistan in *SIPRI Yearbook 2003* (as note 1) and on Iraq in *SIPRI Yearbook 2004: Armament, Disarmament and International Security* (OUP for SIPRI), September 2004.

driven also by deliberate U.S. efforts to mobilize allies and institutional tools both old and new for its campaign. Although the Bush Administration has widely been charged with "unilateralism" in its responses, the Americans did not actually act alone at any critical juncture, including the invasion of Iraq. The point stressed by their leaders (most explicitly by Secretary of Defence Donald Rumsfeld)[6] was rather that they did not intend to wait for anyone's *permission*—including where applicable an institutional mandate—before taking the actions deemed necessary for their nation's security. In reality, the United States did make use of multilateral tools after 9/11 in numerous ways, including the adoption of a UN Security Council Resolution against terrorist financing,[7] the introduction of new doctrines and policies at NATO to better adapt that alliance's capabilities for worldwide operations including potential antiterrorist ones, the initiative taken in the framework of the International Maritime Organization to lay down new global standards for port security, and the steps taken in numerous multilateral export control groups to decrease the risks of dangerous weapons and technologies falling into terrorist or "rogue state" hands.

The United States took like-minded military partners along with it when attacking both Afghanistan and Iraq, made new aid and cooperation partnerships with several developing-world countries struggling with terrorism, and set up a new would-be permanent multination group called the Proliferation Security Initiative (PSI).[8] Other actions taken by the United States on its national authority had a decidedly multilateral impact, such as tighter visa rules, the demand for provision of more data on airline passengers arriving in the United States, or the demand for tighter pre-shipping checks on U.S.-bound container traffic. Last but not least, other organizations like the European Union and regional cooperation structures elsewhere in the world—ASEAN, African Union, MERCOSUR, etc.—adopted a wide range of new antiterrorism (and/or antiproliferation) measures of their own under the combined impetus of U.S. urgings, their own growing sense of threat, and in at least some cases a desire to show that the threat could be handled in wiser and better ways than those the United States had chosen.

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6 It was he who said on 31 January 2002: "The mission makes the coalition, not the coalition the mission" (http://www.defenselink.mil/speeches/2002/s20020131-secdef2.html).

7 UNSCR 1373 (28.09.2001), which established a new UN Counterterrorism Committee (http://www.un.org/Docs/sc/committees/1373); see also the chapter by T. Biersteker in A. Bailes and I. Frommelt, *Business and Security: Public-Private Sector Relationships in a New Security Environment* (OUP for SIPRI), May 2004.

8 For the official PSI webpage, see http://www.state.gov/t/np/c10390.htm.

At the time this book was being prepared in mid-2004, the sense that the United States' choice of reactions was not, in fact, optimal has come to dominate international perceptions and debate. It is not that the reality of transnational mass-impact terrorism can be questioned or that Al Qaeda has been exposed as a paper tiger. On the contrary, its leader Usama bin Laden remains at large, and it has carried out attacks with large casualties and growing frequency since 9/11 in many countries and continents, including (on 11 March 2004) in the European city of Madrid. The problem is rather that the downfall of its Taliban protectors in Afghanistan seems hardly to have cramped Al Qaeda's style, while the failure (so far) to control internal security in Iraq following Saddam Hussein's ouster has opened up a new front and perhaps an enduring battlefield[9] for its attacks. The United States' declaration of "war" seems merely to have brought hundreds (at least) of dedicated new recruits to Al Qaeda's ranks, while multiplying even more dramatically the tally of its general sympathizers throughout the Islamic world.[10] The other difficulties experienced in rebuilding Afghanistan and Iraq have highlighted the limitations of the United States' (or anybody's) military power when it comes to actually curing terrorism-related problems, as distinct from lancing the boil. The United States' refusal to respect institutional constraints, resentment at the extraterritorial effects of many of its actions, and the latest revelations about failings in its own antiterrorist preparations before 9/11, its misevaluation and misuse of intelligence as a basis for armed actions afterwards, and various kinds of wrongdoing (both mistreatment of prisoners and corruption) associated with its occupation of Iraq,[11] have all combined to leave even the United States' traditionally closest friends in Europe and elsewhere divided, dismayed, and disillusioned about the quality of American leadership.

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9 See the chapter by Professor R. K. Gunaratna in this volume.

10 According to a Zogby International opinion survey reported in the Financial Times (page 4) on 24–25 July 2004, the overwhelming majority of respondents in six Arab countries said their attitude was more shaped (negatively) by U.S. actions than by American "values." A clear majority, including 90% of respondents in Saudi Arabia, also believed the U.S. action in Iraq would bring more chaos and terrorism and less democracy than before.

11 A series of postmortem inquiries notably in the United States and Britain produced reports in the first half of 2004 pointing to failures in the collection, analysis, and public use of Iraq-related intelligence; in the United States' antiterrorist precautions before 9/11; in the treatment of Iraqi citizens detained by coalition forces after the fighting in the spring of 2003; and in the allocation and conduct of private contracts for security-related and commercial transactions in occupied Iraq. The U.S. Supreme Court in July 2004 ruled against the practices being used by the Administration for detaining terrorist suspects (mostly captured during the Afghanistan operation) at Guantanamo Bay in Cuba.

In the first flush of antiterrorist solidarity after 9/11, it was difficult to get an audience (or, indeed, adequate research funds) for alternative views or for new work on other dimensions of security.[12] In the present atmosphere of recoil and reassessment, there is a corresponding risk of undervaluing what has actually been achieved over the last two or three years. It has been very difficult to track any productive results from the United States' high spending on homeland security,[13] but that does not mean that the newfound attention to internal security and homeland defence—otherwise tending to be neglected in the Northern Hemisphere after the end of the Cold War—was a mistake in principle or will be unfruitful in the longer run. The efforts made since mid-2003 to reunite and rebuild both NATO and the European Union seem likely to shape these institutions' course more profoundly than the rifts over Iraq that preceded them. The world now awaits the results of the High Level Panel appointed by the UN Secretary-General following debate at the 2003 General Assembly, which will aim to produce prescriptions for using the international community's resources against "new threats" (including asymmetrical ones) in a globally acceptable manner.[14] It remains also to be seen what lessons the U.S. citizenry and their leadership will draw from the costs of the specific solutions attempted by George W. Bush in Iraq. But there is already plentiful evidence that terrorism and proliferation can and will be combated in less violent, risky, and unpopular ways, including by the United States itself—which has very deliberately (and in the face of hard-line criticism) avoided violence over these years in other important cases of concern, such as in the People's Democratic Republic of Korea, Iran, Syria, Libya, and the terrorist-plagued Middle East.

The present volume represents a wide range of views and professional perspectives. All its writers, however, aim to avoid fashion-driven and one-sided judgments by examining the real-life effects and implications—positive, negative, or undetermined—of the new evidence of, concern about, and reactions to transnational terrorism. Their contributions are grouped around a particular range of issues relating to de-

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12 "Responding to 9/11: Are Think Tanks Thinking Outside the Box?", report dated 31 July 2003 by Dr J. McGann of the Foreign Policy Research Institute at Philadelphia. See http://www.fpri.org.

13 The new immigration checks and detentions of suspects under the United States' new Patriot Act have notoriously failed to catch any proven terrorists, but they have uncovered a significant number of other offences—see chapter 1, section II in *SIPRI Yearbook 2004* (note 5 above).

14 For the Secretary-General's announcement of his plans at the General Assembly, see http://www.un.org/apps/sg/sgstats.asp?id=517; and for full information on the members of the Panel who were appointed in Nov. 2004, see http://www.un.org/apps/news/infocusRel.asp?infocusID=848.Body=xxxxx8.Body1=.

fence and security management by state and multilateral actors, including the dimension of democratic answerability. This rather specific focus allows the issues in question to be illuminated from different viewpoints and in depth. In what remains of this introductory chapter, I will highlight the main themes, then end with some remarks on other topics that could contribute to a comprehensive understanding of terrorism's and counterterrorism's effects in the modern world.

## Back to the Definition Problem, Forward to a Better Balance?

Does it actually matter how terrorism is defined? The question is warranted, since the nature and antecedents of many terrorist acts are clear beyond debate, and several types of defensive action and response can satisfactorily be based on a more or less "fuzzy" consensus among actors. The studies in this volume bring out that a lack of definition or competing definitions can nevertheless cause trouble in several ways. If a line cannot be drawn between terrorism proper and other types of politically motivated violence (especially within states), there is a risk that the "terrorism" label will be improperly exploited against the latter by the powers-that-be and—in the present climate—may be used to attract outside aid and support with ultimately illogical and counterproductive effects. Again, the more the international community wishes to "legislate" formally and universally on matters like the prevention of terrorist financing and the consistent judicial handling of terrorist offences, the more it will be hampered by lack of an agreed legal statement on what terrorism is and/or who the terrorists are.[15] For the security components of an optimal antiterrorism policy, however, distinctions and definitions *within* the broad phenomenon of terrorism are almost equally important. Several writers here emphasize the importance of understanding why and how Al Qaeda is different from previously familiar terrorist movements, above all in its manner of networking and propagation. It cannot be "hit" or decapitated in any simple manner and its appeal to its supporting constituencies is so broad, almost "existential," that an equally broadly based campaign to rehabilitate ideas of peace and coexistence—waged with the help of, not against, the Islamic authorities—seems required in response. If this is accepted, the converse point is also

[15] UNSCR 1373 on terrorist financing did not attempt a definition of terrorism but called for action against terrorist groups and individuals. Unfortunately, several different lists of the latter have been produced and used by leading actors like the United States and European Union. See Biersteker, as note 7 above.

worth stressing: namely that a great deal of terrorism still exists in the world that is not of the Al Qaeda model, and not even necessarily directed against the West. It includes transnational groups using terrorist methods to pursue quite different causes such as animal rights, at one end of the spectrum, and numerous highly localized, conflict-linked or "insurrectionary" movements often of a low-tech and relatively low-impact nature at the other. The international community would be ill-advised either to drape the latter retrospectively in the mantle of Al Qaeda (that is, by interpreting linkages for mutual aid between such groups as Al Qaeda–type networking and "franchising"), or to diminish the care and attention it gives to them because of the new salience of genuinely transnational threats.

Getting these distinctions right is also a first step toward something that most authors in this book explicitly or implicitly plead for: that is, getting transnational terrorism (TNT) in proportion and revisiting the *balance* between the efforts we devote to it and to other pressing demands of security policy. This challenge has many different levels and facets:

- When it comes to directly countering (preventing, containing, defeating) TNT, should we be guided by the metaphor and principle of waging "war" or by something different? Even if the "war" metaphor has merit, do we accept the case made initially by U.S. theorists that some of the familiar principles of war such as the possibility of deterrence and of negotiated cease-fires do not apply, and that terrorists or terrorist supporters captured in the course of combat operations are not "prisoners of war"?
- When it comes to dealing with the "causes" of terrorism, how do we identify these causes, and how do they differ between terrorist leaders and followers, between TNT in its pure form and partly or totally issue-linked terrorism, and so forth? How do we balance our analysis and our allocation of resources between supposed material causes and political, cultural, and psychological ones? Can the case be made that "we" (speaking here of developed Western-style democracies) cannot be who we are without stimulating some degree of asymmetrical terrorist response?
- How do we adjust the balance of attention, priority, and resource distribution between (1) terrorist phenomena that only (directly) hurt the West; (2) terrorist phenomena that hurt everybody and/or hurt other regions exclusively; (3) non-terrorist threats that hurt everybody, such as global disease epidemics and climate change; and (4) non-terrorist threats that hurt the developing world more than us, including old-fashioned (non-terrorist) conflict?

– How do we fine-tune the trade-off between protecting the physical security of nations and citizens and preserving their personal and civil liberties and quality of life?

This last question has several sub-issues of its own that are worth dwelling on here, because of the way they interact with some of the operational topics dealt with below. It may be addressed at the level of security versus freedom and normalcy for the ordinary citizen—how important is the goal of protection (which can never actually be total or guaranteed) as against the freedom and ease of movement, free speech and free association, data privacy, and freedom from wrongful imprisonment? Is it desirable to ask citizens to look out for one another's' suspicious behaviour, and is it sensible, given that even the greatest experts today would have trouble in picking out true terrorists on sight? How far can one go in targeting specific communities known to be susceptible to the terrorist virus without making the already hard challenge of maintaining trust and harmony in multiethnic social systems even harder? How far is it reasonable to warn and alarm citizens without knowing also how to *enable* them to do the right thing before, during, and after an actual emergency?

A second set of issues arises when considering political systems and principles both at the nation-state and international levels. How far can we safely go in tightening up law enforcement and judicial practices with respect to suspected terrorists and increasing the mandate and effectiveness of the intelligence community without endangering values that are fundamental to law-based Western democracy and setting ourselves on the slippery slope towards a "police state"? This problem is posed in a more acute form when coupled with the idea of a never ending "war" on terrorism, because short-term emergency measures are self-evidently less dangerous than ones introduced with unlimited duration. It connects up with the fact that powers and resources assigned under counterterrorism programmes always seem to tilt the constitutional balance toward the executive, making it harder for elected representative institutions to exercise proper scrutiny.[16] This is not just a problem of the United States, but has attracted much attention in Europe, where governments' reaction to new transnational threats has (not illogically) been to create new collective policies and new centralized resources and competences in the transnational framework of the

[16] This is particularly so when expeditionary military operations (or one-off strikes like that made by U.S. forces against a terrorist target in Yemen in 2002) constitute a major and preferred form of antiterrorist action, since the elected leaders even of the most democratic countries normally have extensive "war powers," allowing them to conduct such operations with minimal parliamentary control or consultation.

European Union. The European Parliament has little or no chance to question and scrutinize these new measures and there is concern that they have been pushed through in a way that also marginalizes national assemblies. They will fall to be implemented in an expanded union of twenty-five countries, where the ex-Communist members may not have the same longstanding "civil society" checks and balances to prevent abuse. They also come at a time when concern is surging, especially in the richer EU countries, about illegal migration and bogus asylum-seekers—leading some observers to worry that supposedly antiterrorist controls may be misapplied in practice for other discriminatory and restrictive purposes.[17]

A third layer of the security-versus-values problem, though perhaps less explored in this volume, concerns the effects on the *international* society of the West's new counterterrorist agenda and of actions taken in its name. One well-known concern is that the West risks discrediting the whole notion of free-market participatory democracy and alienating even the more reform-minded constituencies abroad by acting in what may be seen as a selfish, unprincipled, and oppressive manner against weaker opponents it associates with the "new threats." The charge of hypocrisy is stronger when it can build on weaknesses now exposed in the West's evidence and justification for armed actions and on cases of disrespect for law and democracy within the West's own jurisdiction. Then there is the risk that Western aid given to countries and regimes identified as allies against terrorism (or as needing to be defended against it) may end by propping up undemocratic regimes and turning a blind eye to, or even materially aiding, their internal human rights abuses.[18]

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17 On the last point, see e.g., the chapter by M Caparini, especially sections IV-V, in *SIPRI Yearbook 2003* (as note 1 above). At the conceptual level, some Western analysts have objected to the way latest policy trends have "securitized" issues formerly better placed in the context of (for example) internal law and order. This concern is understood if it relates to the risk that such issues will increasingly be handled in an adversarial, coercive, and zero-sum style. But the terminology is perhaps unfortunate, since modern definitions of (at least) "human" security have included internal security and societal dimensions for some time already, and since modern security research is directed in large part to finding ways that are *not* adversarial, coercive, or zero-sum to handle even the most traditional and "hard-core" security problems.

18 Different aspects of this problem are illuminated by Uzbekistan, a country formerly rewarded with military aid by the United States in return for, for example, basing facilities for the war in Afghanistan, but to which the United States had to cut off aid in mid-2004 because of blatant democracy abuses; and Libya, whose economic and political rehabilitation the United States and the United Kingdom pushed through in 2004 following its renunciation of WMD but at a time when its internal arrangements remained dictatorial.

Other more detailed problems include the growing concern that the United States' tougher visa rules introduced after 9/11 have cut the level of admissions of foreign students and researchers to the United States, on a scale out of all proportion to the possible number of really suspect applicants, thus further worsening the prospects for cross cultural understanding between the United States and others as well as diverting helpful revenues to foreign academic bodies.[19]

## Security Actors: New Roles, New Interplay?

As nations with longstanding domestic terrorism problems well know, any counterstrategy worthy of the name must (1) combine military, internal security, border control, and intelligence resources in the front line; and (2) balance and coordinate them with other levers of influence and change (economic, social, political, educational) over the longer term. A particular strength of this volume is the detailed attention it pays to these challenges and the way it relates them to wider ongoing currents of security sector change and reform in North America and the wider Europe.

In these regions, at least, the pressure created by counterterrorism strategy that focuses on new-style homeland security and expeditionary military action coincides with dynamics that have been working ever since the end of the Cold War to deemphasize traditional territorial defence and deprioritise the force and equipment types most tightly linked with it. Professionalisation, specialization, and burden-sharing, mobility and flexibility, and preparedness to operate in cross-sector and multifunctional partnerships going far beyond the old concept of CIMIC (civil-military cooperation)—these are demands that would be facing the OSCE area's military establishments today, even if 9/11 had never happened. The question of whether and how uniformed military forces should support the civil authorities in dealing with homeland emergencies would be raised by (for instance) floods and droughts, major pollution disasters, nuclear accidents, epidemics, power outages and interruptions of supply, or major strikes and civil disturbances, even if none of these were ever triggered by or associated with terrorists. Countries with an exportable surplus of military capacity would be called upon to use it in the form of international peace operations (under whatever flag) because of the direct and indirect damage that conflicts in other regions are seen as doing to developed-world interests, even if none of these conflicts had causes specifically linked with terrorism or involving

[19] See the Annex by Phyllis Bonanno in A. Bailes and I. Frommelt eds., *Business and Security* (as note 7 above).

the West's own terrorist enemies. And since terrorism is often a secondary cause or consequence of conflict, especially when combined with "weak state" phenomena and/or ideological and ethnic differences, Western peacemakers might find themselves contending with the challenge of terrorism in the field of operation (or "insurgency," as British military doctrine prefers to name it) even if they were wholly innocent of terrorism at home.

This is a longer way of saying that the new preoccupation with counterterrorism is not the first or the only modern historical trend to open up the question of *what armed forces are for* in the present environment, or of how they should relate to other agencies and forces of order and protection, both when operating at home and abroad. And this in turn should warn us against drawing hasty or facile conclusions about what changes are necessary, feasible, and tolerable in light of the latest threat reassessment. A first-order question is to what extent military power is a good response at all to terrorist threats, and—as noted above—experience in Afghanistan and Iran (not to mention ongoing Israeli/Palestinian problems or the Russian performance in Chechnya) have already introduced plenty of caveats into that debate. Very interesting second-order issues explored in this volume include:

- To what extent can the soldier reasonably and rationally be expected to take on a "constable" or "guardian" role, both at home and abroad? If he/she does play a part in internal order and in support of law and justice operations, i.e. against terrorists, what changes does this demand in overall military organization, equipment, training, and individual capacity and initiative? What balance of firmness, confidence, and "hearts and minds"–winning activities is required for successful counterinsurgency actions?
- Conversely, how far can police and gendarmerie-style and border protection capabilities be mobilized and exported to support or even replace military interventions, including those linked with terrorism? What extra complications arise when agencies normally used to support domestic law and national boundaries are placed in a foreign environment?
- Does the optimal solution lie not in the mixing and blurring of roles but in the better combination of military and non-military capabilities for a given operation? What types of mutual understanding, respect, and coordination are needed to allow the effective deployment of these different kinds of expertise while retaining unity of command?

To return to the argument made above: even if good answers could be found to all these questions, it would still be necessary to stand back and ask to what extent the next stage of military reform (national and

institutional) should be geared to *precisely these terrorist-related desiderata*, and how far they need to be traded off against other remaining tasks and roles of armed forces, including (even if only residually) those of territorial self-defence.

The contributions in this volume that focus on the challenges for police, border control, and intelligence services offer some interesting analytical parallels. These professions too are being driven to focus simultaneously on new dangers within the home territory and with the identification and combating of threat factors at very long range. They are called upon increasingly to operate within a framework of globally- or institutionally-set regulations and with a wide range of international partners, some less familiar and congenial than others. The culture shock involved for them will often be greater than for the military, given that the latter (at least in the Western world) has been operating for decades in an environment of cooperative defence and multilateral control, while allied nations' police and intelligence experts have worked apart and even competitively. Intelligence, much more persistently than military work, has continued to be viewed as a zero-sum game and intelligence exchange as a place for "*juste retour*." Leaving aside such intangible obstacles, however, the specific problems for policing, frontier security, and intelligence seem very similar to those for the military. Flexibility, multitasking, and adaptation to new threats (and their new characteristics) are of the essence; high technology must be paired with improved individual insight and initiative; and greater risks must be faced when using infiltration techniques (if they are possible at all), such as when special forces have to operate deep in enemy territory. Intersector partnerships must become closer, but there are "bad" and "good" routes to coordination, and one of the "bad" tracks would be to shift police responsibilities too far and too openly toward intelligence work. A broader issue, which applies across the range of these activities and also across military ones, is how feasible and how wise it is for the opponents of terrorism to learn from and copy terrorism's (especially TNT's) characteristic forms of organization. It is tempting to draw parallels between Al Qaeda–type networking and U.S. forces' "network-centric warfare"; but while a near-empathetic understanding of terrorist methods is clearly vital, the urge to imitation needs several rounds of second thoughts. The style of the defender can rarely be that of the attacker, and this is particularly so when the defender wishes to remain consistent, democratically answerable, and within the international law, while the attacker draws his strength from being everything that is the opposite.

In the present environment, multinational institutions are an important category of "actors," and some of the contributions in this volume discuss their roles. Naturally, they look most closely at the institutions central to European security—NATO and the European Union—

though it would have been worth acknowledging also the relevance of the OSCE and Council of Europe (notably in the "values"-balancing context). The EU is correctly portrayed as an organ more truly central to the fight against terrorism than NATO ever could be, (1) because of its general power to pass legislation directly applicable within its members' jurisdiction and thus to address (*inter alias*) the non state transactions so crucial for terrorist dynamics; (2) because of its specific "Justice and Home Affairs" policies, which were rapidly developed and extended to deal with terrorism in two main bursts of activity (early 2002 and Spring 2004 after the Madrid bombings); and (3) because it can bring such a wide range of tools—financial, economic, humanitarian, functional, political, and diplomatic, as well as military—to bear upon a given terrorism-related challenge abroad. NATO, nevertheless, remains an important framework for addressing the aspects of the challenge more directly geared to military structures and operations—not just among member states but also with its major outside partners like Russia and Ukraine; and its longstanding civil defence and emergency planning expertise should perhaps be drawn upon even more energetically than hitherto to illuminate the "homeland defence" aspect of the problem. Larger questions that this book cannot answer are whether the EU's wider and NATO's relatively narrower competences in this currently agenda-topping field reflect a more general shifting of leadership in the European security domain from one institution to the other; how far the main axis of United States/Europe coordination and debate is therefore shifting from the North Atlantic Council to the U.S./EU relationship (expressed through direct dialogue but also in other settings like the UN and G8); and whether the EU is structurally and politically mature enough to grasp and properly carry this growing burden.

## Final Remarks and Other Questions

There is always a trade off between coherence and comprehensiveness, and some interesting aspects of the effects of terrorism and counterterrorism since 2001 are necessarily lacking from this volume. One is the thorny question of how seriously to take, and how to deal with, the linkage between terrorism and the wrongful acquisition or use of WMD. Links between terrorism and organized crime are less open to dispute and interpretation but nonetheless have been relatively little explored in the recent literature. Another large topic is the role of the private sector as a target for terrorism, as the milk cow for practical countermeasures like transport security, as terrorism's potential facilitator (through money laundering, trafficking, etc.), and as government's po-

tential partner in both preventive and corrective antiterrorist measures.[20]

Generally speaking (though not exclusively), this volume's authors deal with the terrorism challenge as seen from a Western or Northern viewpoint. They do not explore at any length the possibly diverging implications of local, conflict-linked, "intra-South" terrorist attacks or the even sharper conundrums they pose for democratic development. They cannot do more than hint at second-order effects of the West's short-term burst of antiterrorist energy, such as the diversion of attention and resources from other security challenges at home and abroad or the sudden hike in U.S. military expenditures for terrorist-related wars and homeland defence, with all its implications for fiscal and trade balances and for financial stability in general. They illuminate generic aspects of the terrorism/conflict linkage but do not go into the way that the counterterrorism agenda may have influenced the actual pattern of armed conflict and conflict resolution in the years since 9/11.[21]

As noted in the opening section above, international opinion on the 9/11 attacks and the way with which they were dealt is already going through a phase of revisionism that has readdressed and recoloured almost every point in the picture. Just as the failure to find WMD in Iraq does not mean that WMD proliferation has ceased to pose an acute threat in other countries and other contexts, it would be a tragedy if the (often fully justified) second thoughts now dominating the debate on terrorism should dampen and divide the energies still needed to combat this very real menace. For the sake not just of the transatlantic community but all parts of the world, it is essential that the current phase of reflection—as mirrored also by the contents of this book—should be used as an opportunity to "*reculer pour mieux sauter*."[22] The next phases of antiterrorist and counterterrorist policy in the developed West and the entire world have nothing to lose and everything to gain from looking difficulties and contradictions in the face, from admitting mistakes, and from placing terrorism (especially TNT) in a more finely balanced proportion to other older, new, and even newer threats to humanity.

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[20] The private-sector implications of the "new threats" agenda, but also of other current security preoccupations, are explored in the *Business and Security* volume mentioned in note 7 above.

[21] A discussion of this question based on the evidence so far available is included in the analytical chapters on Armed Conflicts of both *SIPRI Yearbook 2003* and *SIPRI Yearbook 2004* (notes 1 and 5 above).

[22] "Draw back to better jump forward."

# Historical Origins of the British Army's Counterinsurgency and Counterterrorist Techniques

ROD THORNTON

The British Army is a counterinsurgency army. Almost since its very formation and for the greater part of its history, this army's principal mission was to acquire and then to police imperial possessions. It developed as a "small war" army, and, it may be argued, has remained a small war army even to this day. The "big wars" of World War I and World War II fitted awkwardly into the army's history, being considered by most officers to be "aberrations" that interfered with the normal activities of keeping recalcitrant natives in some sort of order.[23] Even at the height of the Cold War, with the policing of the empire a fading memory and with the army's main task to counter the Soviets on the North German Plain, the stress philosophically was still on engagements well down the conflict spectrum. This army was, as one general put it, "schizophrenic"[24]: wanting to be engaged on the world stage in small wars but forced to maintain a watching brief on the European mainland.[25] Maj. Gen. John Strawson, for instance, as Chief of Staff, UK Land Forces in the mid-1970s, noted the boredom that the army felt in its static Cold War role and asked the question, "What is the Army for?" His answer was that it was there to "fulfil its country's policies and its country's interests, *and not to sit idle in barracks unused*."[26] Even into the mid-1980s, the Chief of the General Staff (CGS), Gen. Sir Nigel Bagnall, when asked, "what do you believe is the prime contribution of the Army to national defence?" answered: "It is the sort of sup-

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23 David Charters, "From Palestine to Northern Ireland: British Adaptation to Low Intensity Operations," in *Armies in Low-Intensity Conflict: A Comparative Analysis*, edited by David Charters and Maurice Tugwell (London: Brasseys, 1989), 176.

24 Interview with Lt. Gen. Rupert Smith, NATO HQ, Mons (Nov 2001).

25 This was an army that at the height of the Cold War in 1964 could have more troops in Singapore than in the United Kingdom or in Germany. See Colin McInnes, *Hot War, Cold War: The British Army's Way in Warfare, 1945-95* (London: Brasseys, 1996), 15.

26 John Strawson, *Gentlemen in Khaki: The British Army, 1890-1990* (London: Secker and Warburg, 1989), 256. Emphasis added.

port the Army *always gives in an emergency*." While going on to say that the Army had a "responsibility" in its role in Germany, he clearly put the stress on the Army's ability to intervene quickly abroad.[27] Thus despite the greater post–World War II emphasis on the conduct of high-intensity operations, the fact was that, as one analyst put it in the mid-1990s, "The last twenty years of a NATO focus has not significantly altered [the Army's] colonial focus and its structural legacy."[28] The small war—COIN—tradition in the British Army died hard.

Obligingly, given that the British Army clearly had an overall preference to conduct low-intensity conflict, circumstances conspired during much of the Cold War to ensure that such preferences were largely catered to. With the end of empire and with the government's decision to withdraw from east of Suez in 1966, the insurgency in Aden should have signified the army's last hurrah in small war and COIN terms. But just as troops settled down to a future of garrison duty in Germany and just when they thought it was safe to forget their COIN techniques, the "Troubles" in Northern Ireland began in 1969. Thus, as one analyst described it, "the entire British Army returned ultimately to its traditional role, but at home instead of abroad."[29]

Since this is an army so evidently comfortable with low-intensity engagements (including COIN and CT warfare), the techniques it employed and continues to employ should be well worthy of study. To fully understand these British Army COIN techniques, an appreciation needs to be created of several factors that inform them. These, by and large, are deeply rooted in history. As Ian Beckett puts it, where any army's COIN techniques are involved, "there [is] invariably a particular national tradition of how to go about counterinsurgency stemming from the nineteenth century, if not before." Thus, he goes on, "armed forces tend to operate within almost a preordained tradition with respect to counterinsurgency."[30] It is how these "preordained traditions" come about that is the subject of the rest of this chapter. It considers two particular factors—the use of minimum force and civil-military relations—since they lie full square at the heart of the present COIN and CT tactics adopted by the British Army.

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27 "The Army Remains the Most Flexible Tool." Interview with Gen. Sir Nigel Bagnall, *Military Technology* 6, no. 86 (June 1986): 46. Emphasis added.

28 Chris Demchak, "Colonies or Computers: Modernization Challenges in the Future British Army," *Defence Analysis* 10, no. 1 (1994): 10. See also Hew Strachan, *The Politics of the British Army* (Oxford: Oxford University Press, 1997), 223.

29 Charters, "From Palestine to Northern Ireland," 187.

30 Ian Beckett, *Modern Insurgencies and Counter-Insurgencies* (London: Routledge, 2001), 25.

## The Principle of Minimum Force

The principle of minimum force informs virtually all of the actions carried out by the British in COIN operations. It is a principle that goes back a long way. It is not, as some suggest, a product of having to deal with an insurgency on Britain's doorstep in Northern Ireland and in the full glare of the world's media. The principle is far more deeply rooted and therefore quintessentially a guiding philosophy for British COIN techniques.

There are two specific reasons why the concept of minimum force came about. The first relates to a characteristic of British political culture and the second to pragmatism. In terms of the former, it needs to be understood that Britain, in the early nineteenth century, came to be influenced by what were later to be called Victorian values. The formation of such values was very important in the shaping of the British cultural norms of today and, ultimately, of the organizational culture of the contemporary British Army. In the early nineteenth century, the country underwent something of a cultural makeover. An increasingly affluent middle class came to be influenced by a religious sentiment that manifested itself in a distinct turn toward liberal values and philanthropic action. Among other things, a desire was generated among government ministers and other opinion-formers of the time to right certain wrongs committed in the name of Britain's imperial expansion up to that point. The early years of the amassing of Britain's colonial possessions and the accompanying search for profit were witness to no little unsavoury behaviour. It was now perceived to be time to right some wrongs.[31] Judith Jennings sums up the flavour of the period in her work on the abolition of the slave trade by Britain (in 1807): "Humanitarianism," she notes, "[became] a new principle of action on the British political scene."[32] The expansion of the empire, which still continued apace throughout the nineteenth century, was now only to do so in ways that reflected Britain's new values and "in ways that were compatible with high ideals of honour and duty."[33]

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[31] See Linda Colley, *Britons; Forging the Nation, 1707–1837* (London: Vintage, 1996); Corelli Barnett, *The Collapse of British Power* (New York: William Morrow, 1972); Philip Norton, *The British Polity* (London: Longman, 1991); Henry Steele Commager, ed., *Britain Through American Eyes* (London: The Bodley Head, 1974); Ian Buruma, *Anglomania: A European Love Affair* (New York: Vintage, 2000); Jeremy Paxman, *The English: A Portrait of a People* (London: Penguin, 1999); and Roger Scruton, *England: An Elegy* (London: Chatto and Windus, 2000).

[32] Judith Jennings, *The Business of Abolishing the British Slave Trade, 1783–1807* (London: Frank Cass, 1997), 106.

[33] P. Cain and A. Hopkins, *British Imperialism: Innovation and Expansion, 1688–1914* (Harlow: Pearson, 1993), 46.

These "high ideals of honour and duty" melded with the Romanticism that dominated the literature of the early nineteenth century.[34] The Romantic espousal of "chivalry" meant that it became the new watchword for gentlemen and especially for gentleman army officers, whose mission was to go out into the empire and spread not only British influence but also British values. The Victorian officer came to be seen by many as the epitome of "Britishness" and as a paragon of virtue who, in his dealings with whatever natives he came across abroad, had to treat them with respect and, in any conflict, use the *minimum force necessary* to restore them to order. Slaughter was not to be the "British Way."

Such chivalric principles became socialized through the efforts of the Victorian public (i.e., private, fee-paying) school system. These schools, the main source of army officers, sought to turn out men of "character" infused with the British "way," rather than men of intellect. The principles of such a "way" spread further and influenced a far wider audience with their later dissemination through books, comics, and, ultimately, cinema and television. The whole nation was inculcated into an appreciation of the norms that were distinctly British. The word was that when British officers and soldiers operated abroad against insurgents or those who opposed British rule, they had to do so in ways that reflected what the British people themselves believed to be *their* values.[35] Thus the British people chastised the military for its behaviour, for instance, after the Indian Mutiny in 1857 and at Amritsar in 1919. The Mutiny brought out, as Charles Townshend puts it, "the tiger in our race"[36] and was suppressed with what David Jablonsky calls, an "uncharacteristic brutality."[37] The British—including the Army—came to be shocked at their own behaviour. Henceforward, operations in Britain's late-Victorian small wars involved no small appreciation for the concept of restraint.[38] It may well be that henceforward, as Byron Farwell somewhat colourfully observes, "A sense of fair play marked the British method of waging war, and they seldom resorted to dirty tricks."[39]

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34 See Mark Girouard, *Return to Camelot* (New Haven: Yale University Press, 1981); and Norman Davies, *The Isles* (London: Macmillan, 1999).

35 See John Mackenzie, ed., *Imperialism and Popular Culture* (Manchester: Manchester University Press, 1986); and John Mackenzie, ed., *Popular Imperialism and the Military, 1850–1950* (Manchester: Manchester University Press, 1992).

36 Charles Townshend, *Britain's Civil Wars: Counterinsurgency in the Twentieth Century* (Boston: Faber and Faber, 1986), 136.

37 David Jablonsky, "Churchill's Initial Experience with the British Conduct of Small Wars: India and the Sudan, 1897–1898," *Small Wars and Insurgencies* 11, no. 1 (Spring 2000): 5.

38 *Ibid.* For a less sanitized viewpoint see Ian Hernon, *The Savage Empire: Forgotten Wars of the Nineteenth Century* (Stroud: Sutton, 2000).

39 Byron Farwell, *For Queen and Country: A Social History of the Victorian and Edwardian Army* (London: Allen Lane, 1981), 121.

In all of the army's history of imperial policing it was perhaps Amritsar that signified its lowest point: "Few events in modern military history have made such a lasting impression on soldiers as the massacre at Amritsar."[40] Here, Gen. Reginald Dyer, the only British officer present, ordered his native troops to open fire on a crowd of Sikh protesters, killing between 200 and 379.[41] The Hunter Committee Report that investigated the affair castigated Dyer for his use of excessive force.[42] The clear message was that if force was to be used in maintaining control in the empire, it should only be the minimum necessary. For Dyer had not only offended a moral code, he was also seen to have transgressed English Common Law.[43] Troops on duty at Amritsar and elsewhere in the empire in situations of civil disorder had to operate according to the principles of such law. Under its statutes, the degree of force used in any policing situation—in Britain itself or abroad—must be no more and no less than that necessary to restore the peace.[44] As Thomas Mockaitis points out, quoting from a 1923 Army manual, *Duties in Aid of the Civil Power:*

> British soldiers have constantly been reminded that their task was "not the annihilation of an enemy but the suppression of a temporary disorder, and therefore the degree of force to be employed must be directed to that which is necessary to restore order and must never exceed it." The same restraint had to be used whether the army was dealing with strikes in Britain or riots in the colonies.[45]

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40 Thomas Mockaitis, *British Counter-Insurgency, 1919–1960* (London: Macmillan, 1990), 23.

41 25 men of the 1/9th Gurkhas and 25 of the 54th Sikhs. *The Amritsar Massacre: General Dyer and the Punjab 1919* (London: HMSO, 2000), 63.

42 *Report of the Committee Appointed by the Government of India to Investigate the Disturbances in the Punjab,* Vol 6, *Reports form Commissioners and Inspectors*, (Indian Office Records, Cmd.681, 1920), 1035. Quoted in Mockaitis, *British Counter Insurgency,* 23.

43 The Army used the same approach to controlling civil disturbances (and the same manuals) whether they were abroad or in the United Kingdom. *Duties in Aid of the Civil Power (1937)* contained the same restrictions as *Notes on Imperial Policing (1934*). See Anthony Clayton, *The British Empire as a Superpower, 1919–1939* (London: Macmillan, 1986), 386.

44 English Common Law was law that was not the result of some preordained legal framework such as a written constitution. It was a Law to be defined by ancient wisdom and precedent, accreted case by case, and to be the product of experience rather than pure logic. Empiricism prevailed: as new situations arose, new methods of dealing with them would be introduced instinctively on a "trial and error" basis. Thus British law itself was an objective reality; it did not depend on the will of sovereign or parliaments. It was, in essence, the will of the people.

45 Mockaitis quoting *Duties in Aid of the Civil Power* (London: HMSO, 1923), 3. See Mockaitis, *British Counter-Insurgency,* 18.

The problem here—and this is why Dyer took the blame completely for Amritsar—was that the decision over what level of force to use, in line with normal British practice and Common Law, was left totally to the individual judgement of the commander on the spot[46]—be he general or "lone sentry."[47] Indeed, British troops on imperial duty were *purposefully* left with little executive guidance as to how to deal with whatever disturbances they faced. The inquiries and noble committees that had investigated what excesses there had been throughout the empire's history had failed to produce any binding recommendations and hard-and-fast rules. In fact, they stressed, as Townshend put it, "Rather that the very imprecision of the rules…was part of the British way."[48] Thus, as Lawrence James expresses it, "the 'British way' of dealing with the question of civil emergency was to shroud it in obscurity. If troops were called out to preserve or restore order, their officers went into action guided only by a forcible but indistinct sense of *social constraint*."[49] Crucially then, British soldiers came to develop a culture of independent decision making when it came to controlling situations in imperial hotspots. They were thus both encouraged to use their initiative and *actually required to do so*. Of course, the fact that *in situ* individual judgement was demanded on the use of force and that the correct balance had to be achieved led many soldiers to bemoan the "delicacy of the calculations" that they were left with.[50] As one officer dealing with rioters in Johannesburg in 1913 lamented, "It's such a poor game—broken bottles if you don't shoot and execrations if you do—heads they win, tails you lose." His words, as James notes, "were later echoed by many others in similar situations."[51]

These mores of social constraint of a bygone era are still maintained both within the British Army and among the British people.[52] The norms produced during the first half of the nineteenth century still have an effect: they have been shown, in the parlance favoured by the litera-

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46 Townshend, *Britain's Civil Wars*, 19.

47 Michael Dewar, *Brush Fire Wars: Minor Campaigns of the British Army Since 1945* (New York: St. Martin's Press, 1984), 130.

48 Townshend, *Britain's Civil Wars*, 43.

49 Lawrence James, *Imperial Rearguard: Wars of Empire 1919-1985* (London: Brassey's, 1988), 43. Emphasis added.

50 Townshend, *Britain's Civil Wars*, 19.

51 James, *Imperial Rearguard*, 58.

52 See Corelli Barnett, "The Education of Military Elites," in *Governing Elites: Studies in Training and Selection*, edited by Rupert Wilkinson (New York: Oxford University Press, 1964); Henry Stanhope, *The Soldiers: An Anatomy of the British Army* (London: Hamish Hamilton, 1979), 66; and Cathy Downes, *Special Trust and Confidence: The Making of an Officer* (London: Frank Cass, 1991), 109 and chapter 3. See also Anthony Beevor, *Inside the British Army* (London: Corgi, 1991).

ture on socialization, to be "sticky."[53] The principle of minimum force is one that the British operate with and are constrained by because it is socialized to such a large degree. It is enshrined both in English Common Law and within the psyche of individual soldiers. It was seen, for instance, to be almost unnecessary to issue British troops in Northern Ireland with Rules of Engagement since "the principle of minimum force appears to have been so widely accepted that [ROEs were] operationally redundant … [showing] the extent to which the minimum force concept had become part of the Army's way in warfare."[54] When British troops went too far in Northern Ireland—as with the shootings of thirteen men on Bloody Sunday in 1972—the hue and cry can resonate through history. We are presently seeing another inquiry into the incident. This has lasted two years already and will eventually cost over 350 million dollars.

The second reason why the British decreed that the concept of minimum force should inform all COIN operations relates to pragmatism. In the latter half of the nineteenth century, as the empire reached its acquisitive peak, it became obvious that the imposition of imperial authority was never going to be purely a matter of military muscle. The small professional army (roughly 150,000–200,000 men) maintained by Britain for much of its history (which Bismarck once said he would send a German policeman to arrest!)[55] could never hope to control the almost one-third of humanity that was its charge without at least some measure of consent.[56] "The British," as Mockaitis points out, "like all successful imperialists, had long realised that the key to maintaining an empire lay in making the yoke of foreign rule as light as possible."[57] At-

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53 Kimberley Marten Zisk, *Engaging the Enemy: Organization Theory and Soviet Military Innovation, 1955–1991* (Princeton: Princeton University Press, 1993). See also John Meyer and Brian Rowan, "Institutionalised Organisations: Formal Structure as Myth and Ceremony," *American Journal of Sociology* 83 (1977): 340–360. See also Peter Berger and Thomas Luckman, *The Social Construction of Reality* (New York: Irvington, 1966); Harry Eckstein, "A Culturalist Theory of Political Change," *American Political Science Review* 82, no. 3 (Sept. 1988): 789–804; and Jack Snyder, "The Concept of Strategic Culture: Caveat Emptor," in *Strategic Power: USA/USSR*, edited by Carl Jacobsen (London: St. Martin's Press, 1990), 6.

54 Charters, "From Palestine to Northern Ireland," 175.

55 Strawson, *Gentlemen in Khaki*, xi.

56 James, *Imperial Rearguard*, 9.

57 Mockaitis, *British Counter-Insurgency,* 64.

tempting to rule through the use of violence, as Winston Churchill put it (as Colonial Secretary in 1920), "would be fatal."[58]

Downplaying the role of force, of course, did not mean that force should not be displayed. Order had to be maintained and certain groups, tribes, and nations had to be cowed, and others, who had put themselves under the protection of the British, had to have faith that the British were possessed of the ability and mindset to use force to protect them from their enemies. Ruling had to involve a balance that set the lightness of the yoke against the need to garner the prestige and respect that came from occasional punitive action that was both firm and timely.[59] As Maj. Gen. Sir Charles Gwynn put it, in his seminal pamphlet of the 1930s, *Imperial Policing*, "Excessive severity may antagonise the neutral or loyal element, add to the number of rebels, and leave a lasting feeling of resentment and bitterness. On the other hand, the power and resolution of the government forces must be displayed."[60] But power and resolution had to be displayed within an overall political context that defined what the laws were. Those "elements" who transgressed the law needed to be punished, and those who kept within the laws were to be rewarded: "carrot and stick." But it was vital that, in punishing, only the transgressors were targeted. Consent could be lost if violence was used too broadly. Consent, too, was vital if intelligence was to be gained. Intelligence, for a small army, was very much seen as a force multiplier, and it could only come if the British presented themselves as benign rulers who operated within legal constraints. Such an image went a long way in achieving the COIN goal of separating insurgents from their support.

For the army, the balance was achieved by having an offensive posture—in most cases by having a "presence" and showing that force was there to be used if necessary—but using that force only as a last resort.[61] The presence also showed the human side of the soldiers, and was vital in gaining intelligence on the ground. The army's preferred method of providing presence was to dominate ground and situations through foot patrolling and, if necessary, in riot situations, by shooting only the obvious ringleaders, *pour encourager les autres*. Escalation dominance was

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58 David Omissi, *Air Power and Colonial Control: The Royal Air Force 1919–1939* (Manchester: Manchester University Press, 1990), 151. Two other authors pick up this aspect: Mockaitis points out that "Whatever minimum force cost the British in initiative it gave them back in moral advantage," in Mockaitis, *British Counter-Insurgency*, 27; Chuter saw that "British rule would be achieved by moral, rather than physical, ascendancy." See David Chuter, "Britain," in *The European Union and National Defence Policy*, edited by Jolyon Howorth and Anand Menon (London: Routledge, 1997), 109.

59 James, *Imperial Rearguard*, 34, 74.

60 Charles Gwynn, *Imperial Policing* (London: War Office, 1934), 5.

61 Clayton, *The British Empire as a Superpower*, 11.

the key, but escalation by only one step at a time and by using surgical, targeted violence. Often such an approach could only work with time. Thus patience—the ability to outlast the insurgent or troublemakers—was critical.

The overall approach to counterinsurgency was perhaps characterised most completely in the 1950s as the British took on communist insurgents in Malaya. The principle architect of this approach was Gen. Sir Gerald Templar. At the heart of Templar's philosophy was his belief that "the answer lies not in…more troops…but rests in the hearts and minds of the Malayan people."[62] This was the first use of the phrase that was to become something of a mantra for future generations of British soldiers in low-intensity operations: "hearts and minds." The prime role of the soldier in such operations was here seen not so much to be killing insurgents, but rather in denying those insurgents the oxygen of popular support. As Templar added, "the shooting side of the business is only 25 percent of the trouble and the other 75 percent lies in getting the people of this country behind us."[63] The army went aggressively after communist guerrillas but did so in ways that kept overall consent among the indigenous population, because soldiers were seen to be acting *within the law*. In Malaya the death of *each* guerrilla had to be justified retrospectively by a magistrate, and the keeping of a score of the number of insurgents killed ("body counts") was considered "too barbarous a practice."[64] The British tried to pass on their Malaya experience to the United States in Vietnam. There were, however, many cultural factors which militated against the passing over of ideas.[65] Indeed, the ignoring by the United States of such experience was not merely passive oversight; there was a large degree of active avoidance. This may be put down perhaps to the American disavowal of the worth of the "other." As Yacov Vertzberger puts it with respect to Vietnam, there was a "self-righteousness and ethnocentrism" that was "manifested in the belief that the American way is the only way and cannot fail." This led to an avoidance, he says, of the lessons of others and "a complete ignorance" of the low-intensity conflict experience of states from ancient Rome to contemporary Britain.[66] There was, though, also a more fundamental reasoning at work at the time of Viet-

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62 Charters, "From Palestine to Northern Ireland," 195.

63 John Cloake, *Templar, Tiger of Malaya: The Life of Field Marshal Sir Gerald Templar* (London: Harrap, 1985), 264.

64 Trevor Royle, *The Best Years of Their Lives: The National Service Experience 1945–63* (London: Michael Joseph, 1986), 174.

65 Robert Komer, *Bureaucracy at War: U.S. Performance in the Vietnam Conflict* (Westview: Boulder, 1986), 41.

66 Yaacov Vertzberger, *The World in Their Minds* (Stanford, Calif.: Stanford University Press, 1990), 260.

nam and, it may be argued, both before and after. The U.S. Army was a "big war" army and gained its kudos from that fact.[67] It was there to protect the American people from major foreign foes and to do it quickly and without equivocation, using whatever level of force was necessary. The slow, restrained, and patient grind against flexible, adroit, small-scale opponents that epitomised traditional COIN techniques did not sit well with this army. Specifically in the early 1960s, there was an actual fear within the U.S. Army hierarchy of a "de-emphasis of military means or offensive operations against the VC" being the first steps on a rocky road toward being an army that could not fight the nation's wars and which could not gain the nation's respect.[68] In essence, this was an army that did not want to become a police force. Gen Lyman Lemnitzer (the Chairman of the Joint Chiefs of Staff) was one who was certainly concerned and took action (back in 1961) to stop any imitation of British methods by U.S. troops in Southeast Asia.[69]

Come the 1970s and Northern Ireland, it was clear that the British Army had taken aboard the salutary lessons provided by the employment of too great a degree of force. However, even given the army's minimum force philosophy, the regiments that came to the Province[70] had to adjust to a situation—in the United Kingdom itself—that was "very different."[71] A degree of nuance was required that had not been heretofore necessary. The army initially had gone in as peacekeeper essentially to defend the Catholic population from Protestant pogroms and to keep the two sides apart. However, while initially being greeted as "saviours" by the Catholic population, mistakes made by the army ensured that this Catholic support changed fairly quickly into outright hostility.[72] The army, in the early 1970s, in its search for weapons had erred in searching Catholic homes but not Protestant ones; had interned

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67 See Russell Weighley, *The American Way of War: A History of U.S. Strategy and Policy* (Chicago: Indiana University Press, 1973).

68 Komer, *Bureaucracy at War*, 105.

69 *Ibid.*, 46.

70 Fifteen infantry regiments saw active service in Borneo (1962–1966—not counting eight Gurkha), at least twelve were committed to the situation in Aden (1964–1967), and five had experience of riot control in Guyana (1962–1964) and one in Hong Kong (1967).

71 Peter Taylor, *Brits: The War Against the IRA* (London: Bloomsbury, 2001), 32. The habit, for instance, of shooting the ringleader could not be continued in Ulster. Even before deployments to the Province, this tactic was being called into disrepute since a single 7.62 round fired in a riot in Guyana in 1964 had killed three people and injured another. See Dewar, *Brush Fire Wars*, 62; and Charles Messenger, *For Love of Regiment: A History of British Infantry* (London: Leo Cooper, 1996), 185.

72 See James, *Imperial Rearguard*, 217; and 32.

without trial hundreds of Catholics, but not one Protestant;[73] and shot dead thirteen Catholics in Londonderry on Bloody Sunday.[74] Catholic ire was manifest in an upsurge in the activities of the Irish Republican Army (IRA), and the army was drawn into a long and debilitating anti-terrorist campaign.[75] When the army acted outside the law—or was party to laws which appeared illegitimate (internment)[76]—then consent was lost and the mission made immeasurably harder.

Again, foot patrolling was the key to domination of the ground. By interfacing with the local population and in appearing to be responsible and friendly, attempts were made to gain the confidence of the local population and to gather intelligence.[77] This was especially important in the early years of the Troubles, when the Army had taken over from the police force in several areas. Here again, a balance lay: patrolling had to express situation dominance yet it could not be domineering. It was important in this regard that the soldier be seen as merely someone else on the street. That meant also that they had to try and look the same; they could not come across as being overly protected. If they were, it would give the impression that there was something to be feared and that the situation was not under control; that everything was not "normal." For instance, berets were worn, wherever possible, rather than helmets. Vehicles—which created a distance between soldier and civilian—were only to be used as quick reaction assistance or in rural areas. And the type of vehicle used was important. In the era of the tracked armoured personnel carrier (APC)—noisy, aggressive, and unsuitable for COIN—old, wheeled APCs had to be taken out of mothballs and pushed back into service.[78]

Linked to this need to maintain the minimum force ideal was the British Army's historical avoidance of technical means to solve COIN problems. In maintaining the principle that the insurgent or terrorist had to be separated from the general populace, then only the most selective of

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73 Mockaitis, *British Counter-Insurgency*, 100. Many officers did not agree with the policy of internment. Some were "furious." Desmond Hamill, *Pig in the Middle: The British Army in Northern Ireland, 1969–1984* (London: Methuen, 1985), 63.

74 "Bloody Sunday," Londonderry, February 1972. Troops of the 1st Battalion, The Parachute Regiment, opened fire on civil rights marchers/rioters/gunmen/nail-bomb throwers in the Rossville Flats area of the city.

75 Dewar, *Brush Fire Wars*, 140. The Army actually first came under fire from Protestant gunmen.

76 Internment was introduced in 1971 as a means of arresting and detaining without trial suspected terrorists. It was withdrawn two years later.

77 Lt. Col. Michael Dewar, *The British Army in Northern Ireland* (London: Guild Publishing, 1985), 180. See also Hamill, *Pig in the Middle*, 142.

78 See Dewar, *The British Army in Northern Ireland*. See also Hamill, *Pig in the Middle*, 116.

weapons should be employed. As Gwynn put it in 1934, "in dealing with mobs, it is the weapons which are easy to control and have the quality of selectiveness which are most suitable. Great destructive power is seldom required."[79] The use of the machine gun was limited, as was the use of armoured vehicles. Overall, in imperial policing duties, the accepted wisdom was that, "the control of mobs and rioters is logically an infantry responsibility, for it demands men, on their feet, with a rifle and bayonet, if the principle of the use of minimum essential force is to be observed."[80] The use of airpower was likewise abjured for the same reason. Bombing from the air as a COIN tactic was considered to be inhumane almost from the time that aircraft were first considered for the role (in Iraq in the 1920s). As the British representative in Kabukput (Kurdish Iraq) put it in 1923, with airpower "much needless cruelty is necessarily inflicted, which, in many cases will not cow the tribesmen, but implant in them undying hatred and desire for revenge."[81] Aerial bombardment could never be selective enough. Throughout the history of their COIN operations, as Mockaitis sums up, "the British were willing to forego the military advantages of the aeroplane in order to preserve the principle of minimum force."[82]

The concept of minimum force began as a product of British political culture in the nineteenth century. It has, to this day, manifested itself in many of the norms that the British operate by in their daily lives (the United Kingdom still, for instance, has a police force that is essentially unarmed). British Army soldiers apply the principles of minimum force both because they are acculturated to do so but also because the British people expect them to do so. These principles have been seen to good effect in Afghanistan and Iraq. The emphasis has been on a low-key and patient approach. There has been the traditional emphasis on a foot-patrolling "presence" moving ahead of punitive actions. Soldiers have to be seen as nonthreatening and part of the furniture: berets instead of helmets, keeping protection to a minimum by avoiding the use of body armour, using soft-skinned vehicles and not "provocative and aggressive" tracked equipment,[83] removing "intimidating" dark glasses, and by getting as close as possible to the indigenous people in order to "solve problems and to cultivate local contacts."[84]

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79 Gwynn, *Imperial Policing* (London: War Office, 1934), 14.
80 Maj. Gen. David Belchem, *All in a Day's March*, (London: Collins, 1978), 37.
81 James, *Imperial Rearguard*, 50.
82 Mockaitis, *British Counter-Insurgency,* 35.
83 Maj. Gen. A. C. P. Stone, "Smaller and Still Better?", *RUSI Newsbrief* 24, no. 8 (Aug. 2004): 86.
84 David Chancellor, "Rebuilding Basra," *The Officer* 16, no. 1 (Jan./Feb. 2004): 8.

The forces of other nations operating in Afghanistan and Iraq have learned from and copied the British approach.[85] The forces of the United States, however, have been reluctant to adopt British techniques. For the British way of warfare is, of course, at some variance with that of its principal ally. There have certainly been some tensions between the two as to the best methods of conducting COIN and counterterrorist warfare in Afghanistan and particularly in Iraq. The United States' "shock and awe" philosophy, characterised by a seeming lack of "nuance and sensitivity"[86] and of "subtlety and lateral thinking,"[87] is one which is anathema to the British.[88] U.S. forces' reliance on force protection, their more menacing attitude, and their failure to get close to the civilian population is seen as "entirely the opposite of what is required to defeat insurgency."[89] Such differences are problematic, but not necessarily insurmountable. As Gen. Sir Mike Jackson, the British Chief of the General Staff, put it in a recent speech, "we need to be able to…fight with our allies, but not necessarily as our allies do."[90]

There is no escaping the British Army's entrenched—"preordained"—philosophy in terms of its use of minimum force. The concept was crucial, in that the British realised that the best way to maintain control in the empire was to get native populations on their side. Consent made places easier to rule and the use of violence would, as often as not, lose that consent. Fundamentally, minimum force emerged as a means of separating the insurgent from his support. Thus, a cultural trait came to be reinforced through its efficacy in practice. But as the army was constantly aware, such good military principles as minimum force would only work properly within an overall context of COIN operations supplied by civilian masters. Only they could provide the true "carrots" that would supplement the army's "stick."

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85 Andrew Sheves, "UK Force Capabilities: Lessons from Kabul," *RUSI Newsbrief* 22, no. 6 (June 2002): 64.

86 Mark Joyce, "Transforming Transformation: American Trends and Transatlantic Implications," *RUSI News Brief* 24, no. 7 (July 2004): 78.

87 Greg Mills, "Re-Learning the Lessons of Vietnam and Malaya: COIN 101 in Iraq," *RUSI Newsbrief* 24, no. 2 (Feb. 2004): 16.

88 Greg Mills, "At Last … Endgame in Sight in Iraq," *RUSI Newsbrief* 24, no. 8 (Aug. 2004): 89.

89 Mills, 'Re-Learning the Lessons," 16.

90 Gen. Sir Mike Jackson, "Future of Land Warfare," *RUSI Journal* 148, no. 4 (Aug. 2003): 55.

## Civil-Military Cooperation

A heritage was created during the imperial period that British Army officers working with civilian colonial officials could conduct their COIN operations in any particular region without too much interference from London. There tended to be little direction from London since there was a level of trust that both parties, civil and military, on the ground *in situ* would carry out operations in a manner that would not bring discredit on the government. The army worked reasonably amicably with civilian colonial administrators and let them take the lead in most cases, since they represented the legal authority. Officers understood that when dealing with insurgencies, civil direction was often very necessary. Behind many insurgencies lay legitimate grievances that could best be tackled by new measures brought in by civil authorities. Yes, the army could deal with the symptoms of insurgencies, but it was, as Gwynn noted, up to the civilians to deal with the causes.[91]

Much of the overall close civil-military cooperation can be seen to be the result of the fact that all were singing more or less from the same hymn sheet in that they—officers, government ministers, and colonial office civil servants—were usually of the same "class" and products of the English public (that is, "private") school system. This is important to note in terms of the fact that British Army officers are not, and have never been, "castes apart." Deborah Avant notes that "officers identified with their social class, rather than with the Army." They "belonged," and thus belonged to the same group as those who occupied civilian seats of power.[92] They perceived there to be few barriers between themselves and the civilians with whom they were dealing. And the experience of such a relationship "out on the ground" was to prove invaluable in the years ahead. As Anthony Clayton puts it, "it may be argued that the interface of political and military in imperial operations provided British officers with a much sharper political sense, a willingness to listen to other people, civilian officials, military subordinates and local residents and discuss problems with them before making decisions."[93]

The generally congenial civil-military relationship has been maintained more or less to this day.[94] The elites still tend to originate from

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91 From Gwynn, *Imperial Policing*. Gwynn's principles (published in 1934) were the nearest thing in terms of COIN doctrine that the British came up with prior to the 1960s. They were: (1) Policy remains vested in civil government; (2) Minimum use of force; (3) Firm and timely action; and (4) Cooperation between civil and military authorities.

92 Deborah Avant, *Political Institutions and Military Change: Lessons from Peripheral Wars* (Ithaca: Cornell University Press, 1994), 35.

93 Clayton, *The British Empire as a Superpower*, 517.

94 Anonymous book reviewer, *British Army Review* 117 (Dec. 1997): 105.

the same social class: "in the British civil-military interface… there exists an identical community held together by many formal and informal contacts and shared experiences."[95] Such processes were even seen to hold good in the fraught period of postwar imperial drawdown. Senior army leaders in this period, as they realised that defeating communist-inspired insurgencies needed something far more than naked military muscle, themselves looked for an increased level of political direction.[96] What was required was a larger package of measures—political, economic, social, *and* military.[97] Despite greater political intrusiveness, however, the new civil-military relationship that developed worked well on the whole and the army was left by the politicians to deal with operational and tactical matters as it saw fit, within an agreed framework.[98] In the Army's COIN operations in Malaya (where both military and political control was invested in an individual British officer),[99] Borneo,[100] Kenya, Cyprus, Aden, and in the Military Aid to the Civilian Authorities (MACA) operation in Northern Ireland, the Army was given power—but power within a civil context. Where political masters were particularly supportive was in their patience. They tended not to demand quick results. The Army had time, particularly in the postwar

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95 Martin Edmonds, *Armed Forces and Society* (Leicester: Leicester University Press, 1988), 67. See also William Hopkinson, *The Making of British Defence Policy* (London: The Stationery Office, 2000), 25. One Irish ex–prime minister opined that the British Army works well with the government since "it's…the old boy network…the interaction of the officer and gentlemen class. They all look after each other." Tim Pat Coogan, *The Troubles: Ireland's Ordeal 1966–1996 and the Search for Peace* (London: Arrow Books, 1996), 127.

96 Mockaitis, *British Counter-Insurgency*, chapter 3.

97 Caroline Kennedy-Pipe and Colin McInnes, "The British Army in Northern Ireland 1969–1972: From Policing to Counter-Terror," *The Journal of Strategic Studies* 20, no. 2 (June 1997): 4.

98 Charters, "From Palestine to Northern Ireland," 230.

99 Gen Sir Gerald Templar in Malaya. He and other officers (with less overall power) – Gen. Sir George Erskine in Kenya, Field Marshal Sir John Harding in Cyprus, and Gen. Walter Walker in Borneo – were single leaders who had the power to deal with all elements of the situations in their respective theatre of operations. They presided over "an orchestrated policymaking, police, and military effort in which each tactic and technique applied by the military was part of a larger, carefully considered plan." The chief positive here was the coherence of the plan of action in the hands of one man. Jennifer Taw and John Peters, "Operations Other Than War: Implications for the U.S. Army," *Small Wars and Insurgencies* 6, no. 3 (Winter 1995): 385.

100 The conflict against Indonesian-backed insurgents (1962–1966) operating into Malayan-held territory in Borneo was characterised by tremendous secrecy. The army operated inside Indonesian territory with virtual impunity and the world knew nothing. See Harold James and Denis Sheil-Smith, *The Undeclared War: The Story of the Indonesia Confrontation, 1962–1966* (London: Leo Cooper, 1971).

COIN and MACA operations, to work at the pace they judged to be right and to work on the principle that "victory or defeat in an insurgency is very largely a matter of endurance—of who gets tired first."[101]

This is not to say that all was sweetness and light in British civil-military terms. Occasionally, the army was let down by its political masters in terms of political direction. With the end of World War II and the dimming of the imperial idea, the army was left in some difficult situations as regards political endstates. In Palestine (1945–1947), the army was left bereft of political direction as it tried—and failed—to bring peace, despite having 100,000 men stationed there. Common sense prevailed, and the government handed over the problem to the United Nations in 1947. In Aden, the government left the army completely in the lurch. The 1966 decision by the Labour government to withdraw from east of Suez meant that troops were fighting an urban COIN operation that both increased in intensity and without the benefit of intelligence. Setting a date for withdrawal meant that a number of indigenous groups began to use violence to jockey for power post-independence. And showing how many "Brits" you could kill gave evidence of how powerful you were. The result was an increase in violence directed at British troops. Moreover, setting the date also meant that intelligence completely dried up: no one was prepared to risk helping the British who would be here today but gone tomorrow.[102] In Northern Ireland, the army had political direction of a sort in that they were told to create "an acceptable level of violence."[103] This was quite difficult to achieve, given that in the early 1970s, the army in many areas represented both military authority and the police. Acting as a police force was not something the army could carry out comfortably in the United Kingdom and in the full glare of the world's media. But the army did manage to improve the situation and were glad to restore "police primacy" in 1976. The Army from then on came under the lead of the Royal Ulster Constabulary. Soldiers not only patrolled alongside police personnel in "hard" areas, but also sometimes shared the same accommodations.[104] Troops became used to the "interagency" dimension,[105] and an originally strained relationship between Army and police was supplanted by

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101 Hamill, *Pig in the Middle*, 142.

102 See David Ledger, *Shifting Sands: The British in South Arabia* (London: Peninsular, 1983).

103 Home Secretary Reginald Maudling in 1971. Mockaitis, *British Counter-Insurgency*, 110.

104 Sebastian Roberts, "Fit to Fight: The Conceptual Component – An Approach to Military Doctrine for the Twenty-first Century", in *The British Army: Manpower and Society into the Twenty-first Century*, edited by Hew Strachan (London: Frank Cass, 2000), 197.

105 Ibid.

an on-the-ground rapport that developed over the years.[106] At higher levels, cooperation between Army intelligence and Special Branch officers likewise improved with time.[107]

Overall, given the long and fairly successful administration of the empire carried out by the military, political masters had confidence in senior officers and they in turn, of course, had confidence down to the level of regimental subordinates.[108] As Demchak puts it, "the tendency by higher headquarters to maintain distant involvement and extensive lower level autonomy is supported by the wider political community, making it as much a cultural norm as a historically necessary organizational response."[109] This is summed up in the British term "mission command" (*Auftragstaktik*) whereby those at the "pointy" end of operations at whatever level are given latitude to use their own discretion without waiting for orders from above. This concept has been applicable to everyone, from the lone sentry all the way up to those of the rank of general. Such discretion is essential in COIN operations if timely actions are to be taken that nip problems in the bud. Such attitudes are still prevalent today. Soldiers at the lower end of the rank spectrum are still encouraged, for instance, by the general commanding British troops in Iraq to take the initiative and not wait for orders from officers.[110] Those at the top are also usually free of interference—this time from civilian masters. One general commanding recent operations in both East Timor and Sierra Leone was acting so much outside the control of politicians in London that one newspaper labelled his actions as "insubordination."[111] But he received no chastisement. In the recent war in Iraq, the British Army was given the task of taking the city of Basra. Despite particular public and media pressure to seize it as soon as possible, the

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106 Taylor, *Brits*, 225.

107 Charles Allen, *The Savage Wars of Peace: Soldiers' Voices, 1945–1989* (London: Michael Joseph, 1990), 251. Troops on the ground had the power of arrest themselves.

108 Capt. R. Smith, "A Study into the Requirement for the United Nations to Develop an Internationally Recognized Doctrine for the Use of Force in Intrastate Conflict," in *Study for the UN to Develop Doctrine for the Use of Force* (Camberley Staff College, 1993), 2. A common phrase used by senior commanders is that political masters "let us get on with it." Used recently by both generals Guthrie and de la Billière. See Gen. Sir Charles Guthrie, "Liddell Hart Lecture: The New British Way in Warfare," King's College, London, 12 Feb 2001; and Gen. Peter de la Billière, *Storm Command* (London: Harper Collins, 1992), 23.

109 Demchak, "Colonies or Computers," 11.

110 Maj. Gen. John McColl, "Adapting Command Hierarchies," *RUSI Journal* 149, no. 1 (Feb 2004).

111 Chris McGreal, "A Good Man in Africa," *The Guardian* (17 May 2000): G2, 4.

British commander was able to pause and be patient because he came under no political pressure to act swiftly.[112]

Generally, the British Army has a legacy of good civil-military relations, has been reasonably content with the civilian direction it has received, and is quite relaxed about working with civilians in theatre. This is still evident in places such as Afghanistan and Iraq today. The army realises that it is one tool in a package of measures that can be used to defeat an insurgency. The principal tool in this endeavour is not the army's capacity to use force, but the framework for peace supplied by civilian measures. However, it has always been important for officers that the politicians supply the legal framework for military action. Working within the law was, and always will be, a vital commodity for successful COIN operations. This is even more true today as the army, being sent on more and more overseas operations for a variety of reasons, looks to political masters to establish the legal parameters for their interventions—especially for missions that lack a UN mandate.

It would be impossible, though, in discussing civil-military relations, to ignore one particular facet. Civilians, in whatever country, have always looked to save money by reducing defence spending. In this respect, the British Army is no different. The problem, though, is that the British government is keen to send its troops into COIN and CT environments while denying them the capabilities to properly conduct such operations. Good COIN and CT operations require "presence"; they are manpower intensive. But the army of today is being asked to conduct its operations with fewer and fewer soldiers. Cost-saving cutbacks mean that the army is now the smallest it has ever been. The government has decreed that technology can replace personnel and that advances in Network Enabled Capabilities can act as surrogates for human input. When it comes to COIN operations, however, technology cannot replace simple "boots on the ground"; numbers make the difference. As the head of the army has recently pointed out, "British troops currently in Iraq are not hampered by the lack of the latest guided weapons but by the lack of sufficient soldiers to patrol effectively."[113]

The British, like other nations, have a "preordained tradition" of COIN and CT techniques. The army has to use and be seen to be using minimum force. It is both a norm and a pragmatic response to dealing with insurgents and terrorists. It was the vital ingredient in separating both of these from their support base. The army also needs a legal basis for its operations—a basis supplied by civilian masters (underscored by English Common Law) and not by the military themselves. This has then to be scrupulously kept to. But the British have also worked to the

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[112] McColl, "Adapting Command Hierarchies," 53.

[113] John Hill, "UK Reshapes Armed Forces for Expeditionary Warfare," *ISN Security Watch* (28 July 2004), http://www.isn.ethz.ch.

principle that hard and fast rules for dealing with low-level conflict can never truly be declared. It was "the British way" to take each separate conflict situation and deal with it as common sense would dictate. There has never been, in British thinking, a sense of "one strategy fits all" but merely a general framework, provided by culture and experience, around which policies are framed. Such preordained traditions and approaches are the product of cultural factors and of historical experience. They did not come about quickly or easily and will not be discarded quickly or easily, no matter what types of COIN or CT campaigns are conducted in the future. As Gen. Jackson put it, "There is a British way of warfare. Its roots are deep in our history…and we will set about our military business in a peculiarly British way."[114] The British Army is constrained in its actions by its own organizational culture and, as a democracy, by the wishes of the British people. The latter will be wary of an army that does not act in a distinctly *British* way.[115]

[114] Gen. Sir Mike Jackson, "Future of Land Warfare," *RUSI Journal* 148, no. 4 (Aug 2003): 55.

[115] Such a way may be summated by Frank Kitson's COIN principles of 1977:
1. Good coordinating machinery (between civil and military agencies)
2. Establishing the sort of political atmosphere within which the government measures can be introduced with the maximum likelihood of success
3. Intelligence (right information = sensible policy)
4. Law (upholding the rule of)

Quoted in James Kiras, "Terrorism and Irregular Warfare," in *Strategy in the Contemporary World* (Oxford: Oxford University Press, 2002), 222.

# Transnational Terrorism: The Newest Mutation in the Forms of Warfare

FRED R. SCHREIER

The enemies of yesterday were more or less of the symmetric type: static, predictable, homogeneous, hierarchical, rigid, and resistant to change. The enemies of today are decidedly of the asymmetric type: dynamic, unpredictable, fluid, networked, self-organizing, and constantly adapting and evolving.

Transnational terrorism has always been what its perpetrators have so often insisted: a form of warfare. It is a form of warfare, however, in which the boundaries drawn by the states, the adherence to international law and international humanitarian law, and the responses dictated by conventional military doctrine no longer play a role. There are no front lines and there are no noncombatants. Often viewed today as a uniquely modern problem, terrorism is the current stage in an evolution whose origins extend as far back as human conflict itself. It is the contemporary name given to, and the modern permutation of, warfare deliberately waged against civilians with the purpose of destroying their will to support leaders or policies, and/or of destabilizing the social system and society that the agents of such violence find objectionable.

While the events of 9/11 saw terrorism produce its most destructive events to date, trends from the preceding decade showed an ever-increasing trajectory of violence and multiplied indications that transnational terrorism would greatly affect politics and economics over the next decades. This was less because of growing imbalances between richer and poorer regions of the world and more because of the increasing military imbalances between technologically advanced states and the rest of the world. Terrorism is not a weapon of the poor: rather, terrorism is a way for the weak to wage war. Thus, to an ever larger de-

gree, transnational terrorism is superseding guerrilla war,[116] which had sort of the same function during the last century.

However, the replacement of guerrilla war by this new terrorism is more than an operational innovation on the part of those who can neither afford high-technology weaponry nor are able to maintain complex military systems, because guerrilla war is in essence a defensive strategy. Experimentation in offensive guerrilla war as attempted by Che Guevara failed miserably in the Bolivian jungles. Guerrillas are dependent on the support of local populations—support they only receive where they are ethnically and socially interconnected. In contrast, the new terrorism has at its core an offensive strategy.[117] Operating globally, the new transnational terrorism has freed itself from the absolute dependence on such local support. It uses the infrastructure of the nations attacked, as per 9/11: airplanes as missiles and kerosene as explosives. Logistics are coordinated and stored in the shadows of the financial, transport, and social networks created by globalization. Terrorists, formerly intrinsically interrelated with guerrillas and one of its manifestations, have become independent strategic actors.

The aim of guerrilla warfare is the control and dominance of territory. In contrast, the aim of transnational terrorism is the interruption of the global streams of commerce, services, capital, information, telecommunications, and travel. Guerrillas are dependent on territory where they can amass and make available logistics, recruit and train fighters, and develop a new sociopolitical order—at least in the so-called liberated areas. The new terrorism has freed itself from territory. For violent acts and logistics, it is using the ultimately uncontrollable streams of modern societies. Guerrillas have to attack continuously and physically in as many places as possible against an enemy superior in force, while the new terrorists need only to strike intermittently at one highly vulnerable target at a time to achieve the psychological effects intended. At the same time, it became a prerequisite for terrorist groups to organize in small cells and distributed networks in order to remain operational and to survive. This makes evident that yet again we are witnessing a mutation of warfare.

The destructive power of nuclear weapons and the high vulnerability and susceptibility of modern societies to destruction have rendered in-

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[116] According to Herfried Münkler in his exposé "Krieg in der Gegenwart: eine Beurteilung," given at the Militärakademie an der ETH Zürich Frühjahrstagung, 13 March 2004. And see "Ältere und jüngere Formen des Terrorismus. Strategie und Organisationsstruktur," in *Herausforderung Terrorismus. Die Zukunft der Sicherheit*, edited by Werner Weidenfeld (Wiesbaden: VS Verlag für Sozialwissenschaften, 2004), 29–43.

[117] Herfried Münkler, *Die neuen Kriege* (Reinbek bei Hamburg: Rowohlt Taschenbuch, February 2004), 191.

terstate war an outdated model of decreasing usefulness. Today, the Westphalian world of the nation-state as the unchallenged pillar of international order, with the defense against threats from outside as the primary mission of its armed forces, has been superseded by a far more complex reality, which has brought back the *privatization* of war and conflict and has increased their asymmetric components. The rising levels of the *privatization of violence* witnessed in civil strife and internal conflicts around the globe pit governmental forces and nonstate actors against each other. Not only have these conflicts brought the return of armed groups and paramilitaries led by *de facto* or self-proclaimed "warlords" at the periphery of well-established zones of prosperity; they have also initiated and accelerated the growing use of private military companies and private security companies—the new corporate mercenaries—by states, multinational corporations, international and nongovernmental organizations, various societal groups, and individuals. And the increasingly asymmetric warfare we witness with transnational terrorism is the strategy that enables technologically and organizationally inferior actors to wage war against militarily superior adversaries.

The strategy of maximally exploiting asymmetry is dangerous, because it produces threats we do not look for—since we do not know what to look for. Being ignorant of its multifold potential, we neither know how to prevent its application nor how to counter it. This increases unpredictability and thus uncertainty, because the threats the new terrorism poses tend to be unusual in our eyes; irregular in that they consist of means or capabilities unrecognized by the laws of war; unmatched in our arsenal of capabilities and plans; highly leveraged against our particular assets; intended to work around, offset, and negate what in other contexts are our strengths; generally difficult to respond to; and particularly difficult to respond to in a discriminate and proportionate manner.[118]

However, thinking of the threat as only asymmetric misses the mark. The combination of asymmetry and the terrorists' ability to continually devise idiosyncratic approaches present the real challenge. Asymmetry means the absence of a common basis of comparison in respect to a *quality*, or in operational terms, a *capability*. Idiosyncrasy means possessing a peculiar or eccentric pattern. It connotes an unorthodox approach or means of applying a capability – one that does not follow the rules and is peculiar in a sinister sense. By attacking idiosyncratically, the new terrorists seek to avoid our operational advantages; and by exploiting our weaknesses or blind spots, they are capable of inflicting

[118] Colin S. Gray, "Thinking Asymmetrically in Times of Terror," *Parameters* (Spring 2002): 5–14.

havoc and harm at will. Their operational asymmetry is derived from their ability to continuously evolve new tactics and from the cellular and networked nature of their support structures. To this organization, they add a continuing flow of new, unconventional means of attack. The terrorists' advantage lies in our inability to recognize these new structures of their operation and to predict their new attack vector.[119] Moreover, when applied strategically, asymmetry combined with unconventional warfare also simultaneously results in exploitable advantages at the operational and tactical level.

Traditional terrorism, as it developed in Russia in the nineteenth century, during the anticolonial wars of liberation in China, Malaya, Vietnam, and Algeria, and with the revolutionary cells in Western Europe in the second half of the twentieth century, is closely linked with social revolution and civil war. Simplified, it was the three-phased model of revolutionary warfare: acts of terror being the first phase; guerrilla war and armed rebellion in major agglomerations constituting the second phase; and the initiation of the final and decisive military engagement constituting the third phase. Traditional terrorism was the initial phase of armed combat, to be stridden through as quickly as possible, and was simultaneously the default position of retreat in the event that the guerrillas' second phase of operations came under sufficient pressure to force a retreat back into the "underground."

The interlinking of terrorism with social-revolutionary practices demanded very specific targeting and clear limits to violence. The targets of terrorist acts were the representatives and functionaries of the state apparatus of repression and the elites: monarchs, politicians, judges, and policemen, as well as exponents of socially dominant groups such as bankers, industrialists, and owners of large estates. In contrast, much had to be done to spare from damage all those the revolutionaries wanted to win over for the guerrilla war and the subsequent revolution: socially defined groups and classes like peasants and farmers in agrarian societies; the proletariat in urban and industrial societies; or, in the Third World, oppressed peoples.[120] Whether a religious group, a nation within a multiethnic state, or a people discriminated against for racial reasons, all were addressees of the message disseminated through acts of violence. Not only did those acts demonstrate to oppressed groups the possibilities of resistance, but such "target audiences" also had to be animated for future engagement in the fight, which was initially fought between a small group and the powerful state apparatus, and later, with

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[119] Montgomery C. Meigs, "Unorthodox Thoughts about Asymmetric Warfare," *Parameters* (Summer 2003): 4–18.

[120] Herfried Münkler, "Verwüstung statt Propaganda. Schrecken ist die einzige Botschaft des neuen Terrorismus," *Die Welt (*8 September 2004), http://www.welt.de/data/2004/03/16/251729.html.

the audience's help, at a greater intensity, larger scale, and with a higher probability of success. At the same time, this was the most important factor limiting mass violence and guaranteeing that weapons of mass destruction would remain outside terrorists' calculations.

Hence, the new transnational terrorism, which is singularly committed to cause indiscriminate mass violence and is increasingly using suicide attacks,[121] is organizationally, logistically, and operationally so different from traditional terrorism that the use of the common label "terrorism" is more misleading than enlightening. The only commonality rests in the function of the acts of violence—to sow fear, terror, and confusion. With traditional terrorism, fear and terror were aimed at the state apparatus and the reigning societal group, which were to be intimidated and provoked into irrational reactions. The masses that were to be won over initially remained mere spectators. The fear, terror, and confusion created by the new terrorism, however, target the psychological infrastructure of whole societies, which are to be forced into a radical change of attitudes. There are no societal groups to be won over, though hopes remain that groups sympathetic to the terrorists' cause may eventually develop. Moreover, the terrorist campaign is no longer a transitory phase in the frame of an overall strategy: it is the unique and sole level of confrontation. And this confrontation takes place in the two locations where the opponent is weak and most vulnerable: the critical national infrastructure and the labile psychological state of mind of people in postmodern or "postheroic" societies. Transnational terrorists have recognized that these societies, with their lifestyles and self-assurance, are particularly vulnerable to attack by individuals with values of martyrdom. By causing unprecedented carnage, preferably linked with the destruction of icons of highly symbolic value, the new terrorism aims at altering Western attitudes and the global balance of power. Concomitantly, the strategic aim is the interruption or at least diversion or derouting of the global streams of capital, telecommunication, information, commerce, travel, and tourism. Confrontations with professionalized armed forces, in which modern societies have heavily invested for their national security, are avoided; whenever possible, the new terrorists also steer clear of law enforcement. Figuratively, any confrontation with the "armoured fist" of the enemy is avoided. Instead, the soft underbelly is attacked. To use a biological metaphor: once the convergence of strings of nerves and blood vessels is hit strongly enough, an "armoured fist" will fall in on itself.[122]

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[121] See Pierre Conesa, "A Cult of Murderous Self-Destruction. The Suicide Terrorists," undated paper.

[122] Herfried Münkler, "Die Wiederkehr des Verwüstungskriegs," *Internationale Politik* 2 (February 2004): 1–10.

Thus, if tourists are targeted in terrorist attacks such as those on the temple of Hatshepsut in Luxor, Egypt, in 1997, the Synagogue on the Tunisian island of Djerba in 2002, or the "Casa de España" in Moroccan Casablanca in 2003, tourism may collapse across North Africa. If a desperate economic crisis follows in these three countries, which are all heavily dependent on tourism, then the collapse of the political systems and their elites may become a real possibility. If this happens, the West will not only lose important business partners, the whole system of power in all of North Africa may be changed to the advantage and interests of the terrorists.

Technology plays a critical role in the terrorists' new equation. Strategically, from financial markets to transportation systems to electric power grids, standards of living worldwide depend fundamentally on integrated technical systems that are susceptible to terrorist threats. These systems may have internal safeguards against failure in normal operations, but they do not have an ability to avoid catastrophic failure when they are interrupted or attacked in an unexpected and peculiar way that generates cascading or accelerating effects. The blackouts in the northeastern United States in 1965 and 2003 and those in Sweden and Italy in 2003 exemplify the potential for the catastrophic failure of technologically intensive systems with high degrees of interdependence. If terrorists can find a weakness through which safety factors can be overloaded or bypassed, they can cause catastrophic failure.

The security measures introduced after the terrorist strikes of 9/11 have led to a slowdown of commerce and passenger movements which, together with higher costs for security, have also had a negative effect on Western economies. Since time is money in capitalist societies, transnational terrorism mainly uses this lever to succeed. And this approach already operates independently from real acts of indiscriminate mass violence through the constantly renewed alerts and the permanent maintenance of preventive security measures at transport nodes, public events, and locations where people congregate.

Hence, the new terrorism follows the model of the classical devastation and prey-catching campaigns conducted by nomads who broke into the peripheries of zones of prosperity of ancient empires, plundering, burning, and causing economic havoc. They showed no interest in engaging in decisive battles with "imperial" troops. Since they could not prevail in battle, they avoided military confrontation through superior mobility and speed. They forced their will onto the opponent by continuously causing economic damage, which was untenable for those societies and their rulers in the long term.[123]

[123] Herfried Münkler, "Die Wiederkehr des Verwüstungskriegs," *Internationale Politik* 2 (February 2004): 1–10.

In principle, there remained two possibilities of defence against such devastating campaigns: to fortify the borders or to invade offensively the spaces beyond the borders. The Roman Limes and the Great Chinese Wall are examples of the first strategy, in which asymmetrical attacks are averted through the construction of physical obstacles. The castles and fortified churches of Medieval Europe are other examples of this strategy. However, such fortified defensive complexes not only incurred permanently high costs, they also had the disadvantage of inflexibility and immobility, whereas the enemy could concentrate his forces wherever he wanted to. He could choose the place and time of attack while the defender constantly had to be on watch. This is why the securing of the borders of the old empires was alternatively conducted with defence and attack: offensive incursions were made deep into the spaces beyond the defended borders, where logistics and infrastructures were devastated and in which all attempts to assemble military might were eliminated out of necessity.

It is here that the analogy between the classical devastation campaigns and the new terrorism transpires. While in the campaigns of devastation the invaders banked on superior mobility and speed, the new terrorists now use secrecy. They hide and conceal themselves, appearing in the open solely for the terrorist strike itself, so that no time is left for taking appropriate defensive measures. They bank on stealth and surprise, and only this provides them the possibility to attack an opponent who is superior in almost all domains.

Only in two domains is this opponent unable to dominate: the disposition of available time and the possibility to count on the distinctive readiness or willingness of the population to make sacrifices. It is here that the strategy of transnational terrorism puts its weight: through secrecy the terrorists can control the rhythms of time, and by attacking civilian targets—thus taking advantage of the greatly diminished willingness of the people in postheroic Western societies to make sacrifices—the terrorists can increase the pressure on the governments, which themselves may seek to achieve quick results in fighting terrorism or by making political concessions to rapidly end the threat.

Democratic governments have a particularly difficult position in the confrontation with the new terrorism. The terrorists know how to use the high media density of modern societies to reinforce the psychological effect of their strikes. In particular, they use pictures and the Internet;[124] for transnational terrorists, these have become prime means of communication and warfare. Governments, in contrast, cannot afford to control the media to reinforce defence. This enables even weak actors

[124] Lawrence Wright, "The Terror Web," *The New Yorker* (2 August 2004): 40–53.

to become a dangerous challenge for modern nations. In essence, it is such asymmetrical constellations that characterize the new terrorist threat. Although classical terrorism and the strategy of guerrilla war are also forms of asymmetric warfare, the difference is that in these older cases, asymmetry was the expression of the initial weakness of the insurgents or revolutionaries. They counted on gaining strength via guerrilla war in order to slowly transform the initial asymmetrical conflict into a conventional, symmetrical war. To win the war by waging the final decisive battle in a symmetrical confrontation was the intended endgame of almost all conceptions of guerrilla warfare, as exemplified by the Maoist and Vietnamese doctrines. This, however, is no longer the case for transnational terrorism. Asymmetric confrontations are no longer phases of an aspiration for symmetry—symmetry itself is no longer sought after. This is the terrorists' political-strategic innovation, and at the same time it is a realistic assessment of the existing forces and power structures. Thus, asymmetry—the salient feature of transnational terrorism—is no longer an emergency measure limited in time, but the key to success.

For the new terrorists, it remains crucial to evade detection before committing atrocities and attacking the critical national infrastructure of postmodern Western societies. To this end, the structure of the terrorist organization—small groups of deterritorialized networks—is the optimally adapted form. If hit, this adversary will adapt, regroup, generate new leadership, shift its geographic locus, adjust tactics, and evolve into a new collection of cells and networks capable of self-healing, dispersal, reassembly, and innovation.

## How Can This New Terrorist Threat and Challenge Be Countered?

Strategically, the United States has reacted against these new threats and challenges with a new National Security Strategy[125] that calls for the preemptive use of military and covert forces before an enemy unleashes weapons of mass destruction – underscoring the United States' willingness to retaliate with nuclear weapons for chemical or biological attacks

[125] *The National Security Strategy of the United States of America* (Washington D.C., September 2002). The classified version is identified jointly as National Security Presidential Directive (NSPD) 17 and Homeland Security Presidential Directive 4. This was followed by five additional National Strategies: (1) for Homeland Security; (2) for Combating Terrorism; (3) to Combat Weapons of Mass Destruction; (4) for the Physical Protection of Critical Infrastructures and Key Assets, and (5) to Secure Cyberspace.

on U.S. soil or against American troops overseas. The task of defending the nation is seen to have changed dramatically.[126] And the war against terror is seen as a global enterprise of uncertain duration that "will be fought on many fronts against a particularly elusive enemy over an extended period of time."[127] Thus, the consequence imposed by the increasing asymmetry of the new threat is the change from a reactive to a proactive posture, "to exercise our right of self-defence by acting preemptively against such terrorists," recognizing "that our best defence is a good offence." "The greater the threat, the greater is the risk of inaction – and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy's attack."[128] For the last few centuries, international law recognized that nations need not suffer an attack before they can lawfully take actions to defend themselves against conventional *symmetrical* forces that present an imminent danger of attack.[129] Now, under *asymmetric constellations*, the concept of imminent threat must be adapted to the capabilities and objectives of today's adversaries. To prevent indiscriminate hostile acts of devastation by adversaries exploiting *asymmetry*, the defender will have to act *preemptively.*[130] However, preemption should be used "only after other remedies have been exhausted and principally in cases where a grave threat could arise." Moreover, "the risks of waiting must far outweigh the risks of action."[131]

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[126] Foreword by the White House: "Enemies in the past needed great armies and great industrial capabilities to endanger America. Now, shadowy networks of individuals can bring great chaos and suffering to our shores for less than it costs to purchase a single tank. Terrorists are organized to penetrate open societies and to turn the power of modern technologies against us. To defeat this threat we must make use of every tool in our arsenal – military power, better homeland defence, law enforcement, intelligence, and vigorous efforts to cut off terrorist financing."

[127] *Ibid*., 5.

[128] *Ibid*, 6, 15. "Traditional concepts of deterrence will not work against an enemy whose avowed tactics are wanton destruction and the targeting of innocents; whose so-called soldiers seek martyrdom in death and whose most potent protection is statelessness."

[129] Preventive action is taken on the assumption that an offensive attack by the enemy will occur sooner or later. See Walter B. Slocombe, "Force, Pre-emption and Legitimacy," *Survival* (Spring 2003): 124.

[130] The proof of the intention to attack – that is, the *attack itself* – might possibly be the detonation of a nuclear device or biological weapon in a city. To wait for such a case would not be acceptable in view of the potential number of victims.

[131] Guidelines offered by the U.S. National Security Advisor, Condoleezza Rice, in a speech at the Manhattan Institute, 1 October 2002. Moreover, there are the other criteria: (1) urgency of the threat, (2) plausibility of the danger, and (3) proportionality of the means – with intelligence remaining the basis for decision. None of these criteria are exactly measurable or enforceable.

Although preemption has been widely criticized as being in violation of international law, there are also strong arguments for it.[132] NATO does not exclude preemption.[133] Preemption is also the strategic doctrine adopted by Russia,[134] France,[135] and Australia,[136] and even Japan[137] has reserved the right of preemptive defence. And in essence, we find the same diagnosis of the problem of asymmetric terrorist threats in the European Security Strategy.[138] "In an era of globalization, distant threats may be as much a concern as those that are near at hand… The first line of defence will often be abroad… Conflict prevention and threat prevention cannot start too early."[139] Thus, the European strategy calls for enlargement—building security in the European neighbourhood. The future may show whether this is only a different choice of words, resulting from different military capabilities. It might well be

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132 Marc Houben. "Better Safe than Sorry: Applying the Precautionary Principle to Issues of International Security," Center for European Policy Studies, CEPS Working Document No. 196, November 2003, http://www.ceps.be.

133 At the Prague summit in November 2002, NATO adopted a document (MC 472) in which, at least implicitly, preemption is discussed. Though "preemption" and "anticipatory self-defense" are not explicitly quoted in the new military concept of the Alliance for the fight against terrorism (at the insistence of Germany and France), it is clear that NATO does not fundamentally rule out preemptive strikes. See also Adam Tanner, "NATO says could launch pre-emptive strikes," *Reuters*, 31 October 2002.

134 "Putin reaffirms Russia's right to preemptive strikes," *AFP*, 4 November 2003. See also Russian Chief of the General Staff, General Yury Baluyevsky: "We will take any action to eliminate terrorist bases in any region at the earliest stage," *RFE/RL*, 8 September 2004. And: "'We will take steps to liquidate terror bases in any region," Baluyevsky told reporters at a meeting with U.S. General James Jones, NATO's SACEUR. *AFP,* 8 September 2004.

135 France, which not only opposed "Operation Iraqi Freedom" but also rejected the discussion over the principal option of preemption within the framework of NATO, explicitly mentions "capacité d'anticipation" and the necessity of the option of a preemptive strike in certain situations in its new "Programmation Militaire." See Elaine M. Bunn, "Preemptive Action: When, How, and to What Effect," *Strategic Forum*, no. 200 (2003): 6.

136 The prime minister of Australia, John Howard, expressly called for a change in the UN Charter to allow for preemptive military strikes against terrorist threats. See John Shaw, "Startling His Neighbors, Australian Leader Favors First Strikes," *New York Times*, 2 December 2002.

137 General Shigeru, the Director General of the Japanese Defense Agency stated in January 2003 the readiness of Japan to launch a "counterattack" should North Korea bring its missiles into a "ready for takeoff" position. See Ishiba, "Japan to 'Counterattack' if North Korea Prepares to Attack," *The Yomiuri Shimbun/ Daily Yomiuri,* 25 January 2003.

138 *A Secure Europe in a Better World. European Security Strategy* (Brussels, 12 December 2003).

139 *Ibid*., 6–8.

that "prevention through enlargement" is just the regional equivalent of the global American strategy of preemption.

Giving cause for concern since 9/11, however, is the fact that many authoritarian regimes – and even some democratic governments – are abusing the war on terror for the consolidation of power. The practice to declare all opposition or separatist resistance as acts of terrorism is only aggravating the problem, enlarging the list of those ready to engage in suicide attacks and thus leading to massacres of ever greater dimensions. These regimes have to be singled out and forced into moderation, since tough policies do not protect but rather produce a mood conducive to more terrorist recruiting.

Basically, there are *four lines of defence* to counter the new terrorist threats:

***Intelligence will remain the first line of defence*** and the most critical element in combating terrorism. The adaptable nature of the adversary demands an equally agile intelligence effort. Countering asymmetry and unconventional warfare requires an atypical approach. If asymmetric warfare involves an enemy's ability to constantly change form and methods from the fragments of the old operation and recruiting base, then intelligence needs to detect signs of this new operational shape as well as the emergence of new families of capabilities – conventional and unconventional.

Thus, intelligence needs to first discover how the enemy might change his operational structure and actual organization in an attempt to accomplish his ends. Then intelligence needs to find out in what areas this enemy might develop superior knowledge or some unprecedented, perverted use of a capability. It must filter out the capabilities the adversary has that we do not understand or expect. And it must detect the links to organized crime and how that source of assistance can be countered.

Exposing asymmetry goes hand in hand with isolating opportunities for unconventional warfare. We have enough specialists who understand the capabilities that terrorists could exploit to produce mass effects. The problem is to discover in advance the unprecedented and eccentric ways in which substances or mechanisms of destruction may be delivered. Additional problems to solve are: how do we recognize and preempt the opponents' approach? And what are the back doors that we are not watching?

***The second line of defence*** in the confrontation with the new terrorist threat is an attitude of the population one might call "heroic calmness" or "heroic composure." Governments have a responsibility to produce balanced responses that do not feed the population's insecurities. Indiscriminate terrorist mass violence aims foremost at the fragile psychological infrastructure of modern societies in order to achieve, with modest

investment,[140] tremendous effects and repercussions. If the greater part of these effects can be brought under control by the coldblooded reserve of the population, rather than have these effects amplified by hysterical reaction, then neither tourism will be disrupted nor will airlines suffer economic ruin, and even the deflection of shares in stock markets may remain limited.

***The third line of defence*** is of a more offensive character, consisting of an interoperable mix of law enforcement measures with military operations, assisted and facilitated by diplomacy. We continue to debate whether terrorism should be treated as war or as crime – and therefore whether it should be handled by military force or through law enforcement. The fact is that we need both. The aim is to keep up a sustained pressure of pursuit in order to restrict the capabilities of terrorist groups, and to deny them the availability and control of the tempo of the confrontation. Transnational terrorists do not profit from unlimited resources. This is why, in priority, they need to be forced into a situation where they have to invest the greater part of these resources for their own survival. The more time and energy they must devote to remaining undetected, the less time and energy they will have for the planning, preparation, and implementation of new strikes of indiscriminate mass violence.

Thus, the often repeated claims that transnational terrorism cannot be combated by armed forces will have to be reconsidered. It is here where military operations have the mission to put terrorist groups under permanent stress, requiring much higher use of resources and provoking the terrorists into making mistakes. Obviously, such an engagement of the armed forces cannot aim at a fast and decisive military success, as military doctrine calls for in symmetrical military confrontations. These engagements are more comparable with the long-drawn-out preventive offensive operations by which the classical devastation campaigns of the potential aggressors of previous epochs were made less likely. Though by doing this, the new terrorism cannot be permanently defeated, but the terrorist capability of attack can be diminished,

[140] The costs of the 9/11 attacks were between $250,000 and $ 500,000, while the direct costs have been estimated at $30 billion. According to a study by the New York City Partnership, the attacks on the two buildings cost about $83 billion (in 2001 dollars) in total losses. The ratio between the direct costs to the terrorists and the direct costs to the United States was something like 1:60,000. Estimating the indirect costs is difficult, as these are partly unknown and partly still evolving. Some of these are: (1) Insurance costs at $40–50 billion; (2) New York City capital losses at $30 billion; (3) New York City economic (tax) losses at $16 billion; (4) New York City cleanup costs at $14 billion; (5) Government "bailout" for airlines at $15 billion; (6) Increased security costs at $10 billion; (7) Travel related losses at $7 billion; (8) Private business losses at $11.8 billion; and (9) Individual and family wage earner losses at $2.4 billion.

just as the devastation campaigns of ancient times could reduce the probability of terrorist attack.

***A fourth line of defence*** remains, which, however, will become effective only in the mid- and long term. Efforts and investments must aim at the separation of the terrorist groups in the narrower sense from their supporting environment – from the inflow of new fighters, from finances, the availability of arms and weapons of mass destruction, access to and use of training facilities, as well as the undermining of their ideological and political legitimacy. And there is the task of dismantling the "fifth columns" in urban centres. These may be far-reaching and lead to the "dehydration" of the structures of terrorist groups. They may also reduce the terrorist structures to marginality and meaninglessness. The fifth columnists, together with the terrorist leadership, the command and control networks, and the sanctuaries are the real centres of gravity that have to be eliminated. Since this implies a very long fight, sustainability will become of decisive importance. However, investments and success cannot be predicted with sufficient confidence.

Though this fourth line of defence is the most often and intensively publicly debated, so far no really convincing operational concepts have emerged. Creating such capabilities is very important. But as long as the requisite measures are only pleaded for and remain, as far as workable concepts are concerned, without consequence, not much can to be hoped for from this line of defence. Hence, innovative strategies, operational concepts, the development of appropriate tactics, and – foremost – the creation and application of *specifically tailored asymmetries* that can also be engaged preemptively, are desperately needed.

# The Post-Madrid Face of Al Qaeda[141]

ROHAN GUNARATNA

For two and a half years after the 9/11 attacks on the United States' most iconic landmarks, Al Qaeda and its associated groups struck Western targets only in the global South, in places such as Bali, Casablanca, Saudi Arabia, Pakistan, Turkey, Chechnya, and Tunisia. Despite the 9/11 attacks and the continuing threat, Europe remained an active center for terrorist support activity – propaganda, recruitment, fundraising, and procurement. As support cells were enmeshed in the socioeconomic, cultural, and political fabric of migrant and diaspora Muslims, European law enforcement, security, and intelligence services targeted only the operational cells that appeared on their radar screen. It was considered politically incorrect to revise the legislative framework to target several hundred terrorist support cells active on European soil. Some Europeans even believed that Al Qaeda had spared the continent because of its policy tolerating terrorist support infrastructure.

Although successive attacks against Jewish and British targets in Istanbul in November 2003 demonstrated Al Qaeda's intentions, capabilities, and opportunities for attack on the continent, European law enforcement, intelligence, and security services did not take the threat seriously. Although the Turkish case clearly demonstrated that terrorists planning to strike could survive undetected for years, there was neither a proper appreciation of the threat nor an appreciable effort to increase the quality of intelligence by penetrating the politicized and radicalized segments of Europe's diaspora and migrant communities. Even the fact that three of the four 9/11 suicide pilots were recruited from the heart of Europe did not generate the same sense of urgency in Europe that prevailed in the United States. Without becoming a victim of a major terrorist attack on its soil, European leaders refused to do what was necessary to protect Europe. Like many countries around the world, European countries unfortunately needed their own wake-up call.

Al Qaeda as an organization has learned and adapted its structure and strategy to combat measures implemented to destroy it after the

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9/11 attacks. First, having lost their own state-of-the-art training and operational infrastructure in Afghanistan, Al Qaeda members had to rely on the organization's associated groups for survival. As the most-hunted terrorist group in history, Al Qaeda began to operate through these associated groups. Although the threat has shifted, European security and intelligence services have continued to focus on Al Qaeda. Furthermore, the terrorist cells in Europe knew the risk of being monitored by European security and intelligence agencies. To evade technical methods of monitoring, they developed greater discipline and operational security.

As human sources were sparse within the security services – the guardians of Europe – there was no way of knowing what was happening in radical pockets within the diaspora and migrant communities. Preemptive arrests were an anathema in Europe. The only methodology available for detecting terrorist planning and preparation was investment in human source penetration, a capability that could not be developed in the short term. The United States' unilateral invasion of Iraq, the adaptation of the terrorist network in Europe, and the unwillingness of Europeans to change their way of life to deal with terrorists steadfastly escalated the threat to, and increased the vulnerability of, Europe to terrorist attack. The 11 March 2004 Al Qaeda attacks in Madrid clearly revealed Europe's false sense of security and reaffirmed that the West remains the primary target of Al Qaeda and its associated groups.

## Al Qaeda since September 11

Three overarching developments mark the post-9/11 trajectory of Al Qaeda and its associated groups, helping to explain the status of the terrorist threat today. First, Al Qaeda, with Usama bin Laden as its leader, has evolved into a movement of two dozen groups. In its founding charter, authored by Palestinian-Jordanian Abdullah Azzam in 1988, Al Qaeda was to play the role of a pioneering vanguard of the Islamic movements. Every attack by Al Qaeda, including the group's watershed 2001 attacks on the World Trade Center and the Pentagon, was intended to inspire and instigate its associated groups to take the fight against both nearby enemies (apostate regimes and rulers) and distant enemies (infidels) of Islam. By ideologically inciting local and regional Islamist groups to fight not only corrupt Muslim regimes and false Muslim rulers such as those in Algeria, Egypt, Jordan, Saudi Arabia, Morocco, Kuwait, Indonesia, and Pakistan but also those governments' patrons, the United States and its allies, Al Qaeda has achieved its goal. Al Qaeda itself has not been responsible for the bulk of terrorist attacks since 11 September 2001. Rather, they have been carried out by its as-

sociated groups with origins in the Middle East, East Africa, Asia, and the Caucasus, such as the Al Zarkawi group, Al Ansar Al Islami, Al Ansar Mujahidin, Jemmah Islamiyah, Salafi Jehadiya, the Salafi Group for Call and Combat, and the Abu Sayyaf Group. Even as the international intelligence community continues to focus on Al Qaeda, the threat has shifted to Al Qaeda's associated groups.

Since the 9/11 attacks, Al Qaeda's strength shrank from about 4,000 members to a few hundred members, and nearly 80 percent of Al Qaeda's operational leadership and membership in 102 countries have been killed or captured. Al Qaeda adapted, however, instilling its mission and vision in associated groups and transferring its capabilities to them. The United States' focus on Iraq, Al Qaeda, and eliminating the Al Qaeda leadership limited the ability for American officials to understand and respond better to the changing threat.

Second, despite all efforts and resources applied to the U.S.-led war on terrorism, the terrorist threat has escalated several-fold since 11 September 2001. Although Al Qaeda itself has conducted an average of only one terrorist attack a year since that time, four times that number, or an average of one attack every three months, has been mounted by its associated groups. The drastic increase in the terrorist threat has been a result of Al Qaeda's transformation from a group into a movement. Al Qaeda has demonstrated its ability to coordinate operations despite the loss of its traditional sanctuary, the death or capture of leaders and members, the seizure of resources, and the disruption to the network. During the past two and a half years, law enforcement authorities worldwide have detected, disrupted, or deterred more than 100 terrorist attacks in the planning, preparation, and execution phases. In the United States alone, the government has disrupted more than forty attacks.

Despite enhanced law enforcement and detection capabilities in the worldwide hunt for members and supporters of Al Qaeda, the incidents of terrorism have increased. Although the ability of terrorist groups to mount attacks, especially against well-defended facilities or hard targets such as diplomatic missions, military bases, and other government targets, has declined, terrorists remain just as intent to attack. The terrorist threat has instead shifted from hard targets to soft ones, such as commercial infrastructure and population centers, making mass fatalities and casualties inevitable. Such vulnerable targets are too numerous to protect. Considering the sustained terrorist drive to attack, the West is not likely to stop suffering periodic terrorist attacks any time soon.

Third, Al Qaeda has adapted its organization significantly during the past two and a half years, increasing the terrorist threat worldwide. Although the heightened security environment has forced some terrorist cells to abort operations, others have merely postponed their operations, so that the threat has been delayed rather than defeated. Al

Qaeda believes it can, and has shown the ability to, mount operations even in the now heightened security environment. According to a Central Intelligence Agency debriefing of the mastermind of the 9/11 attacks, Khalid Sheikh Mohammed (alias Mokhtar "The Brain"), Al Qaeda was planning an operation to attack Heathrow even in the current security environment. As the coordinated simultaneous attacks in Turkey and Madrid demonstrated, Al Qaeda and its associated groups will continue to mount operations amid government security measures and countermeasures, even in Western countries.

## The Reformulated Threat

Immediately after the 9/11 attacks, arrests in the United Kingdom, France, Germany, Spain, the Netherlands, and Italy, among other countries, damaged Al Qaeda cells in Europe. Nevertheless, European Islamists that currently subscribe to Al Qaeda's ideology have learned rapidly from the past mistakes of Al Qaeda and its associated cells. Current dedicated operational cells of Al Qaeda and its associated groups are now familiar with and can easily circumvent governmental measures, making the cells difficult to detect, particularly using technical methods such as phone monitoring.

U.S. and European counterterrorist strategies differ markedly. After suffering the greatest terrorist attack in world history, Americans changed their strategy of fighting terrorism from a reactive to a proactive one. Prior to 11 September 2001, the Federal Bureau of Investigation waited for a lead to start an investigation. Highly trained terrorist operatives left no leads or traces. After 11 September 2001, it became a matter of survival to target cells at home proactively and strike them overseas preemptively. One way of understanding this shift is to think of it as a shift from fishing to hunting. When fishing, a fisherman waits until fish attacks the bait; a hunter, conversely, requires initiative and creativity to target its prey proactively. Even after the 9/11 attacks, however, European countries continued to behave like fishermen.

One particular flaw of the European counterterrorism approach that might have increased Europe's vulnerability to attack has been its tendency to target operational (attack/combat) cells and overlook support cells that disseminate propaganda, recruit members, procure supplies, maintain transport, forge false and adapted identities, facilitate travel, and organize safe houses. Operating through front, cover, and sympathetic organizations, Al Qaeda and its associated groups established charities, human rights groups, humanitarian organizations, community centers, and religious associations to raise funds and recruit youth. Traditionally, financial support generated and members recruited in Eu-

rope, the United States, Canada, Australia, and New Zealand have gone to terrorist groups active in Chechnya, Algeria, Yemen, Kashmir, Afghanistan, and the Philippines. As Al Qaeda preferred operatives with Western passports, Muslim converts and those from the European cradle were treated equally, warmly received, ideologically as well as physically trained, and dispatched back to the West. Those introduced back to the migrant and diaspora communities were in no hurry to commence operations. Although they reintegrated back into their Western communities, they maintained contact with their comrades, trainers, and handlers. Taking advantage of freedoms enshrined in the liberal democracies of the West, such as the freedom of movement, association, and dissent, Al Qaeda and its associated groups slowly and steadily built a robust network of members, collaborators, supporters, and sympathizers in the West.

Host enforcement and intelligence services tolerated these support cells in the United States until 11 September 2001, and in Europe until 11 March, 2004, because those support activities seemed to pose no immediate and direct threat to host countries. When regimes in the global South asked Western governments to detain or deport some of the terrorist ideologues or fundraisers, they were told that Western criminal justice and prison systems were incompatible with Third World standards. The governments of the global South essentially were told that Western governments did not find these support networks all that great a threat. To evade the issue, some governments such as those of Canada and the United States spoke of human rights, while others such as Switzerland and Germany spoke of political asylum throughout the 1980s and 1990s. Some Europeans opposed targeting charities and other Islamic institutions in Europe used by terrorists for fundraising or as cover for reasons of "political correctness." They turned a blind eye to the terrorist infiltration of Muslim migrant and diaspora communities, permitting terrorists and extremists to take control of Muslim institutions including mosques, schools, and charities.

Under the cover of human rights, humanitarian, socioeconomic, cultural, political, educational, welfare, and religious organizations, terrorist ideologues and operatives built state-of-the-art support networks that raised millions of U.S. dollars throughout the European continent and in the United States. Western neglect created the conditions for terrorist support cells to grow in size and strength within the socioeconomic, political, and religious fabric of Muslim communities. Even if European law enforcement had made good faith efforts to detect and eliminate terrorist contingencies, disabling them became politically, legislatively, and operationally difficult. With Usama bin Laden's constant call to jihad as the duty of every good Muslim after 11 September 2001, these support cells began to mutate into operational cells.

For example, the north London cell that authorities discovered in January 2003 that had manufactured ricin was originally an Algerian support cell. Throughout Europe, Algerian terrorist support cells had generated propaganda, funds, and supplies for their campaign to replace the military government in Algeria with an Islamic state. Except for the French, who suffered from Algerian terrorism, the rest of Europe was soft on the Algerian support cells until recently. Historically, terrorist groups in the Middle East, Asia, and Africa have looked toward Europe for support and sanctuary. For example, Al Ansar Al Islami and the Abu Musab Al Zarkawi group, the most active groups in Iraq, have established cells in Europe to generate support as well as to recruit fighters, including suicide terrorists.

## The Effects of Iraq and Afghanistan

As the conflict in Iraq worsens, Muslims living in Europe will grieve. Muslim anger and resolve will create the conditions for terrorist support and operational cells to spawn and function more easily in Europe. Just as European Muslims had gone to train and fight in Afghanistan, Bosnia, and Chechnya, while a small percentage had participated directly in terrorist operations back in Europe, the continuing conditions bred by European laxity in counterterrorism will tacitly draw terrorists from the new breeding grounds in Iraq to Europe.

For the foreseeable future, Iraq and Afghanistan will remain the land of jihad. After its training infrastructure was destroyed by Operation Enduring Freedom in the fall of 2001, Al Qaeda decentralized its operations. In the Middle East, Asia, Africa, and the Caucasus, Al Qaeda began to work with the associated groups it financed, armed, trained, and indoctrinated. After Al Qaeda lost its Afghanistan base, it desperately needed another land of jihad in which to train and fight. Iraq has provided such a place. The United States' unilateral actions in Iraq unified and enraged the wrath of the Muslim community. The very imams in Egypt that condemned the 9/11 attacks as un-Islamic are now encouraging Muslim youth to go to Iraq and fight the invaders.

A terrorist group can sustain itself and conduct operations on the support it is able to generate. As a result of the highly successful U.S.-led global coalition against terrorism, several terrorist groups have suffered, especially Al Qaeda. Nonetheless, the U.S. invasion of Iraq increased the worldwide threat of terrorism many times over. Even moderate Muslims are angry about the invasion and post-invasion developments. This animosity toward the United States makes it easier for terrorist and extremist groups to continue to generate recruits and support from the suffering and grieving Muslims of Iraq. Because of perceived

injustices attributed to the West in general, particularly in Pakistan and Iraq, there will be significant support for the new generation of mujahideen in Iraq. Groups that were dying are making a comeback, and several new groups have emerged in Iraq, Indonesia, Pakistan, and even in Europe.

Considering the significance Al Qaeda and its associated groups attach to Iraq, one can expect them to continue to focus on Iraq's political developments in coming years. Before Saudi security forces killed Al Qaeda ideological mastermind Yousef Al Aiyyeri in early June 2003, he defined the stakes for the war, or the insurgency against the U.S. occupation, in Iraq. Previously, he had been a bodyguard to Usama bin Laden, an instructor in the Al Farooq training camp in Afghanistan, and the webmaster of Al Qaeda's main Web site. He stated that the establishment of democracy in Iraq would be the death knell for Islam. According to him, democracy is manmade law, and Muslims should only respect Islamic law, or God's law. Gradually, Muslims from the Levant and the Persian Gulf region, from North Africa and the European cradle, and converted Muslims will gravitate to Iraq. It is seen as a land of symbolic value. Iraq is likely to provide the same experience to radicalized Muslims in this decade as Afghanistan and Bosnia did in the1980s and 1990s.

Even more than those of the United States, Europe's long-term strategic interests demand that it play an active role in Iraq, given that country's location on the doorstep of Europe. Although the U.S.-led invasion of Iraq was a fatal mistake, withdrawing from Iraq would be an even greater one. U.S. withdrawal from Iraq and turning responsibility over to the United Nations would only strengthen terrorist capabilities in general and Al Qaeda more specifically. Europe must remain engaged in Iraq because an Iraq in conflict holds adverse implications for European security. It is only a matter of time until Al Ansar Al Islami, founded by Mullah Krekar, now living in Norway, and other groups active in Iraq will expand their theater of operations into Europe. Failure to stabilize Iraq will increase the threat of terrorism to Europe and beyond.

## What Now?

With the terrorist threat moving beyond the star of Al Qaeda into the galaxy of violent Islamist groups, the international security and intelligence communities will have to expand the range of their focus. With Al Qaeda's strength now estimated by the U.S. intelligence community to be fewer than 1,000 members, better understanding and targeting of its associated and equally committed and skilled groups is necessary. As the target moves, intelligence must evolve to reflect the new reality. If

the agencies of Western governments had focused only on Al Qaeda, they never would have detected the Salafi Group for Call and Combat in the United States, Al Tawhidin Germany, Takfir Wal Hijra in the United Kingdom, or the Moroccan Islamist terrorists in Spain.

Overemphasis on Al Qaeda will be detrimental to Western governments. Accomplishing a transformation in Western enforcement and intelligence services from a single focus on Al Qaeda to a broader focus will require specialists on various terrorist groups. Traditionally, most governments provide cross-training and produce generalists to work both on a policy and a strategic level. They had no incentive to specialize on a group or country. With the dispersal of the terrorist threat and sophistication of these groups, producing specialists who can work at tactical and operational levels is essential.

There are early indications that the terrorist threat is further shifting from small groups to motivated and resourceful individuals. To emphasize the evolving nature of the threat beyond various groups to individuals, for example, Al Musab Al Zarkawi, the Palestinian-Jordanian who is responsible for coordinating the largest number of suicide and no suicide attacks in Iraq, works with a dozen groups, serving to amplify the threat. Although he trained with Al Qaeda in the Herat camp and even lost a leg in combat, he works not only with Al Qaeda but also with Al Ansar Al Islami in Iraq and Al Tawhid in Europe. Thus, as much as groups are important, tracking individuals of concern is becoming more important as well. In the post–Iraq War environment, violent Islamists will use any group to advance their objectives or the greater objective of jihad.

Unless Western law enforcement, security, and intelligence services develop the ability to penetrate Islamist organizations with human sources, Al Qaeda and its associated cells will remain invisible to them. As Islamist terrorist groups develop in sophistication, leads in the planning and preparation phases of attack operations will become scarcer. Thus, counterterrorism operations must not be dependent only on intelligence to attack operational cells but also develop intelligence-led operations to target support and operational cells proactively. The West, and Europe in particular, has recognized that it is not immune from the terrorist threat. Unless European authorities and agencies develop a proactive mindset to target both support and operational cells, Al Qaeda will survive in Europe, and another attack will be inevitable. Furthermore, Al Qaeda could once again use Europe as a staging area from which to infiltrate the United States and conduct another terrorist attack.

Today, the terrorist threat has moved beyond the individual and the group to an ideology. Even if bin Laden and his principal strategist Ayman Al Zawahiri are killed or captured, the terrorist threat will not di-

minish. Even if Al Qaeda is completely destroyed, the terrorist threat will continue.

In many ways, Al Qaeda has completed its mission of being the vanguard or spearhead of Islamic movements envisioned by Azzam. Before it dies, it will have inspired a generation of existing groups and shown the way for an emerging generation of them.

It is therefore crucial to develop a truly multipronged strategy to fight the multidimensional character of violent Islamists. Instead of only tactically targeting identifiable terrorist cells, it is essential to prevent the creation of terrorists strategically. The bloc of nations with staying power in the West must work with the Muslim countries—their governments and nongovernmental organizations—to target the ideology that is producing the terrorists. It is necessary to send the message that Al Qaeda and its associated groups are not Koran organizations and that they are presenting a corrupt version of Islam by misinterpreting and misrepresenting the Koran and other texts. Only by countering the belief that it is the duty of every good Muslim to wage jihad can the existent and emerging terrorist threat be reduced. As Al Qaeda is constantly adapting to the changing security environment and morphing its structure, the key to defeating Al Qaeda and reducing the terrorist threat is to develop a multiagency, multijuristic, and multinational strategy to combat this ideology.

# Counterterrorism Policies and Strategies: Keys to Effective Interagency Cooperation and National Security

MICHAEL CHANDLER

*"If I had a dollar for every time I have heard the words "better cooperation" in the context of countering terrorism, I would be a very rich man now!"*

—Anonymous

## Background

Reference to cooperation in the context that it does not work as well as it might is a point raised by many officials in many capitals during many meetings to discuss ways of improving the work of agencies in the campaign against terrorism, particularly transnational terrorism. It is a word often heard from many a podium when the "war on terrorism" is mentioned. It featured in the North Atlantic Treaty Organisation (NATO) statement of 12 September 2001, which pledged the organisation's commitment, "to undertake all efforts to combat the scourge of terrorism," adding, "we stand united in our belief that the ideals of partnership and *cooperation* will prevail."[142]

In a similar vein, on the same day, the United Nations Security Council unanimously adopted a resolution that "*calls* on all States to work together urgently to bring to justice" all those concerned with "these terrorist attacks" and "*calls* also the international community to redouble their efforts…by increased *cooperation* and full implementation of the relevant antiterrorist conventions and Security Council resolutions."[143] In these two cases, the reference to cooperation is at the international level. But true and effective multilateral cooperation, which will always be subject to national interests, needs to work first and foremost "at home." Then and only then are the multilateral efforts likely to make real progress.

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[142] North Atlantic Treaty Organisation – Chronology Update, Week 10–16 Sept 2001, http://www.nato.int.

[143] UN Security Council document S/RES/1368 (2001), 12 September 2001.

The security of a nation has always been and continues to be – quite correctly – a very sensitive national issue: it is one of the pillars of national sovereignty. It also is a matter of major political importance. After all, in most countries, the majority of the population – the law-abiding citizens – look to their government to provide a safe and secure environment in which they can go about their normal daily business. Most people in most countries would prefer to live in an environment in which business and enterprise can flourish, leading to a healthy economy, a reasonable standard of living, and a future for themselves and their families. They – the majority – would also prefer their societies be free from the threats posed by criminals, be they petty thieves or organised gangs, and more importantly, the threats posed by terrorists, domestic or otherwise.

It is the feeling of insecurity engendered by acts of terrorism that the terrorists exploit – terror itself being such a "cost-effective weapon." For example, following 9/11 there was a sharp reduction in air travel and long-range tourism. Fear of the unknown, the when and where and in what way the terrorists will next strike, plays upon all sectors of society and government. Governments themselves are very sensitive to the political implications of terrorist threats, as has been demonstrated by the result of the elections in Spain, which took place only a few days after the terrorist attacks in Madrid on 11 March 2004. Similarly, the attacks by Al Qaeda–related terrorist groups in Saudi Arabia have, since that of 12 May 2003, moved from attacking only "Westerners" in the Kingdom to attacking the very fabric of the state, with the 21 April 2004 attack on the "old" Public Security Centre. This has been followed by attacks against oil and petrochemical facilities at Yanbu (1 May 2004) and Khobar (29 May 2004). Besides the threat to the Saudi government, these attacks, along with others directed elsewhere at the oil industry, can affect the world price of oil, and with it the stability of the global economy.

There are many facets to combating terrorism, involving a variety of agencies, and these have to be well coordinated if nation-states are to provide their citizens and those of other countries with a safe and secure environment in which to live and in which their economies can flourish. Furthermore, combating transnational terrorism, "*terrorisme sans frontières*," of the type espoused by Usama bin Laden and associated with Al Qaeda and the evolving ideology, requires a comprehensive and concerted effort on the part of many countries. No one nation alone is going to defeat this scourge that currently threatens global peace and security, no matter how big and strong that country might be.

Once the dust had settled after the attacks in New York and Washington on 11 September 2001, many people, including relatives of the victims, government officials, journalists, and concerned citizens, began asking questions. How was it that there had been no warning signs?

Were there really no scraps or snippets of information concerning the Mohammed Atta group, however small, that might have been known to members of the various agencies in the United States responsible in some way for counterterrorism? Snippets, which if shared with all the relevant parties, might have themselves triggered other peoples' memories and prompted a more inquiring or investigative process to have been initiated? What was known in Germany and other European countries about the patterns of behaviour of those young Muslim fanatics? Behaviour that might have alerted the various agencies to have initiated follow-up inquiries or to have shared the information with other agencies, possibly even in other countries that might have resulted in greater interest being taken in the individuals and their activities? The posing of these questions is purely a backdrop against which to examine the subject under discussion. It is not in any way suggesting that the 9/11 attacks might have been averted if more notice had been taken of those pieces of information, which have subsequently come to light, and had been acted upon differently. Nonetheless, questions of this nature have prompted many to realise that closer cooperation, coordination, and sharing of information between agencies is necessary if similar attacks are to be avoided in future.

## Aim

The aim of this paper is to examine the various ways in which cooperation is and can be achieved between the various agencies responsible for the many different aspects of countering terrorism within states, and the part this cooperation plays in ensuring national security.

## Discussion

Good coordination and cooperation between the different elements of states' armed forces, which invariably involves sharing information, should be second nature to the military members of the conference. But in many countries, similar levels of cooperation are not necessarily the norm between the judiciary, police, and other agencies charged with national security. During the latter years of the Cold War era, as communications systems and the ability to handle and manage information improved, NATO had an acronym – "$C^3I$" – which was its abbreviation for *Command, Control, Communications, and Intelligence.* The same acronym has a place in today's counterterrorism vocabulary, but it should now be redefined as *Cooperation, Communication, Coordina-*

*tion, and* [*the sharing of*] *Information*, and is relevant to the agencies responsible for combating terrorism.

For the purposes of this discussion, "agencies" that could have a role with regard to national security or homeland defence are (where they exist) the following:

- Police forces, local and federal or national
- Border guards or border services
- Coast guards (where appropriate and empowered)
- Customs services
- Immigration services (if not a function of any of the above)
- Consular offices
- Financial police
- Treasury or finance ministry elements responsible for measures to suppress the financing of terrorist activities
- Financial intelligence units or their national equivalent
- "Secret" or state security/intelligence-gathering services
- Judiciary agencies
- Armed forces, where they have a role in aid of the civil powers or in national security, for example, "military border guard" or Explosive Ordnance Disposal (EOD) units
- Operators of air and surface transport, utilities, and major industrial infrastructure (be they state or private sector)
- Emergency services, including fire and medical departments

How states have structured and organised their various agencies to combat terrorism depends on a variety of criteria. These include a state's constitution, heritage, judicial system, culture, ethnic composition, religions, geography, and governmental structures. Counterterrorism (CT) policy and strategies are matters for individual states. However, in the campaign against terrorism, there are some principles that are worthy of consideration.

First of all, a clear and thorough assessment of the threat is crucial. The current threat of transnational terrorism (TNT) is complex and difficult to deal with, due to the diversity and the loose affiliations of the many groups now involved. There is a wealth of information available about transnational terrorism, the individual groups, and many of the terrorist leaders. However the capabilities, spread, and the extent of the sympathy that exist for the intentions and goals of transnational terrorists are often underestimated. There are states that acknowledge, within the presence of their Muslim minority populations, a small number of extreme fundamentalists or fundamentalist groups. However, in some cases the existence of these elements is not seen as a threat to that particular country. But despite such countries acknowledging that these ex-

tremist elements may pose a threat elsewhere regionally, the countries are often not in a position to act (judicially) or are reluctant (politically) to deal with the known groups or individuals. During the past two years many countries have introduced CT legislation and measures to enforce their new laws. Prior to 9/11, such legislation did not exist in many states. These new laws are designed to deal with the suppression of terrorist financing, supporting terrorist groups and activities, and committing terrorist acts. In order to implement and enforce these laws, new procedures and specialist units have to be established. Despite the progress made to date, there is still much work to be done.

The threat can be present in many ways, but good knowledge of it is invariably reliant upon the quality of local human intelligence (HUMINT). How the intelligence is gathered is of secondary importance in this discussion. What really matters is that what intelligence is available is thoroughly analysed and shared, as appropriate, between all those agencies that may in some way be required to react or respond to the information. This requirement often poses limitations in many countries, depending on how the intelligence was obtained. If the information is derived from "undercover" agents or some other form of clandestine source, the handling agency may be reluctant to share it for fear of compromising the sources. In other instances, it is not unknown for agencies to be unwilling to respond to queries for information they might be expected to possess but do not actually have, for fear of demonstrating deficiencies in their organisation.

Judicial proceedings against individuals charged with activities associated with terrorism can be another reason for those "in the know" to withhold information that might be crucial to fully assessing the threat. This in turn involves both national legislation and also concerns the rights of the individual. Due consideration must be taken of these important issues. In some states, evidence is only admissible in a court of law if it is presented as a result of a police or judicial investigation, such that it can be subject to cross-examination by the defence. In such cases, evidence that is based on intelligence reports is inadmissible. How these matters are managed and how to overcome such obstacles to effective law enforcement will have to be adjusted in the light of the threat posed and the attitude of the terrorists and their supporters, as compared to common criminals. There are still many countries that face a dilemma concerning individuals who are known to be connected to or have associated with terrorist groups but that have not actually committed a terrorist act. Even though they represent a danger to the state, these states are reluctant to seriously deal with the individuals. It is in this area of a state's overall response to countering terrorism that there need to be a good working relationship between legislators and law enforcement. The latter should be expected to advise the legislators on the practicalities of implementing the law and its effect on the CT effort as a whole.

Once the threat is clearly understood by all concerned, the next step is to ensure the available resources are structured to deal with the threat. Is the aim clear? What is expected of the different agencies? What are they intended to achieve? In most countries, the threat posed by transnational terrorism has crept up on us. Most countries have for many years had strategies and structures in place to deal with internal security, whether the terrorism to defend against was "home grown" or from external sources. Agencies have been established and organised in order to deal with the perceived threat within the borders of the individual state. The mix of agencies can be any combination drawn from the list above. Each will have a specific role to play and will answer to the government ministry or equivalent, which is ultimately responsible for its performance. It is also important when deciding on the role and shape of the different agencies to try and avoid overlap. Sometimes this is unavoidable, but every attempt should be made to identify areas where this occurs and to clarify responsibilities. Failure to do this can result in confusion and/or blurred responsibilities "falling between desks."

In many countries, agencies have had to, or still need to, adapt to meet the threat posed by TNT. Such changes can themselves be quite painful for the agencies, especially if it entails a major shift in the *modus operandi*. There is a saying that "you cannot teach an old dog new tricks." Bureaucratically based agencies often resent change and have demonstrated a marked ability to react negatively to it. In such situations where information is power, there is often the concern that the *raison d'être* of the agency can be challenged if it has to relinquish or share its information with other agencies. The existence of agencies often depends on the results they achieve. Results in combating TNT are invariably difficult to measure. There have been a number of occasions since 9/11 when attempts by terrorists to carry out attacks have been foiled. This has sometimes been due to good undercover work and the sharing of intelligence. But, for these very reasons, it is difficult to measure or quantify, and this too can ultimately have a bearing on the attitudes of those involved and the perception of the agency compared with other ones. An apparent lack of results can be seen as a threat to the existence of an agency.

Political reservations can also affect how a country tackles terrorism. The reservations can be at odds with the practical steps that have to be taken. Conflicts of interest can occur when governments are oversensitive to the presence and attitudes of minority communities that are sympathetic to the aspirations of or the cause espoused by the terrorists or the terrorist ideology. The outcome of such an approach can be quite counterproductive. Combating TNT is a tough business that calls for tough measures and difficult political decisions.

This medley of factors, by no means exhaustive, which can have an effect on the development of an effective national CT policy, is intended to serve as part of the backdrop that will govern how the different agencies work together. Good CT measures are not a major scientific subject. They must be based on common sense. There are many ways of achieving the same end, some of which have proved the test of time and others, which are more innovative and can be described as "groundbreaking." Practice has shown that success is more often achieved if the approach chosen is simple and straightforward. The more complex a policy and the resulting procedures, the more difficult it will be to implement. Hence rule number one: keep it simple!

The next point, in deciding upon the structure(s) necessary to combat the threat, is to look at what is already in place and working, and how they can be adapted to meet the new challenges. Far too often, new organisations designed to share information and expertise have to be established, especially after terrorists have pulled off a successful attack. The perceived need for such new organisations invariably lies in the requirement for politicians to "be seen to be doing something." However, a new organisation needs resources. If it is to be effective, invariably, the result is the denuding of resources that are critical to the agencies or contributing countries, in the case of regional actions. In combating transnational terrorism, the people involved in the different agencies require certain skills and experience that are usually in great demand and short supply, for example, very specific language skills and/or detailed knowledge of cultures, religions, and "local" politics. Such high-value human resource assets are vital to states' ability to combat terrorism. Agencies can ill-afford to deploy them to other organisations. Notwithstanding the above, there does need to be a point in all states where the information that can be shared comes together from all the agencies involved in the CT effort. How this sort of centre is staffed will depend very much on the intensity of the threat to that state and the availability of resources.

Care should also be taken "not to reinvent the wheel!" Too often, rather than looking carefully to see what is already in place and either making it work better or adapting it to meet the newly perceived threat, a whole new structure is put in place. As discussed above, this only causes unnecessary disruption and turbulence at a time when "cool heads" and a "steady hand on the tiller" are what are really necessary and will prove most effective, both in the short and the long term.

It is perhaps appropriate at this juncture to look in general terms at some different approaches that have been or are still being employed; measures that have built on their individual or collective success. There are many ways of achieving the required result, and these have to be tailored to suit an individual state's criteria.

Rather than laying down formalised channels for sharing vital information, which certain agencies will avoid for some of the reasons stated above, it is better to rely on well-established informal relationships that exist and are known to work, often on the basis of trust. This peer-to-peer approach, often on the basis of initial meetings at conferences, seminars, or training courses, has proved very effective. This has been particularly true with respect to the dissemination of vital information, which has enabled a number of quite specific terrorist attacks to have been thwarted or foiled.

Exchanging liaison officers (LOs), a more formal approach in the same vein, allows for the development of the trust factor and provide the means for a rapid sharing of information. With well-motivated and well-informed liaison officers, a two-way exchange is often achieved, benefiting both the organisation to which the LO is attached as well as his own.

At the other end of the scale is the establishment of comprehensive "all-singing-and all-dancing" joint information and/or operations centres in which most, if not all, of the agencies available to a state for the purpose of combating terrorism are represented. Such centres have their merits, because individual experts from each of the agencies have the opportunity to work together in an environment of mutual trust and understanding. However, such centres are expensive in terms of people and equipment, and are vulnerable to attack or being neutralised in the event of a major incident. Their role as a nerve centre can become compromised or even be made redundant at a vital moment.

Agencies, particularly in the more economically advanced countries, have developed highly sophisticated information and data processing systems to manage the flow, analysis, and reporting of intelligence and information relating to the terrorist threat. However, it is often the case that agencies' systems are incompatible and unable to communicate with one another. In this day and age of hackers, computer viruses, and other means of electronic attack, such communications deficiencies may be an advantage for, and reduce the vulnerability of, national data systems. Thus the human interface remains of the utmost importance.

In addition, many of the information systems have technical limitations of their own. When dealing with individuals or entities, they require numerous identifiers to ensure that the persons concerned can be recognised quickly and accurately, and not mistaken for another person. Without sufficient identifiers, the systems are ineffective, and in this case cannot be replaced by the intervention of human resources.

Actual communications systems are another area of contention, which can reduce the effectiveness of interagency cooperation. Many front line operators or "first responders," as some of them are called in some countries, have been known to complain that they are unable to speak to operators from other agencies with which they have to coordi-

nate their operations. Due consideration therefore has to be given to the provision of sufficient channels or links to meet the operational intercommunication called for in a national CT strategy. Those of different agencies that need to talk to one another must be able so to do, but the facility must never be so extensive that anyone and everyone can "jump in on the net." Too much information can be just as counterproductive as too little. There is still merit in maintaining an effective "need-to-know" system with regard to whom and how information is shared. Good and well-planned management of information-sharing requirements are a crucial prerequisite of effective counterterrorism policies.

In developing and implementing effective CT policies and strategies, the importance of the "human factor" is crucial. Mention has been made of the importance of sharing information between peers. This aspect of CT work is not confined to national interagency cooperation. It is equally important in the international arena, particularly with respect to bilateral arrangements. The importance of exchanging liaison officers has also been mentioned. This method of facilitating the sharing of information works as well intrastate as it does interstate. However, the effectiveness of both these methods of exchanging information relies heavily on the human factor. In the majority of cases, agencies tend to provide LOs who are knowledgeable, competent, and have the ability to operate in another working environment. Such an environment may be very different from the one to which they are accustomed. Provided these "human" criteria can be met, there is another aspect which, for a variety of understandable reasons, is often overlooked or ignored – continuity. In most countries, particularly when dealing with a subject as complex as TNT, maintaining the continuity of people in such important posts is crucial to the long-term results. The terrorist groups have no time constraints and no deadlines to meet. They have all the time in the world. Too often in the developed world, the officials involved in the CT business have career paths to be followed and they have to move on to other appointments, at the expense of perhaps effectively countering the terrorists. In other circumstances, politics takes over and people are changed, despite their institutional knowledge and expertise, because they are deemed, no matter how committed to the task in hand, to be of the wrong political persuasion. Loss of continuity has an adverse effect, often quite seriously, on both the internal workings of an agency and more importantly, on interagency cooperation. There is nothing worse than one group of dedicated individuals finding new faces across the table every time they attend interagency meetings.

Regular interagency meetings are another means of establishing good cooperation and developing means of communication between the various agencies involved in combating terrorism. However, if the meetings are too frequent, their value becomes questionable. If they are too infrequent, then too much may have happened in the interim period, which

has to be handled through other channels, once again detracting the value of the meetings. It thus becomes a fine judgement as to how often the meetings should be held. Provided the agendas are correctly focused and clearly defined and realistic targets are set and met, interagency meetings can be useful instruments in the overall CT strategy. However, the importance, once again, of continuity of the people involved has to be emphasised if such a programme of meetings is to be effective.

In many countries, many of the agencies involved in combating terrorism have some form of situation reporting centre (or SITCEN), which provides a focal point for its operations. These may be combined with other functions of the agency. The centres in turn will have national reporting channels. Interagency cooperation, which will be crucial in the event of major terrorist incidents coming to light or actually happening, will require careful coordination and good communications and procedures. Consequently, it is extremely important that whatever interagency structures and procedures are established, they are rehearsed on a regular basis. Only with realistic exercises will all the systems be tested and deficiencies and lacunae identified, prior to a real incident.

## Summary and Conclusions

In conclusion, this summary contains some of the key aspects to be considered when drafting a national CT policy and developing good interagency cooperation and coordination.

- Good interagency cooperation and coordination are crucial elements in combating terrorism, especially transnational terrorism.
- Effective interagency cooperation depends on the timely and accurate sharing of intelligence and information, and requires a reliable means of communication.
- Most states have a variety of communication facilities available to their different agencies involved in the CT effort, but these are often incompatible.
- Joint facilities, which bring all the different agencies together under one roof, if a permanent setup, require significant human and technical resources. Many countries have difficulty in providing sufficient resources to combat terrorism. Consequently, what resources are available have to be assigned to other aspects of the campaign.
- The exchange of liaison officers between agencies can provide a relatively cost-effective option from which both sides benefit – the LO's parent agency and that agency to which he is attached.

- As resources are invariably a critical factor, there is considerable merit in looking to adapt those structures/agencies that already exist or even making them more effective, rather than believing that the response always lies in setting up new agencies or organisations. It is important to avoid duplication of effort.
- It is important in establishing the requirement not to reinvent the wheel. The aim and results to be achieved are paramount in deciding the shape and size of the relevant agencies.
- A clear understanding of the threat is also a crucial factor in determining the organisation of the various agencies established to combat it.
- There needs to be good and effective cooperation between those officials responsible for drafting legislation and the officials responsible for enforcing the law. This is particularly important when dealing with the threat posed by TNT.
- Simplicity is the keynote of success. The more simple and straightforward the structures of the agencies and the methods by which they cooperate, the greater the chance of success in countering transnational terrorism.

# Terrorism and Parliamentary Control

WILLEM F. VAN EEKELEN

Terrorism poses multiple challenges to parliamentarians. They have to be seen as active in countering a massive threat to Western society, but are groping in the dark as to its causes and plans of action. No other issue has such a direct impact on their voters and their view of the world, since all of them have to cope with it in trying to continue their daily routine normally. Fear increases with every new terrorist incident and fear is a powerful factor in politics.

Fear of a massive Soviet attack on Western Europe turned NATO into the most effective collective defence alliance in history, based on an intricate doctrine of deterrence. The adversary was unable to count on an easy success, and mutually assured destruction – although declared "MAD" by some – worked, by making it clear that any possible gains would be far outweighed by massive losses. It also balanced Soviet conventional superiority with the threat of nuclear retaliation. It was a "balance of terror," but most people could live with it because in the final analysis they expected and counted on rational behaviour. States would not easily commit suicide, it was argued, with varying degrees of conviction.

The major changes in modern terrorism are its suicidal and catastrophic methods, aimed at massive casualties among the general public, without a well-defined link to precise and negotiable demands. In this respect, it resembles the anarchist attacks in the beginning of the twentieth century. In itself, suicide has been a tool of war and politics before. Kamikaze pilots have been used to be certain of hitting a target, monks have immolated themselves to draw attention to their cause, and in Nazi Germany a plot was hatched to blow up Hitler with bombs strapped to the body of a young officer. The difference is that today's attacks are aimed at the Western way of life in general and are very difficult to deter. The attacks of 11 September 2001 have made that clear. Their scope perfectly fitted the objective: the World Trade Center in New York as the symbol of globalisation and the Pentagon in Washington as the epitome of American power. No subsequent attempt came close. In fact, no further major attack took place in the United States or Western Europe until the train bombings in Madrid. Prior to March 2004, one could ask the question: was Al Qaeda was less effective than it was thought to be, or were the host of preventive measures adequate

in deterring and detecting new terrorist acts? In Madrid, the attacks appeared to be most cunningly planned and timed, given their influence in the subsequent decision to withdraw Spanish forces from Iraq.

## Terrorism Becomes the Major Threat

The day after 9/11, NATO – for the first time in its history – invoked Article V, providing for collective defence against an external attack. Contrary to expectations at the time of its inception, it was not a case of the United States helping Europe to resist aggression, but of the Alliance expressing solidarity with Americans in their day of shock and bereavement. "Today we are all Americans" was the rapid and sincere message that Europeans sent across the Atlantic. It was highly appreciated in the U.S. Congress and Speaker of the House Dennis Hastert made a special trip to Ottawa to express U.S. gratitude at the plenary session of the NATO Parliamentary Assembly. Regrettably, that common feeling evaporated when NATO was not given a role in the Afghanistan campaign to dislodge the Taliban regime.

The attacks were qualified as "external," which brought them under the scope of Article 51 of the UN Charter. On 12 September 2001, the Security Council passed Resolution 1368, labelling the terrorist acts a "threat to international peace and security" and "recognised the inherent right of individual or collective self-defence." This was understood as an authorisation of the use of military force against the Taliban regime in Afghanistan, which was sheltering Usama bin Laden and his movement. On 28 September 2002, Resolution 1373 laid down very specific measures to combat terrorism: obliging states to deny all forms of financial support to terrorist groups; to suppress the provision of safe havens, sustenance, or support for terrorists; to share relevant information with other governments; to cooperate with them in the investigation, detection, arrest, and prosecution of alleged terrorists; to criminalize active and passive assistance to terrorists in national laws; and to become party to the relevant international conventions. This resolution also established the Counter-Terrorism Committee (CTC), made up of all fifteen members of the Security Council.

The attacks also spurred the European Union into action, not only politically, but this time more importantly in the fields of money laundering and the so-called "third pillar" of justice and home affairs. Dossiers that had been kept pending for years were concluded, and decisions were taken on an impressive range of issues. Here the EU proved to have an advantage over NATO by possessing a spectrum of instruments which went well beyond the military dimension. Al Qaeda had shown that henceforth, internal and external security would be inextri-

cably linked. As a consequence, parliamentary interest no longer would be limited to a small group of defence experts, but extended to other sectors as well. A major issue would be the conflict between enhanced security for the citizen and the preservation of his liberty and fundamental freedoms. Not all measures agreed to in Brussels could count on enthusiastic support by national parliaments. Consequently, political leaders needed all their skills to forge a coherent approach among their sectoral spokesmen.

In the United States, the newly discovered vulnerability caused, in the words of Guillaume Parmentier,[144] a "rape trauma" that would colour its citizens' views of world affairs. Other victims of terrorism, including Israel, got more sympathy from Americans than from Europeans, which had somehow learned to live with terrorist acts. Northern Ireland had stiffened the upper lip of the British; Basque terrorism had not substantially influenced the government in Madrid; and Germany, Italy, and France had outlived the killings by the *Rote Armee Fraktion, Brigate Rosse, and Action Directe*. Europe was preoccupied with ethnic conflict in the Balkan states, where terror and political violence created a climate of escalating fear, but catastrophic terrorism did not appear. Parmentier observed that few in Western Europe would see Usama bin Laden's radical brand of Wahabite Islam as constituting a viable alternative to liberal democracy. As a result, the "war on terrorism" did not unify the West in the same way the Soviet threat had. While many Americans regarded themselves as being in an actual and ongoing state of war, Europeans remained reluctant to use the war metaphor and, if they did, wondered how you could ever win a war against terrorism, with its shifting targets, players, and networks.

Opinion varied on the root causes of catastrophic terrorism. Bin Laden struck at the Western way of life, but his immediate goal was to bring down the ruling House of Saud in his native country. The car bombing in Bali, which killed many Australians, also had an indiscriminate anti-Western objective. Most other incidents had a more immediate objective, such as Taliban remnants and supporters of Saddam Hussein impeding reconstruction of Iraq, or Palestinians keeping the cause of an independent state alive by maintaining it in the international news. A worrying aspect of terrorism in the Middle East is the increasingly religious inspiration of the actors, who expect martyrdom and salvation by indiscriminate killing. Huntington's spectre of a "clash of civilisations" seems to be approaching, but in a different manner. Parmentier reverses Huntington's analysis. Huntington described the West as a civilisation in opposition to other civilisations, but currently it seems

[144] See his "Is there a West? Changes in the Western Alliances," in *Transatlantic Relations at a Crossroads* (Netherlands Atlantic Association, 2003), 15–19.

more accurate to conclude that other civilisations attempt to define themselves in opposition to the West. What this means for our "universal" declaration of human rights remains to be seen. It is encouraging to note that also in the Arab world people point a finger at internal causes of stagnation – including the minimal role of women in economic activity – which may counterbalance feelings of frustration and anger that Islam and Arab culture have lost the leading role they once had.

In the debate about the causes of terrorism, poverty is often given an important place, and is used as an argument for economic and social development aided by foreign assistance. The jury is still out on this. Obviously, the existence of large numbers of unemployed young people is likely to be a cause for instability and a breeding ground for terrorists. On the other hand, the terrorists of 9/11 were well-educated people who seemed to be on the way toward integration into American society. Usama bin Laden is a rich man who is able to personally finance his network. More importantly, poor people are not necessarily opposed to law and order. On the contrary, the masses in Iran are conservative and not inclined toward novel social experiments. Educated people are more susceptible to becoming revolutionaries. The roots of terrorism are socioeconomic rather than purely economic, and grow in areas most dramatically affected by incomplete, unbalanced, or failed modernisation.[145]

The failure of many development projects in the Third World have led national parliaments in donor countries to insist on "good governance" and better accountability for money spent. Increasingly scarce resources undoubtedly will accentuate this trend, in spite of protestations of neocolonialism by the recipient states. The growing number of "failed states" and the call for peacekeeping and other means of intervention will simply put a limit to what the international community is able and willing to do. American willingness to take forceful action, as shown in Afghanistan and Iraq, already did have an effect on other states that in the past have figured among the "states of concern." Iran, North Korea, and Libya, to varying degrees, have limited their nuclear aspirations out of fear of American preemptive action. Sudan is moving toward internal agreement, and – albeit of a different order – India and Pakistan finally are moving toward the conference table. In short, we see a new paradox emerging: anti-Americanism is on the increase, but at the same time, American determination to match its words by its deeds might be paying off. If Afghanistan and Iraq settle down with acceptable standards of governance and human rights, regime change will have a lasting effect on what is now called the Wider Middle East. The

[145] Ekateria Stepanova, "Anti-terrorism and peace-building during and after conflict," SIPRI, June 2003, 31.

Israeli-Palestinian conflict had little to do with the U.S. intervention in Afghanistan and Iraq, but its continuation remains a heavy burden on Arab perceptions of American credibility.

Even in Washington it took almost eighteen months to put together a coherent counterterrorism strategy. In February 2003, the White House released the National Strategy for Combating Terrorism, which called for simultaneous action on four fronts: to defeat, deny, diminish, and defend:

> *Defeat terrorist organisations of global reach by attacking their sanctuaries; leadership; command, control, and communications; material support; and finances. Deny sponsorship, support, and sanctuary to terrorists. Diminish the underlying conditions that promote despair and lead people to embrace terrorism. Defend against attacks on the United States, its citizens, and interests around the world.*

The strategy was weighted in favour of military action, but together with its emphasis on economic development and the programme for homeland defence, it presented an impressive agenda. Its implementation required the involvement of all sectors of government and Congress.

In the military field, there is a glaring discrepancy in the trends of defence budgets in the United States and in most European countries. The astronomical rise in the United States, where the budget is larger than those of all its allies together, makes us forget that Washington is also engaged in an ambitious program of homeland defence, thus linking internal and external aspects of security in a much more conceptual manner than Europe does. The EU has a double problem in not having a fully integrated security and defence policy and in the ongoing competition with NATO concerning rapidly available reaction forces.

Germany no longer retains the central position it had in East-West relations during the Cold War. After the enlargement of both NATO and the EU, it no longer is on their periphery, but firmly embedded in the new area of stability and prosperity which the two organisations foster. German reactions to this new situation are puzzling, but might be temporary. Her most surprising stand was the announcement that, in spite of being a member of the Security Council, Germany could not participate in any military action in Iraq, even were it authorised by the Council. Previously, Germany had always been reluctant to join military operations outside the NATO area, but had been slowly moving toward international involvement – its participation in Bosnia and Kosovo being prime examples. Under the Schröder government, the *Bundeswehr* is being transformed from a relatively static collective defence force to one that includes a sizeable intervention force (35,000) and a stabilisation force for peacekeeping (70,000). Yet it becomes less clear whether Germany will ever participate in robust military interventions in general or counterterrorism operations in particular. The Security Council has

moved from interstate conflicts to ethnic strife within countries, but has no record of authorising counterterrorist operations that would infringe on national sovereignty. In view of its history, German reluctance was understandable – perhaps even laudable – but that attitude now seems to have given way to a superior and legalistic posture that Maarten Brands called *Friedensselbstgefälligkeit*, a feeling that peace is always best.[146] Unqualified reliance on authorisation by the UN Security Council is a recipe for inaction. The Security Council is a forum for negotiation and political compromise and should not be elevated to the position of an exclusive source of international law. Regarding an intergovernmental body like the UN, which includes a majority of nondemocratic regimes, most of which make no contribution to international peace and security, a more realistic approach recommends itself. France and the United Kingdom, although divided over Iraq, conceptually have fewer qualms about preventive action, and have demonstrated that fact in both words and in action. It is not the first time that Germany has been accused of a streak of romantic pacifism. Fortunately, she is trying to compensate for the negative attitude on Iraq by doing more in Afghanistan. This is not to deny the disputed legitimacy of American intervention in Iraq. In Washington and London, legal experts have argued that it was justified in the light of earlier UNSC resolutions. The case against the Taliban was more unequivocal, as the regime sheltered Al Qaeda and therefore could be legitimately attacked in a self-defence operation.

The European Union might not have to spend more money on defence, but it certainly has to spend it better. Many countries have not fully adjusted to the post–Cold War security environment and maintain useless capabilities. The main problem is the lack of a common answer to the "what for" question and national decision-making processes that take place without much regard to what the partners are doing. High Representative Solana has taken a major step forward with his strategy paper, presented to the Thessaloniki European Council in June 2003 and adopted in December as a consensus document.

The strategy outlined three major new threats: terrorism, weapons of mass destruction, and the combination of "failed states" and organised crime. It advocated "preemptive engagement," later changed to "preventive engagement" in the light of the criticism of the American emphasis on military preemption. Solana saw it more broadly, and rightly so. Early action is more effective, but the response to the new threats cannot be exclusively military. His document also gave priority to the areas bordering on the EU. It was well received. Even if it does not give

[146] "How reliable and stable is Germany as a partner in international politics?" in *Transatlantic Relations at a Crossroads* (Netherlands Atlantic Association, 2003), 93.

answers to concrete crises, it provides a common underpinning of basic approaches of the ESDP, and it does so in a manner to which nobody can take exception. In fact, the threat analysis comes very close to American perceptions.

In implementing the strategy, the EU is engaged in some competition with NATO. The Helsinki Headline Goals of 1999 envisaged a capability of 50,000–60,000 personnel available within sixty days and sustainable for a year; its size was predicated upon the experience in Bosnia and Kosovo. The need for earlier action prompted NATO, at the insistence of U.S. Defence Secretary Rumsfeld, to develop the NATO Response Force of some 20,000, able to act quickly as an "insertion force." The NRF came into being remarkably quickly, with a timetable for rotation of the army components. As a fighting force, there was merit in limiting its multinational character. In its turn the EU followed a similar approach, but focused on national or binational "battle groups" of some 1,500 persons. Both organisations moved sensibly in the direction of more concrete scenario planning. In doing so, however, the old notion that the same units could be made available to both organisations became less tenable. Of course, nations have but one set of forces, but units designed for very short reaction times should be assigned to one task only. That should not be a problem for the twenty-six members of NATO and the twenty-five of the EU, who should be able to devise sensible rotation schemes.

Finally, it is worth noting a new trend in parliamentary debates in Europe linking development with security. As it is recognised that without security on the spot there is little chance of economic development, the dividing lines between the "aid and cooperation" sector and the military establishment are less marked than before.

## Defining Terrorism

After the initial shock of 9/11 and, except for the "shoe bomber," the absence of major terrorist attacks in Western Europe, most politicians in Europe did not feel at war. In November 2002, several major capitals considered it necessary to warn their populations of the risk of terrorist attacks on a wide scale. Yet, in spite of the fact that, contrary to received wisdom, Europe was now as much at risk as America, it did not dawn on people that, in the words of Therèse Delpech, they faced the return of war to the most developed societies.[147] In fact, some ministers – for example, in the United Kingdom – were accused of sowing panic

[147] Chaillot Paper 56, December 2002, International Terrorism and Europe, EU Institute for Security Studies, Paris.

when they talked of the likelihood of terrorist attacks in their countries. It is still unclear to what extent the Madrid train bombings have visibly changed that perception.

Governments and parliaments were in a quandary. They wished to avoid upsetting their people, but had the duty to take precautionary measures to prevent attacks and to respond quickly if terrorist action took place. They also had to protect themselves physically. The fact that the EU was implementing its third pillar of cooperation on justice and home affairs greatly helped in reacting to the new threat in a measured but effective way. The agenda was impressive and moved along on many fronts at the same time.

As said before, terrorism is not a new phenomenon on European territory, nor is it outside the scope of earlier activities. In 1982, the Genscher-Colombo proposals on bringing security within the scope of the European Political Cooperation already had referred to the need for measures against terrorism among its rationales for stronger European action. But that was before the days of catastrophic terrorism carried out by suicide bombers without the possibility of negotiation.

Similarly, in 1994 the OSCE adapted its Code of Conduct on Politico-Military Aspects of Security, which in Paragraph 6 reaffirmed the commitment to take appropriate measures to prevent and combat terrorism in all its forms.

The political debate on ways and means and guiding principles in the fight against terrorism has been an uneasy one, dominated by two persistent controversies. First, how to distinguish between terrorists and freedom fighters, the former being condemned and punished, the latter hailed and supported? And second, should states behaving in a reprehensible fashion be defined as "terrorist" and therefore be condemned and punished? Both issues proved to be formidable stumbling blocks on the road toward a comprehensive UN convention outlawing international terrorism. Nevertheless, progress proved to be possible on establishing rules and practices in the fight against specific terrorist actions.

The Dutch expert on terrorism Marianne van Leeuwen attempted to arrive at a "neutral" and at the same time manageable interpretation of terrorism by listing the following premises:[148]

1. Terrorists are nonstate actors. States should not be called terrorist, even if they violate their own and international laws; they can be brought to justice in other ways.

[148] "Terrorism and Counter terrorism. Insights and perspectives after September 11" (Clingendael: Netherlands Institute of International Relations, December 2001), 8–10.

2. Terrorists try to change the political, societal, or religious order by using or by threatening the use of violence. They should be distinguished from criminal or mentally diseased persons or pranksters.
3. Terrorists are not soldiers. Their natural battleground is the big city. Their strategy is demoralisation rather than physically defeating their opponents.
4. Terrorists may look for inspiration in a charismatic leader, but traditionally operate in small units with a great deal of autonomy and not within a strictly hierarchical chain of command.
5. Terrorists seek to defeat their enemy through demoralisation, but they also try to win public support for their cause. By resorting to indiscriminate or mass killings, however, they might lose a supportive general public.

A definition of terrorism was particularly important because most national legislations did not contain references to terrorism or terrorist acts. Prosecution had to be based on existing criminal law referring to murder, bodily harm, or destruction of property. Long before the actions of Al Qaeda, the international community was engaged in the conclusion of international conventions against terrorism, starting with the unlawful seizure of aircraft in 1979 and, later on, the punishment of crimes against protected persons, the taking of hostages, the physical protection of nuclear material, maritime navigation, and fixed platforms located on the continental shelf (1988).[149] A new departure was made with the International Convention for the Suppression of Terrorist Bombings,[150] adopted by the UN General Assembly in December 1997. Two years later, on 9 December 1999, it was followed by the International Convention for the Suppression of Financing of Terrorism.[151] All these conventions had to be ratified by parliaments and acts had to be adopted to translate the content into national legislation. The 1999 Convention followed a short and simple definition of terrorism: the intention to intimidate with acts of gross violence (such as murder or gross bodily harm) in order to compel governments to take or refrain from certain acts.

At the time of the signature of these conventions, several states, including the Netherlands, had made a declaration that they would follow the territorial principle and prosecute only if the assumed culprit was discovered on its territory and a request for extradition had been received and rejected. In the light of the 9/11 attacks, these reservations were withdrawn and the law courts obtained unlimited universal juris-

149 The list is contained in appendix 1.
150 http://www.unodc.org/unodc/terrorism_convention_terrorist_bombing.html
151 http://www.un.org/law/cod/finterr.htm

diction in the field of these conventions. The main argument was that no safe havens should be created where terrorists could go unpunished.

Both the Council of Europe and the European Union have adopted legislation to combat terrorism. The list of the Council of Europe is as follows:

- European Convention on the suppression of terrorism, signed on 27 January 1977 and entered into force on 4 August 1978. Ratified by all EU members and candidates.
- European Convention on extradition, signed on 13 December 1957 and entered into force on 18 April 1960. Ratified by all EU members and candidates. The additional protocols of 1975 and 1978 were not signed by all.
- European Convention on Mutual assistance in criminal matters, signed on 20 April 1959 and entered into force on 12 June 1962. Ratified by all EU members and candidates. The additional protocol of 17 March 1978 was not signed by all.
- European Convention on the transfer of proceedings in criminal matters. Signed on 15 May 1972 and entered into force on 30 March 1978 with only sixteen ratifications.
- Convention on laundering, search, seizure, and confiscation of the proceeds from crime, signed on 8 November 1990 and entered into force on 1 September 1993. Not yet ratified by Romania and Turkey.
- Convention on cybercrime, signed on 23 November 2001 but not yet entered into force. Not all EU members and candidates signed.

## The EU Approach

The European Union promptly reacted to 9/11 with an extraordinary council that met on 12 September 2001. It passed a resolution in support of the United States and set about to implement measures in all three pillars of the Union, be it flight security in the first pillar, or actions in the framework of CFSP, or police and judicial cooperation in criminal affairs. In order to ensure the continued functioning of the international financial markets, the European Central Bank closely coordinated with the U.S. Federal Reserve and agreed upon a swap agreement of up to 50 billion U.S. dollars on 13 September 2001. The European Commission presented proposals for a more effective fight against terrorism on 19 September 2001. Among them was a common definition of terrorism, terrorist activities, and punishment for terrorist crimes, which was clearly important since only six EU member countries (Germany, Italy, France, Spain, Portugal, and Great Britain) had at that time an explicit mention of terrorism or terrorist activities in their

criminal codes. The Commission also stipulated the introduction of a European arrest warrant in addition to the traditional bilateral extradition regulations. Other measures included the listing of prohibited organisations; combating their financing and, more widely, money laundering; cooperation among prosecuting authorities through "Eurojust" and joint investigation teams; and extending Europol's beyond the drug trade to counterterrorism activities as well.

The European Council adopted a Common Position on the application of specific measures to combat terrorism on 27 December 2001 (doc.2001/931/CFSP), which was translated into a framework decision on 18 April 2002, following a proposal by the European Commission and advice of the European Parliament. It listed a series of terrorist acts, but preceded it with three qualifications of the aims with which these acts were committed. In a first draft, the Commission did not seek a parallelism with the UN texts and did not include the element of compulsion, but added an important new criterion, which covered intentional acts that could seriously damage a country or an international organisation. During the negotiations establishing the Common Position, the text became more congruent with the UN conventions, but maintained this new element. The full text reads as follows:

> For the purposes of this Common Position, "terrorist act" shall mean one of the following intentional acts, which, given its nature or its context, may seriously damage a country or an international organisation, as defined as an offence under national law, where committed with the aim of:
>
> (i) seriously intimidating a population, or
>
> (ii) unduly compelling a government or an international organisation to perform or abstain from performing any act, or
>
> (iii) seriously destabilising or destroying the fundamental political, constitutional, economic, or social structures of a country or an international organisation:
>
> (a) attacks upon a person's life which may cause death;
>
> (b) attacks upon the physical integrity of a person;
>
> (c) kidnapping or hostage taking;
>
> (d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place, or private property, likely to endanger human life or result in major economic loss;
>
> (e) seizure of aircraft, ships, or other means of public or goods transport;
>
> (f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological, or chemical weapons, as well as research into, and development of, biological, and chemical weapons;
>
> (g) release of dangerous substances, or causing fires, explosions, or floods, the effect of which is to endanger human life;

(h) interfering with or disrupting the supply of water, power, or any other fundamental natural resource, the effect of which is to endanger human life;

(i) threatening to commit any of the acts listed under (a) to (h); or directing a terrorist group;

(k) participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the group.

For the purposes of this paragraph, "terrorist group" shall mean a structured group of more than two persons, established over a period of time and acting in concert to commit terrorist acts. "Structured group" means a group that is not randomly formed for the immediate commission of a terrorist act and that does not need to have formally defined roles for its members, continuity of its membership, or a developed structure.

So far, the work of the Council in the field of justice and home affairs has been conducted according to the intergovernmental method, which gives only a limited role to the Commission and the European Parliament, and decisions are taken on the basis of unanimity. The Treaty of Amsterdam provided for the transfer of "Schengen" and visa and immigration policy to the communitarian "first pillar," but the harmonisation of penal law and most terrorism-related questions remains intergovernmental. As a result, national practices regarding decision making in Brussels vary greatly.[152] The ensuing lack of transparency has as its consequence that neither the national parliamentarians nor the European Parliament, which had provided an *avis,* were aware of the final text. In the case of the framework decision on terrorism, the text was changed so much (and the list of criminal acts substantially shortened) that ministers had to submit it once again to the European Parliament for advice. During the debate on the arrest warrant, much attention was paid to the fact that it dropped the requirement that the offence for which the arrest was sought had to be punishable in both countries, the state asking for the arrest and the state where the culprit was staying. Many had qualms about it, but in a truly European warrant, the condition of double penalisation had no place any longer. Another difficult item was the proposal to harmonise maximum penalties in order to prevent criminals from fleeing to countries with the lowest punishment. This debate was influenced by the debate on zero-tolerance and minimum penalties, but that was a different matter. Judges maintained dis-

[152] In the Netherlands, both houses of parliament need to give a green light before the government can agree to legally binding decisions. This required timely availability and openness of the documents on which decisions have to be taken, but in practice preparatory work usually continued until the eve of a ministerial session.

cretion in imposing a sentence below the maximum provided by law, but it would also make sense to harmonise the upper ceiling.

The European Convention drafting a Constitution for the European Union introduced a "solidarity clause" allowing a state that becomes a victim of a terrorist attack or another calamity to ask for the assistance of other members. Obviously, this would have to be organised to guarantee speedy and effective action. Another improvement endorsed by the Convention concerns the principle of the subsidiary, stipulating that measures should be taken at the most appropriate level: local, regional, national, or European. In its proposals for regulation, the European Commission should explain why it should be applied at the European level. Subsequently, national parliaments would have six weeks to debate its necessity. This will require much more attention of national parliamentarians to European matters. They no longer will be able to claim ignorance when a European directive has to be translated into national legislation. On the other hand, it will put a brake on possible ambitions in Brussels to do too much. It is not necessary to find European solutions to every type of criminal behaviour.

Nevertheless, the urgency of joint actions against transborder crime and international terrorism is not fully reflected in effective action. Undoubtedly, the problems are serious. Terrorism is a method that can be applied in many fields, as shown in the list of crimes drawn up by the European Council. Many crimes in themselves were punishable by national penal law before 9/11, but sentencing varied and – more difficult – rules on criminal procedures and admissible evidence touched the heart of the rule of law as practised throughout the European Union.

In the European Union, a particular parliamentary concern related to the lack of transparency and supervision of the new bodies set up by the EU. It was all very well to exchange personal data, but what use would be made of them? Not all present and future EU members possessed mature data protection regimes. This question also played a role in the agreement with the United States on the provision of personal data of airline passengers. By and large, security cooperation with the United States worked well (as it clearly constituted a mutual interest), but uncertainty about the use the American authorities would make of the data played heavily in the negative advice delivered by the European Parliament on the proposed agreement.

The second concern related to internal and external accountability. How could accountability mechanisms keep track of the proliferation of international enforcement measures? Monitoring remained very fragmented, as these functions had not yet been transferred to the EU institutions, including the Court of Justice. Monica den Boer[153] has given

[153] In "From Europol to Parlopol. Proceedings of the Europol conference," organised by the Netherlands Parliament on 7–8 June 2001, Boom, Amsterdam, 30.

the example of covert techniques used by joint investigation teams: would it be sufficient to hold them accountable to one or two national authorities only? And the extension of Europol's mandate to terrorism (on 1 January 1999, well before 9/11) called into question the involvement of state security services and military intelligence, which, with English understatement, were "subjected to low transparency and limited parliamentary control" in most member states. The European Parliament was not even consulted on the Europol convention, and its subsequent involvement was limited to receiving the annual Europol report. The 2001 Parlopol conference in The Hague advocated the creation of a parliamentary body to scrutinise the third pillar. The same problem exists in the other area of intergovernmental cooperation: common foreign, security, and defence cooperation, where the functions of the WEU have been transferred to the EU but the European Parliament and the Commission are prevented from exercising parliamentary oversight.[154] As a result the WEU Assembly continues its work on consensus building among national parliamentarians, but without a dialogue with a ministerial Council. As a result, the parliamentary dimension of European intergovernmental cooperation is not functioning properly.

## Concrete Action

In the aftermath of 9/11, parliaments and governments focused on suppression and prevention: suppression of the Taliban in Afghanistan through the dual operations of Enduring Freedom led by the United States to hunt Al Qaeda fighters and the International Security Assistance Force to stabilise the situation in the Kabul area under the auspices of the UN but commanded by NATO; and prevention through a host of measures to strengthen international cooperation and to make national control mechanisms and capabilities more effective. In the Netherlands, an action plan for fighting terrorism and enhancing security was presented to Parliament on 5 October 2001 and was signed by the prime minister, the state secretary of finance, and the ministers of justice, home affairs, and defence. Half yearly reports about its implementation followed and were put on the parliamentary agenda. Altogether, forty-six action points were listed with detailed commentary, some subdivided by supplementary points which arose in the course of implementation. Examples are given below:

[154] See my DCAF occasional paper no. 2: "Democratic Control of Armed Forces: the national and international parliamentary dimension," October 2002.

– Expansion of the intelligence and security services and better exchanges with the police and with Europol. Europol had been given authorisation to start a counterterrorism task force in the autumn of 2001, in addition to its activities against narcotics trafficking. At the same time, a Police Chiefs Task Force met periodically, but outside the EU institutions. During the Danish EU presidency, its tasks were ambitiously defined as acquiring a strategic position against transborder crime. The government of the Netherlands described the arrangements as "workable," which hardly sounded enthusiastic for parallel arrangements.
– Development of biometric methods of identification, such as fingerprinting and iris scans, including a centralised system, which possibly could be used when issuing visas
– EU harmonisation of visa policy, covering fraud-proof visa stickers, the feasibility of a databank, cooperation among consulates, and the introduction of a uniform model for (temporary) residence permits
– Enlargement of the immigration service
– Better protection for embassies and official foreign visitors
– New equipment ranging from armoured guard cabins to special cars and water cannons
– Stronger surveillance of the external EU border and the Schengen regime
– Enhanced measures for civil aviation, such as controls of passengers and baggage (financed by a security levy on airline tickets) and airport security
– EU regulation for protecting civil aviation, including basic norms and an audit system, and linked to the ICAO conference of February 2002 (which provided for periodic controls of airports by independent experts). The regulation was subjected to a conciliation procedure in the European Parliament.
– Protection of infrastructure and essential supplies. This item led to a very detailed analysis, reminiscent of the civil emergency planning of Cold War days. It was designed in response to the terrorist acts but could also be necessary in order to cope with other calamities, either natural or manmade. It was helped by the analysis of vital services made in the run-up to the millennium year and the feared collapse of computer systems. Vital sectors were energy, drinking water, telecommunications, transport, water management, and flood protection, financial infrastructure, the tax system, law and public order, the judiciary, the armed services, social security and public health, and food services. Obviously, the list was too long and priorities had to be set. Nevertheless, it was clear how vulnerable modern society has become. It was necessary to determine interrelationships: who provided essential services and to what extent were these dependent upon governmental bodies and or private firms? The next question

was how the continuity of these essential functions could be maintained at a minimum level. In other words, what requirements should be formulated for minimum availability if dependencies on other services or supplies were disrupted? Switching to other sources might be a way out, but could these be counted on? Equally, attention had to be paid to repair and replacement within acceptable time frames.
- Enlargement of the criminal investigation capacity, including the ability to respond to international requests for common action and the creation of a quick response team at the Netherlands Forensic Institute
- Enlargement of the interagency team against human trafficking

Implementation of the regulation concerning the tapping of telecommunications and the regulation of legitimate access to cryptographic installations. Also, the enlargement of the capacity to intercept satellite communications and a study of the safekeeping practices of telecommunications providers.
- Surveillance of money transfers, trust offices, and unusual financial transactions. Within the EU, a coherent system of Financial Intelligence Units should be realised.
- Preparation of legislation to create an interagency "Financial Expertise Centre"
- Attention to the OECD report concerning the misuse of corporate identities
- Additional instruments to freeze suspected bank accounts
- Enlargement of special forces units of the police and of the Royal Netherlands Marines to provide assistance in exceptional circumstances
- The Netherlands' insistence on the rapid ratification of the extradition treaties in the EU council
- The implementation of the EU framework directives on terrorism and arrest warrants, which should enter into force on 1 January 2003 and on 1 January 2004 respectively. The arrest warrant was agreed upon at the Laeken European Council of December 2001, and listed thirty-two offences (not all involving terrorism) justifying arrest in any EU country. The UN Convention on Terrorist Bombings and the Financing of Terrorism entered into force for the Netherlands on 9 March 2002 and 10 April 2002 respectively.
- The signature of the Treaty to Combat Crime in Cyberspace.[155] The implementation would be linked to the prohibition of child pornography.

[155] http://conventions.coe.int/Treaty/Commun/QueVoulez-Vous.asp?NT=185&CM=8&DF=16/04/04&CL=ENG

– Implementation of the EU protocol attached to the agreement on the provision of legal assistance concerning the duty of financial institutions to provide information on deposits
– Preparedness for biological, chemical, and nuclear terrorist attacks, including food safety

Other countries took similar actions. In the United Kingdom, a vast new law was approved in December 2001, which gained notoriety for its provision to detain foreigners without trial for a long period of time. In July 2002, the Secretary of State for Defence, Geoff Hoon, announced a long series of measures covering aerial surveillance, protection against nuclear, radiological, biological, and chemical attacks, and domestic reaction forces of 6,000 men. Having suffered a series of bloody attacks in 1995, France's antiterrorist setup was already in place before September 2001. On 15 November 2001, a new internal security law was enacted, providing for car and home searches, additional checks at airports and seaports, surveillance of internet communication, and the right to disband certain groups. These measures, however, had a limited duration of two years and their extension would be subjected to an assessment report submitted to Parliament. Security forces may be reinforced with military assets, and "all military detachments must be capable of assisting the civilian population in the event of asymmetric attacks."[156] In the opinion of Therèse Delpech, civil defence remains undersupported in France because of the considerable ground still to be made up in the conventional requirements of the armed forces. In Germany, the government meets resistance to measures allowing the police to build up files on suspects.

## Dealing with Terrorist Incidents

Terrorists need media attention to get their message through and the gruesome details of terrorist actions are news for the media. "Classic terrorism is propaganda by deed, and propaganda is impossible without the use of the media." Politicians are in a similar position. They have to give immediate reactions to unexpected events with which even faster media confront them. This is an almost impossible task because they normally lack precise information about what happened and why. Nevertheless, they are expected to give a value judgement and to formulate policy prescriptions. The most difficult part comes when they are put face to face with relatives of hostages who are clamouring for concessions to the terrorists in order to save the lives of their beloved family

[156] Therèse Delpech in Chaillot Paper no. 56: 20.

members. Paul Wilkinson, who has written about terrorism for many years, defined the most important principles underlying counterterrorism in democracies:[157]

- no surrender to the terrorists, and an absolute determination to defeat terrorism within the framework of the rule of law and the democratic process
- no deals and no major concessions, even in the face of the most severe intimidation and blackmail
- an intensified effort to bring terrorists to justice by prosecution and conviction before the courts of law
- tough measures to penalise the state sponsors who give terrorist movements safe haven, explosives, cash, and moral and diplomatic support
- a determination never to allow terrorist intimidation to block or derail international diplomatic efforts to resolve major conflict in strife-torn regions

Parliamentarians will have to deal with this question, but they are divided. As said before, many attribute terrorism to socioeconomic causes, which might have been true in Northern Ireland or the Basque area. The case of Al Qaeda is more complicated, given its religious fanaticism and its objective of creating massive casualties in Western societies. Mass killings are bound to erode any support the perpetrators might have received had they instead appealed to the feelings of injustice held by possible supporters. Attempts to link their actions with the Israeli-Palestinian conflict have some relevance, but only to a limited extent. Attacks on American targets also took place during Clinton's presidency, amidst efforts to bring the parties together. And the terrorist attacks within the United States enhanced sympathy for Israel as a primary victim of continued suicide attacks rather than the contrary. Having said this, it is also clear that a solution of this conflict would be the single most important element in reducing tensions in the Middle East and force the governments in the region to concentrate on domestic policy and development. Therefore, it is understandable that in Europe protests against the Israeli settlement policy are becoming so loud that they erode the traditional sympathy for the impressive achievements of that country.

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[157] Wilkinson, P., "The Strategic Implications of Terrorism," in *Terrorism and Political Violence. A Sourcebook*, edited by Sondhi, M. L. (India: Haranand Publications, 2000), 10.

## The Aftermath of Madrid

Deeply shocked by the terrorist attacks in Madrid, the European Council of 25 March 2004 revised its Plan of Action to meet the strategic objectives to combat terrorism and asked for a report at its June meeting. Sadly, a second catastrophe, this time on European soil, was necessary to reinvigorate the momentum created in September 2001. Some real progress was made, but many agreed measures had not been implemented by the member states. A "Counterterrorism Coordinator" was appointed to maintain an overview of all the instruments at the Union's disposal, reporting regularly to the Council and to follow up on the Council's decisions. In addition, the solidarity clause proposed by the European Convention was agreed upon in anticipation of the European Constitution (see appendix 2), a European Borders Agency should be in place by 1 January 2005, and an intelligence capacity should be established within the Council Secretariat to assist the High Representative. The "high-level strategic objectives" for the Plan of Action read as follows:

- Deepen the international consensus and enhance international efforts to combat terrorism
- Reduce the access of terrorists to financial and other economic resources
- Maximise the capacity within EU bodies and Member States to detect, investigate, and prosecute terrorists and prevent terrorist attacks
- Protect the security of international transport and ensure effective systems of border control
- Enhance the capability of the EU member states to deal with the consequences of a terrorist attack
- Address the factors which contribute to support for and recruitment into terrorism
- Target actions under EU external relations toward countries where counterterrorist capacities or the commitment to combating terrorism needs to be enhanced

Combating terrorism will be a priority item on the agenda of the Netherlands presidency of the EU during the second half of 2004. It will be a tedious process. The European arrest warrant met with opposition in Germany and Italy. The tasks of the European prosecutor, at least for the foreseeable future, will be limited to crimes against the financial interests of the EU and not be extended to serious transborder crime. The Europol counterterrorist unit has been reactivated, but it deals primarily with the exchange of information. This is not an impressive continuation of a good start. Nevertheless, the combined activities at all levels, both national and international, have the effect of pushing back Al

Qaeda as the main player. According to the assessment of Rohan Gunaratna, chairman of the Combating Terrorism Working Group of the PfP Consortium for Defense Academies and Security Studies Institutes, given at the annual conference in Bucharest in June 2004, Al Qaeda inspires rather than instigates; it is still active on the Pakistani border, but assumes the traditional role of training, financing, and ideological indoctrination in other areas. This leaves many cells in place that could be turned into attack networks, especially when fighters returning from Iraq turn their newly acquired combat experience into terrorist action. They will have to be kept under close surveillance, and new methods of human penetration will have to be developed.

Under these circumstances, governments and parliamentarians have to prepare for the long haul. In their legislation, they have to find the right balance between effective counterterrorism and the protection of high-value targets on the one hand and maintaining popular support by moderation and preservation of the rule of law. The lessons of counterinsurgency in Asia and of European terrorism in the 1970s seems to point to a mix of improved interagency cooperation, the use of minimum force but active penetration and, where possible, the disruption of terrorist cells. This leaves the question unanswered: what can the process of military transformation do in the fight against terrorism? Transformation will be necessary to build flexible and mobile forces—but which specific military assets can be developed to supplement the effective action of the other agencies?

## Conclusion

Terrorism is a high priority in the national and international political agenda. Increasingly, parliamentarians will be subject to "peer pressure" and forced to compare their own performance with that of neighbouring countries. The implementation of the "solidarity clause" of the newly adopted Constitution of the European Union will make them aware of the possibilities and constraints of mutual assistance. Although there seems to be a growing awareness of the necessity to act in unison, the adoption of concrete measures still varies greatly from country to country. The process of consensus building, which is the essence of international parliamentary contacts, is still in its infancy, partly because the parliamentary agenda of counterterrorism is so complex and multifaceted. Even national parliamentary groups are groping for consistency in their approaches toward effectiveness and the balance between individual freedom and national security.

Parliamentarians are confronted with the paradox of the simultaneous tendencies of globalisation and interdependence on the one hand

and political fragmentation and discontent with their government on the other. People are frustrated by the inability of their governments to provide effective answers to their needs. Insecurity in the streets and insufficient means for education and social security have occupied a large part of the political debate, enhanced by feelings of insecurity caused by economic recession and the inflow of migrants and asylum seekers. In this climate, terrorism has added an element of suspicion, intolerance, and even discrimination toward new and unknown neighbours. Beethoven's Ninth Symphony, with its vision of brotherhood, remains a powerful message in Europe, but is far from realisation. Religious fanaticism has made Europeans shift their emphasis in immigration policies from respect for the cultural identity of newcomers toward preconditions of assimilation and integration. A clash of civilisations does not seem inevitable – at least not yet – but if most of the terrorists continue to be Muslims, they will become an obstacle to mutual respect and constructive interreligious relations. Therefore, the political debate should attach a priority to the efforts to keep moderate Muslims on board and to avoid alienation through discriminating legislation and excessive controls. At the same time, governments have to demonstrate to their citizens that they are doing their utmost to prevent terrorist attacks, to protect vital services, and to be ready to deal with calamities when they occur. And they have to keep the public informed without causing a climate of panic and fear. On this point, the traumatic experience of American vulnerability on 9/11 has had a greater lasting effect in the United States than in Europe, which has a long experience of terrorist attacks of various kinds. It might be cynical to say that even after the most horrible experience, life goes on for the survivors. That is small consolation for the victims and no reason to soften vigilance. It would be more constructive to hope that indiscriminate killing ultimately will not appeal to many people, including Muslims. In Europe, outbursts of catastrophic terrorism aimed at society in general have subsided, and more work will have to be done on the reasons why. In the final analysis, it must be because they lacked popular support for their unattainable objectives.

The 9/11 attacks and the Madrid train station bombings changed much – but not everything. Internal and external security are becoming intertwined. To combat terrorism, military forces continue to play a role, but less so in relation to nonstate actors. Armed forces will have to work closely with others, especially with the police and intelligence agencies, and define which capabilities are needed specifically for counterterrorism operations as distinct from defence and peacekeeping operations.

At home, new standards are developing for privacy. The relationship between freedom and security comes to the foreground in preserving our democratic way of government. Without vigilance and security

there will be little freedom, but real security depends also on the transparency, accountability, and the effectiveness of those who provide it. In a democracy, people are prepared to pay a price for their security—on the condition that they have trust and confidence in the measures taken. Western democracy depends on sanity and common sense, and the best way our parliamentarians can avoid a climate of fear is to demonstrate those two qualities.

# APPENDIX 1

## International conventions against terrorism

1. Convention for the Suppression of Unlawful Seizure of Aircraft
   (The Hague, 16 December 1970)
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation
   (Montreal, 23 September 1971)
3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents
   (adopted by the General Assembly of the United Nations on 14 December 1973)
4. International Convention against the Taking of Hostages
   (adopted by the General Assembly of the United Nations on 17 December 1979)
5. Convention on the Physical Protection of Nuclear Material
   (Vienna, 3 March 1980)
6. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation
   (Montreal, 24 February 1988)
7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
   (Rome, 10 March 1988)
8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf
   (Rome, 10 March 1988)
9. International Convention for the Suppression of Terrorist Bombings
   (adopted by the General Assembly of the United Nations on 15 December 1997)
10. International Convention for the Suppression of Financing of Terrorism
    (adopted by the General Assembly of the United Nations on 9 December 1999)

# APPENDIX 2

## Declaration on solidarity against terrorism

We, the Heads of State or Government of the Member States of the European Union, and of the States acceding to the Union on 1 May, have declared our firm intention as follows:

In the spirit of the solidarity clause laid down in Article 42 of the draft Treaty establishing a Constitution for Europe, the Member States and the acceding States shall accordingly act jointly in a spirit of solidarity if one of them is the victim of a terrorist attack. They shall mobilise all the instruments at their disposal, including military resources to:

- prevent the terrorist threat in the territory of one of them;
- protect democratic institutions and the civilian population from any terrorist attack;
- assist a Member State or an acceding State in its territory at the request of its political authorities in the event of a terrorist attack.

It shall be for each Member State or acceding State to the Union to choose the most appropriate means to comply with this solidarity commitment towards the affected State.

# Combating Terrorism and Its Implications for the Polish Armed Forces

ANDRZEJ KARKOSZKA

## Introduction: The Antiterrorist Campaign as a Factor of Change

The dynamics of the international security environment of the last fifteen years are reflected in the profound transformation of all elements of the national security structures. These developments have been initiated and have been most visible in the area of the military postures of states, particularly in the Northern Hemisphere, influencing all heretofore known theoretical conceptions of national defence and security strategies and, consequently, the entirety of national military structures. In the Western world, the transformation was linked to the "peace dividend," which emerged after the disappearance of the main security threat posed by the Warsaw Pact and the Soviet Union. In the Eastern Europe, the change was even more profound, as the same desire to consume the peace dividend was further boosted by the pressure of dwindling economies, which enforced a rapid reallocation of resources from military security toward the civilian economy. This trend was consonant with a strong desire of a large part of Eastern European societies to speed their economic recovery, enabling them to catch up with the affluent Western societies. This *political factor* of strategic importance brought the first impulse of change in international military relations. It permitted the end of the East-West arms race, the reduction of defence outlays, and a decrease in the importance attached to the concept of territorial defence based on mass standing armies.

The second factor of change in the international military and security sector – the *factor of integration* – is the consequence of the first, and has both political and military meanings. Its influence was exerted along two axes. The first one stemmed from an indigenous desire of nations, predominantly those of the postsocialist Eastern European ones, to change their armed forces and the ways of their management to make them compatible with the political and technical standards of the international organizations (NATO, EU) with which they wanted to be integrated. This desire for integration enabled the old members of the two organizations to raise a range of political, managerial, structural, and

technical conditions for such integration. The conditionality and the substantial assistance programs provided by the Euro-Atlantic community in the framework of Partnership for Peace programme, later evolving into a Membership Action Plan augmented by various other bilateral and multilateral arrangements, helped to intensify the transformation efforts by the candidates. The second aspect of the *factor of integration* was a direct result of the inclusion of the new members into the organizations, which had to adapt their objectives, structures, and *modus operandi* to the new international conditions. Moreover, the process of enlargement also influenced the military structures of the old members.

The third specific factor of change in the armed forces was that of a *revolution in military technology* or, even more comprehensive, a *revolution in military affairs*. Because it was based on a general progress of advanced weapons-systems technology, incorporating the advances of the "information age" and of material technology, it has had a somewhat delayed effect on the armed forces of less developed states. The demands of modern military technology pose particular burdens on the states under democratic transformation, like all Eastern European states, whose economic situation requires that attention be given first of all to civilian economic needs. The Eastern European countries, desiring to integrate their armed forces with the advanced armies of NATO and EU states by making them fully interoperable, must undertake particularly strenuous efforts in terms of both their expenditures and their structural transformations.

An entirely new factor of change in the military domain, associated with the *growth of the international organized crime and the global terrorist threat*, appeared in the last few years. The challenges to the armed forces posed by this phenomenon stems from the asymmetry between its forms and appearances and the traditional organizational, doctrinal, and technological features of the state-organized armed forces. The security challenges posed by criminal elements and various terrorist groups were heretofore met by traditional, predominantly national, law enforcement services. With the advent of new types of threat, able to undermine the functioning of entire states by jeopardizing the critical infrastructure, to inflict mass casualties – particularly when linked to weapons of mass and indiscriminate destruction – and able to act on a global scale, the role and functions of the armed forces changed profoundly. While still an indispensable element of state security policy, the armed forces lost their primary role in the implementation of this policy. In their new role, they have to cooperate more closely with all other elements of both their national security structures and also within a multinational response framework. As the international crime and terrorist actors are often linked to the so-called "failed" or "weak" states, they cause a rupture of the international stability and security, necessi-

tating a wide multinational and multifunctional reaction in form of peacekeeping, stabilization, nation building, or even economic recovery operations. In view of this expanded spectrum of international response to the new challenges, other services, like law enforcement institutions, border guards, intelligence agencies, and various civil administrative services assume a role of partner to the armed forces in providing for security and stability.

All these factors of change act together, with different strengths, on the respective national security sectors, including the armed forces. It is therefore difficult to specify which of them has a more profound effect on the military transformations happening today on a global scale.

The processes of change of the Eastern European armed forces take place against the background of several other political, economic, and social transformations. The direction and pace of change in the military domain is functionally dependent on more general trends. Obviously, the economic situation has the most profound effect on the programs of change. Given the military reforms and restructuring of the armed forces over the last fifteen years, the new requirements posed by the ever-changing agendas of NATO and the EU often heavily tax its member states and their armed forces. The rising demands of the armed forces, anxious to speed up modernization processes, do not seem to go in step with the prevailing positive public perception of well-established international security and stability on the European continent. In the majority of the Eastern European countries, the threat of terrorism and, to a lesser extent, organized crime, is not yet directly imprinted in the public perception as crucial threat that calls for special efforts. The still remaining instability in a number of locations in Southern and Eastern Europe seems manageable by the existing and traditionally organized armed forces. Some of these new requirements can also be seen as intrinsically contradictory: the tendency to shape up the armed forces into more expeditionary and lighter formations undermines their traditional and sometimes still justified desire to maintain ample territorial forces. Moreover, the inability to keep up with the technological advancement of the allied forces relegates them into the role of secondary partners, providing only some "niche" capabilities, to the detriment of their remaining national forces. The requirement to field highly skilled, professional forces contradicts their traditional system of a conscript-based army, which provides for trained reserves needed in the event of mobilization.

In general, it may be assumed that the antiterrorist campaign of the last few years was until recently a less tangible or nonexistent factor in the dynamics of the military transformation of the Eastern European states, particularly those not involved in such a campaign on their own national territories. This situation has now changed, due to the growing

involvement of Eastern European states in international military operations, like those in Afghanistan and Iraq.

## The Ongoing Transformation of the Polish Armed Forces

The Polish armed forces are among those going through far-reaching alterations. The process of transformation dates back to the end of the 1980s, when the rapid decline of the national economy, caused by a fundamental crisis of the socialist state, necessitated adaptations of the overmilitarized state structures. These "adaptations"were dramatically accelerated when the political revolution swept aside the old political system and the planned economy. Poland set as its strategic objective its political, economic, and military integration with the democratic world. The evolution required a full decommunization of the armed and security forces, fundamental changes to the legal system, and the creation of an efficient and democratic military and security sector management system, all designed to help raise the level of protection of individual rights. Due to the successful incorporation of these new standards, Poland joined NATO and the Euro-Atlantic community of states at the end of the 1990s.[158]

After five years of relatively intuitive changes, responding to immediate needs and political requirements, the process became more organized in 1997 by Poland's institutionalization of its first twelve-year Program of Development of the armed forces, coordinating the restructuring with newly emerging security needs and balanced against the modest financial resources available. Despite various efforts, the armed forces were still "old-fashioned"—being too numerous and top-heavy, with biggest share of their resources consumed by the personnel costs and leaving too small a part of the budget for technical modernization. A lack of training and the growing obsolescence of the weapons technology reduced the armed forces' operational readiness and failed to provide the necessary level of competence for officers and soldiers. The first multiyear program was not fully implemented. This first attempt on a well-planned restructuring of forces proved to be too expensive. Moreover, it soon became inadequate in view of new requirements posed by the membership in the alliance.

Taking into account the new financial parameters and the tasks set by the alliance defence planning, the next Program of Development of the

158 A. Karkoszka, "Defense Reform in Poland, 1989–2000," in *Post-Cold War Defense Reform. Lessons Learned in Europe and the United States*, edited by Istvan Gyarmati and Theodor Winkler (Washington, D.C.: Brassey's, Inc., 2002), 165–188.

Polish Armed Forces was formulated for the years 2001 through 2006. Its main thrust was directed at cost reduction, through the elimination of obsolete equipment and the abandoning of superfluous military infrastructure. Additional goals were the reform of the education system and the reduction of administrative overhead. The results were encouraging: the armed forces abandoned some 6,600 pieces of old weapons and other equipment (828 tanks, 460 pieces of artillery, 62 aircraft, and 2,900 transport vehicles) and some 20 percent of the infrastructure was returned to the civilian administration. After releasing 54,000 soldiers from the ranks, the armed forces reached its planned level of 150,000 soldiers. During 2001 and 2002, some 760 military units were closed down, an additional 800 other units were restructured, and some 160 were formed. In sum, 52 military garrisons disappeared. All these activities substantially decreased the operational and "vegetative" costs of the armed forces. On the other hand, the process (support of reduced professional cadres, relocation of units and equipment, and preparation of the infrastructure to be taken over by the civilian sector) consumed much of the existing financial resources. The efforts to diminish the costs of the armed forces were further hampered by the downturn of the national economy and the resulting reduction in the state's spending power. The defence budgets in the years 2001 and 2002 were cumulatively 700 million dollars short of what was planned. This sum corresponds to the amount annually allocated for the technical modernization of the armed forces. The 2001 and 2002 budgets permitted only the modernisation of several PT-91 tanks, the old NEWA antiaircraft missiles, several Mi-24 helicopters, and a number of radiolocation systems for several models of aircraft. Despite the limited resources, some modern weapon systems were bought, including two reconnaissance aircraft, four medium-range CASA CN-295 transport aircraft, four submarine-hunting helicopters, several hundred new radio stations, a large number of new radar systems, and handheld antiaircraft missiles. In addition, the Polish Armed Forces incorporated used weapons obtained for free or at a reduced price, such as 128 Leopard tanks from Germany, two missile frigates from the United States, and four Kobben-class submarines from Norway. An important new achievement was the full automization of the air force's command system. However, several other desired modernization plans were not fulfilled, a large amount of equipment was not overhauled, material stocks were not replenished, and many necessary improvements in the social conditions of the soldiers were not executed. It should be stressed at this point that the international commitments of Poland were entirely fulfilled, with the presence of some 2,000 soldiers in various peacekeeping forces in the Balkans (Bosnia and Herzegovina, Kosovo), in the Middle East (Golan Heights and Lebanon), and in Afghanistan.

The experiences of the first Plan of Development of the Polish Armed Forces influenced its next version, mandated by the two-year cycle of NATO planning.[159] The focus was put on the intensive modernization of the armed forces. The additional and quite forceful factors that also shaped the new plan were the Prague Capabilities Commitments PCC, adopted at the NATO Summit in 2002, and the new security environment created by the global terrorist threat, the danger of proliferation of weapons of mass destruction, and the transborder security challenges posed by the international organized crime. For the first time, the program also took into account the experiences stemming from the past involvement of the military in domestic emergency rescue operations during the flood disasters.

In sum, the new plan was concentrated on augmenting operational capabilities that would increase the ability to react quickly to military and nonmilitary threats inside and outside the national borders. The latter task incorporated the support of international peacekeeping and peace enforcement missions of NATO, EU, and the UN, as well as antiterrorist operations undertaken by these organizations. The tasks of crisis response and peacekeeping operations were to be met by the Polish Armed Forces by forming "modular" operational groups, incorporating land, air, and naval forces. The implementation of this plan envisages the readiness of one large group of some 15,000 soldiers capable of fulfilling the obligations under Article V of the Washington Treaty, or two groups of some 5,000 soldiers for high-intensity crisis-response operations, or, alternatively, two operational groups of some 2,500 soldiers for low-intensity conflict situations. These forces are to be prepared for both the NATO Response Forces and for the EU-led operations under the concept of Rapid Reaction Forces.

The new program, despite its demands on the Polish Armed Forces, had a substantially better starting point than all the previous ones. It could assume an overall relative stabilization of the main existing military structures and of the quantitative parameters of the forces. Moreover, a visible improvement of the economic situation enabled a more stable, though still moderate, financing of the military at the level of 1.95 percent of the GNP (roughly four billion dollars in 2004).[160] The plan, covering the years 2003 through 2008, focuses on improvements in all areas critical for the military potential and the operational capabilities of the armed forces. In 2004, as many as 55 percent of the forces will be professional soldiers, with a maximum of 60 percent reached in 2008. An important change in this regard will be the introduction of a

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[159] Stefan Czmur and Lech Stefaniak, "Drugi Szescioletni (Second six-year)," Polska Zbrojna, No. 4, January 2003.

[160] *Basic Information of the MoND Budget for 2004* (Warsaw: Ministry of National Defence, 2004).

new corps of soldiers: professional privates, who will be able to function in the more demanding military disciplines. Within the command structures of the armed forces, the only major change is the creation of a Joint Operations Command. Accordingly, a substantive increase of modern weapons systems and military equipment is foreseen. In comparison to the previous year, the plan for 2004 increased the share for equipment and infrastructure by 3 percent to 16.2 percent. In concrete terms, during the early years of the new program, the Polish Land Forces will incorporate new armed fighting vehicles and new antitank missiles. The air force will receive its first batch of F-16 aircraft and will complete the integration of the CASA transport aircraft. The navy will complete its rearmament of its existing vessels with the new anti-ship missiles and the incorporation of the Kobben submarines. Alongside these technological advances, the armed forces should be ready to form mobile commands of deployed units together with the appropriate communication systems and logistical combat support systems. This ambitious program should permit one-third of the national armed forces of 150,000 soldiers to comply fully with all NATO standards and operational procedures. By 2008, the forces are to consist of some 850 tanks, 1,266 armed fighting vehicles, 980 self-propelled artillery pieces over 100 mm, some forty armed helicopters, 128 aircraft, eight medium transport aircraft, at least four long-range transport aircraft, and some forty warships.

## The Polish Armed Forces in the International Stabilization Force in Iraq

The participation of the Polish Armed Forces in the operation in Iraq and in subsequent stabilization operations is the largest overseas Polish military action of the last two decades. However, it is not the first or the most remote Polish military engagement in postwar history. During the last fifty years, Poland participated in over fifty such operations under the UN and NATO flag, as far away from home as Cambodia, Angola, Korea, and the Middle East. During the last decade, Polish units served as SFOR forces in Bosnia and Herzegovina, and as KFOR in Kosovo, in Haiti, and in operation Desert Storm in Iraq in 1991. Small Polish units of Special Forces were used in combat actions during the operation Enduring Freedom in 2003. Other units took part in de-mining and other military activities in Afghanistan. However, due to its scale and character, none of these operations have had such a profound effect on the future development of the Polish Armed Forces as its ongoing participation in Iraq's stabilization forces.

The present engagement of the armed forces in Iraq follows the resolutions of the UN Security Council No. 1441 of 8 November 2002 and No. 1483 of 22 May 2003. The Polish Military Contingent was deployed according to a decree of the Polish president on 6 June 2003, concerning the participation in the operation Iraqi Freedom within the ad hoc coalition led by the United States. The arguments for this decision were supported by the majority of Polish society: to enter the coalition would strengthen Poland's position as an active member of the international community and of NATO, would directly involve Poland in the effort to eradicate terrorism, and would provide humanitarian assistance and aid in the stabilization of Iraq. The task was extremely demanding, but its implementation would prove in a practical way the abilities of the Polish Armed Forces to participate substantially in international military structures and in leading a multinational operational unit.[161]

The decision was taken in response to a request to join the coalition as a leading nation in a multinational division and to be operational within the extraordinarily short time of four months. The formation of the multinational division included several steps: from the First Force Generation conference in London in the first week of May 2003, to the Second Force Generation conference in Warsaw two weeks later, to an Orientation and Commanders meeting at the beginning of June, to the deployment of an initial reconnaissance unit in Iraq in the second week of June, various staff talks with the participating states during that month, through the several consultations within NATO SHAPE, and to the first troop deployment in the first days of July. According to NATO standards, this type of process usually takes about four years. The task was accomplished with the substantial assistance of NATO, which provided intelligence data, information management, logistical expertise, movement coordination, and secure communications equipment.

The national contingents of the division were transported by air and sea to the area of operation in two steps: first to the intermediate bases in Kuwait, to permit for the acclimatization of the troops, and later by ground transport to their final destinations.

The initial area of responsibility of the Multinational Division Central South (MND CS) covered about 80,000 square kilometres in five Iraqi provinces, with a population of about 5.1 million inhabitants (after the withdrawal of the Spanish contingent, the area was diminished by one-third). The division had an initial strength of 9,000 soldiers, of which some 2,500 were Polish, and was built of twenty-five national contingents, organized in three brigades under the Spanish, Ukrainian,

[161] Raport: Operacja Stabilizacyjna w Iraku. Sztab Generalny WP. Generalny Zarzad Operacyjny – P3. Warszawa 2004 (Report: Stabilization Operation in Iraq. General Staff of the Polish Armed Forces. Operational Directorate – P3).

and Polish command. Within the area of responsibility also operated the U.S. Civil Affairs Brigade, two battalions of military police, two signal battalions, intelligence units, MEDEVAC units, and a number of logistics units and bases. The Polish side, with special communication modules provided by NATO, organized the divisional headquarters and divisional staffs. The U.S. forces organized a large part of the logistical support, according to a special Polish-American technical agreement signed on 22 July 2003. The MND operated under overall American command, organized as a Combined Joint Task Force-7. Thus, the division operated within a three-tier network of command and control: that is, under the CJTF-7, the Coalition Provisional Authorities, and in some specific situations, the respective national military and political authorities.

The overall mission of the division was "to conduct security and stabilization operations in order to set the conditions for Iraq to become a stable and self-governing state." More specific tasks involved the protection of administrative institutions, religious sites, and oil production wells, the monitoring and protection of state Iraqi borders, and maintaining security. The mission also consisted of "maintaining support of the Iraqi population for reform," assisting in the maintenance of order and security, restoring Iraqi law enforcement structures, providing for essential services such as health care and education, rebuilding public administration and government institutions, protecting religious pilgrimages, and revitalizing the local economy.

To implement the mission of the MND according to the norms of international law and the NATO's document MC 362/1, the participating states consulted the relevant documents during the preparatory period. Most of the national contingents adopted them in full; some created limited additional interpretations and restrictions.

As it turned out, the political and military conditions in Iraq worsened after the deployment of the MND. The mission of "stabilization" had to be widened to include more offensive military tasks such as countering terrorist activities and political groups aiming at the destabilization of the country. These tasks were carried out in form of "surgical" raids, the rounding up of insurgents, and intensive patrolling. The widening of the mission necessitated the augmentation of combat capabilities. This was achieved, in the case of the Polish units, by adding several armoured vehicles and armed helicopters delivered during the second rotation of the contingent.

To execute its basic tasks, the MND organized divisional Centres of Humanitarian Support as well as Tactical Support Teams and Administration Support Teams, composed of civilian and military specialists. Up to now, three battalions of Iraqi security forces, two battalions of the border guards, several units of perimeter guards, over 3,000 policemen, and a large number of prison guards were organized, trained, and

equipped. Several buildings, housing law enforcement officers, new criminal courts, and local administrative offices were rebuilt or overhauled and furnished. Several schools were opened and provided with the necessary supplies. Similarly, thirty-two hospitals were overhauled and equipped, and some 8,000 Iraqis were treated by the divisional health services. The division organized transportation and coordinated the supply of fuel to the civilian population, and oversaw the replacement of the old Iraqi currency. Special units of the MND helped in securing and excavating mass graves. Moreover, measures were taken by the MND to protect archaeological sites.

On the military side of the operation, the MND organized a wide network of intelligence and reconnaissance activities to provide an early warning against terrorist attacks and destabilizing activities of various political and religious groups. A special unit was responsible for the preparation of psychological operations within the Iraqi population. All thirteen camps where the units of MND were stationed were heavily protected and fortified. A great effort was put in the de-mining of large areas and in the liquidation of large stocks of explosive materials and ammunition. A serious task for the engineering units was to provide the camps with clean water. The communication within the national contingents utilized national systems, whereas the units and the divisional command used satellite communication, short- and ultra-shortwave radio communication, as well as the Polish troposphere radio-line system. The division used various teleinformation networks, including MILVAN, CENTRIX, DSN, IVSN, CRONOS, and INTERNET.

The deployment and operation of the Polish contingent in Iraq were continuously supported by the Polish and coalition's air transport activities. The bulk of manpower and a large part of the military equipment were delivered by air. Among the tasks of the Polish air transport was the maintenance of a logistical "air bridge" to home bases and the medical evacuation of the sick and wounded. Among the aircraft used by the Polish contingent were Tu-154s, An-26s, and CASA C-295s. In total, they flew some sixty times in support of the first shift of the contingent. Two quarantine centres were organized at the airfields in Babimost and Slupsk in order to contain a possible epidemic among the soldiers.

The Polish contingent of the MND operated a special Independent Air Combat Group, consisting of a squadron of armed helicopters assisted by a technical maintenance unit and ground communication unit. The tasks of the group included patrolling of ground transportation routes, the protection of ground convoys, medical evacuation and cooperation with the rapid-reaction ground groups, reconnaissance, and the demonstration of force over the MND's area of responsibility. During the first rotation of forces, the helicopters flew over 1,200 combat hours.

The structure of the MND included national units of military police, with the divisional headquarters operating a multinational company of servicemen. In the Polish case, the military gendarmerie was present during the relocation of forces, guarding bases and transporting men and materials. The main tasks were the control of discipline in, and security of, the units, the criminal and disciplinary investigations in case of a breach of law, and the protection of VIPs. Once in Iraq, however, the military police received additional tasks: to train the local police units and border guards and to cooperate with the local law enforcement personnel. Additionally, the military police protected the de-mining teams, the civilian fuel transports, and maintained surveillance over apprehended Iraqis.

It is worth noting that besides serving as a "lead nation" for the MND, the Polish Armed Forces in Iraq deployed also a unit of the navy and a unit of the Special Forces. The operations of these highly specialized units in the conditions of modern warfare and in a highly demanding climatic environment was a valuable experience for the continuing development of the Polish Armed Forces.

## Lessons Learned by the Polish Armed Forces from the Operation in Iraq[162]

The assistance provided to Poland by NATO and the allied nations proved to be an indispensable organizational and technical facilitating factor in the establishment and operation of the MND. Poland alone could not have lead the division and organized a fully-fledged divisional headquarters: it lacks the appropriate intelligence capabilities, the long-distance communication systems, the experience required to organize the logistical train on a multinational basis, and the large-capacity transport aircraft.

The national specialization within the MND has proven practical and effective: individual national units executed transportation, engineering support, airlift, remote air surveillance, quick reaction units, psychological operations, and civil-military activities. The role-sharing and functional specialization was proven in practice.

Among the acute difficulties stemming from the multinational character of the division was the existence of different rules of engagement for various national contingents. This phenomenon was already familiar from previous international peacekeeping operations. In demanding se-

[162] Operacja « Iracka Wolnosc ». Materialy z konferencji naukowej. Akademia Obrony Narodowej, Warszawa 2003 (Operation "Iraqi Freedom". Proceedings of the scientific conference. National Defence Academy).

curity conditions such as those existing in Iraq, differing rules of engagement can cause serious friction during time-compressed and highly dynamic combat situations. The only way to address this deficiency is to work it out during the initial operational planning and force generation period. Various national units organically linked to a higher organizational element and remaining under joint command cannot fail to operate under the same rules of engagement.

The accomplishment of the stabilization mission depends on the ability of the foreign military forces to gain the support of the local population. This is true in all types of peacekeeping missions, but it assumes utmost importance especially under more difficult conditions, such as those existing in Iraq. To achieve this difficult objective, the soldiers must go through special training and education, gaining an understanding of a different culture and habits. The stabilization forces must devote large financial resources and possess ample medical, engineering, and logistical capabilities to be able to assist the local population in their everyday life, especially as the country was devastated by the coalition forces.

In the more specific domains, the operation in Iraq clearly showed the painful inadequacy of the Polish military air transportation assets. Without the assistance of the U.S. Air Force, the deployment of the units could not be accomplished. The experiences of the Polish air crews taking part in the air bridge between Poland and Iraq/Kuwait was particularly difficult: it turned out that in the case of such long-haul routes, the number of flying personnel available must be more numerous than when the aircraft operates within the national borders. Another observation stemming from the Iraqi operations is the need for more efficient loading equipment and for an ability to maintain and repair airfields in distant regions.

Through the involvement of the Polish military police in the MND, a number of lessons were learned: the task of training the local police and of border guards posed unforeseen problems to soldiers not possessing professional educational backgrounds, and acting as prison guards was not a task accepted as befitting soldiers. The number of military policemen was too small for the range of duties they were assigned to. It also turned out that the various national contingents of gendarmerie operated incompatible systems of communication.

The most immediate lesson on part of the helicopter units functioning in the Independent Air Combat Group was the need for special skills permitting the manoeuvring of the whole group of aircraft in a hostile environment and at night. Similarly, the tasks performed by the group required a close coordination with various ground units—not an easy task for a multinational formation.

# The Effect of the Antiterrorist Campaign on the Development of the Polish Armed Forces[163]

Two lessons from the antiterrorist campaign of the last few years can be learned by the national forces: the first stemming from the international experiences and incorporated through the exchanges among the allied armies, and the other stemming from individual national involvement and "digested" within the specific national organizational, financial, and technological conditions. The lessons coming from the higher order of analysis, which takes into account the lessons from the military operation of the entire coalition and especially of the leading national force, are adapted and utilized by the individual partners in their own ways, according to their experiences and capabilities.

The stabilization operation in Iraq corroborated the already well-established tenet on the effectiveness of "jointness" in action of various formations. This jointness was elevated at a higher level in comparison to earlier conflicts, due to the greater manoeuvring speed of forces, the increased tempo of operation, the higher precision and effectiveness of attack, better reconnaissance permitting a more precise choice of targets, and the most appropriate ammunitions and weapon systems for the destruction of those targets. The special forces supported the actions of land forces by securing the important crossings and bridges, and supported the air force by spotting and illuminating targets. The air force worked on behalf of the land forces and the special forces by providing the necessary information on the location and nature of the ground targets. The ship-launched missiles and aircraft were constantly ready to destroy targets indicated for destruction by any of the three other types of forces. All these activities were highly synchronized during all phases of the battle. The coordination was carried out in both the time and space of the battle. In sum, the net-centric warfare model passed its first full practical test with mostly positive grades. The command and control of the operation was still the most difficult and, sometimes, failing element of the operation. There is still much to be done in the creation of Network Enabled Capability – that is, a truly common real-time information network of all elements of forces and weapons systems.

Another general lesson of the last operation is that jointness cannot be achieved just before or during the military action; it must be established much earlier. Otherwise the expeditionary forces, which are to be at a high degree of alertness and ready for immediate action, will not be

[163] Materialy z konferencji naukowej w Akademii Obrony Narodowej, Warszawa, 10 maj 2004 (w druku). (Proceedings of a scientific conference in the National Defence Academy, Warsaw 10 May 2004, to be published).

up to their highest standard of efficiency, according to the theoretical model of net-centric warfare.

The unprecedented strikes of a large number of missiles and aircraft at many targets, linked with the simultaneous land operation, had an enormous physical and psychological effect on the opposing forces. This form of attack broke the opponent's ability to control the state administration and the armed forces. The shock of such an operation enabled the coalition forces to avoid intensive battles in towns, which was expected and planned for by the Iraqi defence.

The precision-guided munitions again proved their effectiveness. The new modes of observation, guidance, and penetration, together with modern avionics and speed of action, permitted a precise attack on targets in all atmospheric conditions and avoided unnecessary collateral damages. In comparison to 1991, the U.S. aircraft increased the usage of PGM from 15 to 100 percent (altogether some 20,000 bombs and precision-guided missiles and some 1,000 cruise missiles were launched). The attacks were mainly directed against the land forces, the command and control infrastructure, and political command centres. Among the more successful elements of the new technology were unmanned reconnaissance air and integrated surveillance air platforms, such as the E-8C JSTARS, providing a constant penetration of the battlefield and a real damage assessment after an attack.

All these experiences and observations are being incorporated into the Polish Defense Planning and Programs of Development of the armed forces. The directions of change in the existing transformation and modernization plans are rather clear. What may disturb in their implementation, as usual, is the level of available financing. In this respect, some point to the heavy financial burden of the Iraqi operation on the Polish defense budget, as the costs of the Polish contingent are born from the official budget of the Ministry of Defence.[164]

The lessons from the Polish participation in the stabilization forces and thus the indication for development programs are the following:

– The command, control, and communication systems are the single most important element of future forces. For the units that are to operate far from the home base, the C3 system must be highly mobile, enabling the establishment and functioning of mobile commands at various levels of force. These commands should have highly computerized systems of calculating the optimal decisions and be able to coordinate their command processes with those of the allied forces. To prepare the future Polish contingents for international peacekeeping

[164] Wojciech Leszczynski: Wojsko Polskie 2004. Na rowni pochylej (Polish Armed Forces 2004. On the downturn). Nowa Technika Wojskowa, no. 5, 2004: 18–25.

or any other type of modern military operation, the communication systems will be more redundant, based often on a satellite and shortwave radio stations.

– The intention to create a new Joint Operation Command in the Polish Armed Forces is seen as very apposite, for both extraterritorial and for purely national defence operations.
– One of the more demanding aspects of command and control is the coordination of operations by Special Forces. There is need to work out a special command for such types of forces. The Polish General Staff is already working on the "concept of special forces," in which the existing units of the six Air Assault Brigades, twenty-five Air Cavalry Brigades, forty-nine Special Forces Regiments, the "GROM" unit, and other existing units of special forces might be reorganized into mobile Rapid Reaction Joint Battle groups.[165]
– The contingent of the Polish forces, operating within the allied grouping of forces, must be able to communicate well not only with the subordinated national and foreign units but also with the national command. For this purpose, new communication systems – multichannel satellite stations, mobile satellite terminals, shortwave radios, and data transmissions systems – are to be obtained.
– Intelligence and reconnaissance services are to ensure the security of the military actions, to carry out psychological and deception activities, as well as electronic warfare. There is a high demand for intelligence data to be provided in real time to operational forces. For this purpose, new image intelligence (battlefield surveillance) and signal intelligence systems are to be introduced into operational forces in greater numbers. Existing national programs aiming at the production of new unmanned air surveillance systems are to be intensified.
– There is a need for creating "battle-space awareness" at all, even the lowest, level of operational command, through a timely integration of information coming from various sensors and information sources. To implement this, Poland is currently developing its own M-28R "Rybitwa" ground surveillance aircraft.
– There is a serious deficiency of the Polish forces in strategic and tactical airlifts – not only to transport forces, but also to provide continuous logistical battle support. For this purpose, Poland has entered the European Program of Development for a large-capacity transport aircraft and plans to acquire the U.S. C-130 aircraft. To the same effect, plans exist to modernize M-28 tactical transport aircraft and to further increase the number of C-295M operational aircraft.

[165] Hubert Krolikowski and Krystian Piatkowski: Miejsce Sil Specjalnych w systemie obronnym RP (Place of Special Forces in The Defence System of the Polish Republic), Nowa Technika Wojskowa, no. 3, 2004: 14–20.

– There is a need to augment the ability of the Polish land, air, and naval forces to use precision-guided weapon systems. The existing procurement programs concerning the new ground- and air-launched antitank missiles, as well as ship-and aircraft-launched precision-guided munitions are responding to this need.
– The Polish Air Force intends to form three tactical elements: (1) the F-16 aircraft with a refuelling capability to support allied operations; (2) operating the Su-22 aircraft to support land forces and the navy within the national territory; and (3) by using the Mig-29 aircraft for airspace surveillance and defence.[166]
– The single existing mobile and fully self-sufficient military hospital, created during Poland's participation in PfP and PARP activities, turned out to be an extremely valuable asset. There are plans to organize another such unit.
– There is a need to improve the soldier's equipment, including weapons, protection gear, and communication systems. The adaptation of the U.S. "twenty-first century warrior" concept to Polish technological and financial conditions is considered.
– The experiences of the Polish Armed Forces in the Iraqi Stabilization Forces as well as from the other peacekeeping operations indicate that contemporary armed forces must be ready for a wide spectrum of different tasks performed in various environments, from high-intensity combat to humanitarian relief activities. Accordingly, the individual soldier's system of education and training as well as the methods of preparation of the commanders must change. The educational process can no longer concentrate on one-dimensional operations, but must introduce more forcefully the idea of joint operations at a lower level of command. Also, a more comprehensive program of political, psychological, and sociological problems should complete the purely military elements of the modern officer's education.

The operation in Iraq proved to be much more demanding than expected. Though the Multinational Division under the Polish command performed primarily as a stabilizing rather that an occupying or fighting force, it was often inadvertently pulled into real battle engagements with insurgent and terrorist groups. This necessitated a change of the rules of engagement, tactics, garrisoning, force protection system, and composition of weapons fielded by the force. The worsening military conditions exposed several weaknesses of the physical protection of soldiers as well as of their training and battle readiness. It is also obvious that the deterioration of the situation in Iraq seriously impeded the abil-

[166] Robert Rochowicz: WLOP 2004 czyli z nadziejami na kolejne lata (Air Force 2004 with Hopes for the Future). Lotnictwo, no. 3, 2004, pp. 30–33.

ity of the MND to assist Iraqi authorities and the population in post-conflict recovery. This, in turn, undermined the legitimacy of the entire operation in the eyes of Polish society, which supported the stabilization mission but is more reluctant to see the army engaged in warlike or occupation operations. These negative repercussions notwithstanding, the operation in Iraq and Afghanistan, the largest and most difficult military engagement of the Polish Armed Forces in several decades, provides strong incentives for modernization and better adaptation to the requirements of the modern battlefield.

# Transformation of the Romanian Armed Forces in the Post–September 11 Environment: New Principles, New Missions, and New Capabilities for a New NATO

MIHAELA MATEI

## Transformation of Risks and Threats: Setting the Scene for the Transformation of the Armed Forces

In the post–September 11 context, the emerging new threats to international security have transformed the role and missions of the armed forces, and consequently the way one thinks about and shapes national and collective defence.

The way the attacks in New York and Madrid were conducted demonstrates that many of the settled norms of the Westphalian system have been unhinged. Some analysts went so far as to say that the tragic events depicted a new phase in the historic rivalry between state and nonstate actors. The main purpose of terrorist perpetrators was not to acquire territory or defeat an army, but to change the ideological balance of power – the same balance that the globalization of world politics turned in favour of the democratic principles and values and market economies.

Historically and traditionally, terrorism has been perceived more as a domestic risk than a global danger: from the anarchic movements at the end of nineteenth century to the liberation fronts of the colonial era and the radical groupings during the Cold War, the agenda of terrorist actions aimed at using political violence to obtain limited political goals in a certain society or within a certain state. Transnational connectivity between terrorist groups was more related to financing sources and support networks than to a global design in planning attacks against the democratic world. Today, however, the global terrorist threat has become an international problem. It is more than a matter of police functions or internal security, since Al Qaeda networking has spread its centres and actions across the globe, from areas of instability such as Afghanistan and Iraq, to the weak states of what we call the Third World,

to even inside open Western societies. Moreover, the means of fighting this war have also changed, since terrorist attacks target civilian populations and not soldiers, as was the case for most former interstate wars. Terrorism has moved the war from the margins to the heart of our societies.

How can a government shape its response to such a complex, widespread, and insidious threat? How can it counter a global phenomenon that has linkages and connections throughout more than forty countries on six continents? This question is at the core of the academic and policy debates on the future roles of national defence institutions and the way they could cooperate in improving both homeland defence and international security.

Any state institution responds to a clearly defined demand of the society it has to support, develop, organize, and protect. Potential conventional wars in Europe or at its borders are highly unlikely to occur in the next decades, while terrorist threats and activities of rogue states have become the biggest concern of the democratic communities. The role of the armed forces, while maintaining their conventional classical purpose of deterring traditional enemies, should be reassessed according to the new security needs of states and societies. As Daniel Nelson noted, "military force is explained and rationalized to democratic citizens as an act of defence – defending principles if not territory."

Successive revolutions in military affairs started in NATO member countries in the beginning of the 1990s, but none of them has tackled at that time the deepest level of transformation envisaged today – namely, defence concepts and missions. None of the reforms went beyond the simple framework of technological developments and post–Cold War rearrangements of armaments. As President Bush has pointed out, the war against terrorism will be a long one. The transformation of concepts is also a long process and a process that is built on its own gradual progress.

When thinking about military reform to improve the fight against terrorism, one could approach two main dimensions of transformation: (1) the changes in the military establishment and operations, and (2) the changes in international cooperation and the way collective defence is perceived. I will use these two dimensions to focus my remarks about the reforms of the Romanian Armed Forces and the way Romania foresees its own role and policy in NATO.

# The Reform of the Romanian Armed Forces: Structural Changes in the Post–September 11 Context: New Principles, New Missions, New Capabilities

## *New Principles for Reform*

In addressing the issue of reforming the militaries to better cope with the emerging asymmetrical threats, there are a number of new assumptions that should be taken into account:

1. Prevention and deterrence should be reassessed by incorporating new means of action. One cannot keep a large conventional military establishment in the barracks and hope that this will dissuade a terrorist from launching strikes against the population or infrastructure. Terrorism should be countered where it arises, by projecting military force to conduct counterterrorist operations and stabilize and control distant areas, as happened in Afghanistan.
2. The globalization of threats requires a global response. There are no geographical limits to military operations, just as there are no geographical limits to terrorist activities. If the international community wants to be effective against terrorism, it should have the will and means to project its forces wherever necessary.
3. Unlike the behaviour of states, terrorist organizations can be highly unpredictable and very fast in action. Rapid reaction and flexibility should be the main determinants in reforming the military.
4. If exit strategies and end-state objectives will continue to define political decisions to move forces into a theatre, no one should expect their military component to be either easy or unproblematic. Sustaining forces for extensive periods of time in Afghanistan or Iraq is a must if one wants to prevent any future resurgence of terrorism in these areas.

It is on the basis of these premises that Romania has defined its defence policy objectives and the main targets of its military reform, together with the role it will play in NATO and the cooperation with its allies.

## *New Missions for the Armed Forces*

After the end of the Cold War, a transformation from collective defence to collective security enlarged the defence strategies to areas not covered before: defence diplomacy, multilateral partnerships (PfP), and peace-

keeping operations. Correspondingly, Romania's defence policy after 1989 has been distinctively marked by a steady commitment toward regional activities and participation in international operations. In ten years of peacekeeping and crisis response operations, the Romanian Armed Forces have participated in UN missions in Africa and in NATO and EU operations in the Balkans with more than 7,000 soldiers.

In the post–September 11 environment, new security requirements revised the Romanian defence policy in two interrelated ways. Complex types of risks, from terrorism to issues of weapon proliferation, required a comprehensive analysis of Romania's overall homeland defence establishment. Military missions have changed accordingly. In 2002, a ministerial guide incorporated the new tasks for the military, from collective defence to crisis response operations, counterterrorism, and participation in the so-called coalition of the willing, defence diplomacy, and enhanced support for homeland security agencies in emergency cases. The armed forces have gradually shifted from deterrence and territorial defence to an expeditionary approach based on the need to promote Romania's strategic objectives, by assuming prevention and stabilization missions in the Balkans along with combat operations in Afghanistan and Iraq – the first ones of this type undertaken by Romanian soldiers since World War II.

The core transformation of Romania's defence policy is based on the already mentioned new approach to the role of the military. While the enemy is no longer threatening the territory, defensive policies have to protect the people, the political regime, and democratic principles by using offensive means: namely, the projection of forces in theatres of operation far from the national borders. Combat operations and the seizure of terrorists and their weaponry imply a significantly higher degree of risk than the previous peacekeeping operations. Romania has already suffered the tragic loss of two soldiers, both killed in action in Afghanistan. Also, Romania had the largest number of foreign victims in the Madrid bombings, and in this line of logic, soldiers were sent abroad to ensure that the events of 11 September and 11 March will not happen again.

Moreover, once the enemy is defeated, the international community should make sure that it will also be denied any possibility of again causing harm from its former strongholds. This is one reason to remain committed and involved in two unique and major state-building and reconstruction operations under the ISAF and with the coalition in Iraq. Military missions assumed by Romania include support for the new or emerging governments and their armed forces, improving infrastructure, and sustaining civil organizations' efforts to secure the basic needs of local populations. The participation in reconstruction teams has become one of the main priorities of the Romanian engagement. In Afghanistan, steps have been made toward participation in the German-

led teams in Kunduz and the UK-led teams in Mazar-e-Sharif. Such efforts include extensive donations of medicine, provisions, and military equipment to the local population and the security forces. To some extent, given the way reconstruction teams are evolving, one might also speak about the development of a new type of civil-military cooperation that boosts interagency cooperation in a trilateral scheme: state and nonstate agencies working together with local representatives and with international organizations and humanitarian agencies.

Summing up, the new missions of the armed forces cover a large range of operational requirements, from hard security and war conduct to soft security, stabilization, and reconstruction. This could also be foreseen as a change in Romanian thinking in the post–September 11 context: at the end of the Cold War, some academics approached the armed forces missions as requiring a constabulary approach to international operations, responding to a Fukuyamist "softening" of the security environment. This is no longer the case. We cannot see the future role of the military from only one side of the story: they have to be trained to perform a number of functions: high-intensity combat tasks, search-and-capture missions to apprehend specific terrorist individuals, and peacekeeping tasks and constabulary missions. The limits and delineations between operational tasks in the theatres cannot be established from the beginning in a limited manner: the sudden emergence of terrorism and its negative effects in Iraq show that we must be rapid in adapting our strategies and actions on the ground.

## *New Military Capabilities*

The new missions of the armed forces require new types of forces and capabilities. Since all the commitments undertaken by the Romanian government rely on the use of highly trained professional soldiers, the decision has been taken to completely professionalize the armed forces by 2007, following the changes stipulated in the new constitution approved in 2003. Another relevant legislative change is the new law adopted in 2004 for the deployment of troops abroad. This law gives additional responsibilities to the president and the Supreme Council for national defence, which will significantly streamline the domestic procedures and allow for a rapid reaction to international crises.

Military reform has not been an easy task. Countries like Romania have dealt with a large material heritage in terms of important personnel figures and a significant level of obsolete equipment, designed to ensure in an autarchic manner the country's defence during the communist era. From 1990 to now, the Romanian Armed Forces have been reduced from more than 300,000 to less than 100,000.

In 2001, new reforms of the military have focused on improving mobility and training, deployment capacities, and sustainability. Enhancing and modernizing Romania's contribution to NATO is one of the main targets for the following years. Significant reductions in personnel will continue, maintaining the objective of decreasing territorial components and improving the expeditionary assets of the armed forces. The operational side has been continuously strengthened and the administrative side reduced. Changes in personnel ranks correspond to the need to enhance the NCOs' core and to prepare the gradual replacement of conscripts' functions with new functions performed by volunteer soldiers. The professionalization of the military (currently two-thirds are professionals) will also require a new type of management and upgrade according to the NATO requirements regarding the training and education component of the military establishment. New risks and threats, as well as extensive international commitments, also require long-term planning in terms of objectives and resources. A new NATO compatible planning, programming, and budgeting system (PPBS) has been established and is being used to develop budget requirements and planning priorities for the period 2003 through 2008.

To fight terrorism, additional capabilities and tasks have been added. Basic interoperability requirements were supplemented by a more integrated approach on how the armed forces should act, especially in critical areas such as surveillance and early warning, command and control, communications, force protection, and deployment. Within this context, I will only mention some of the most important changes for the Romanian military, which are also relevant for its strategic contribution to NATO and the war on terrorism.

First, Romania and the other new NATO members constitute the new borders of the Alliance's integrated system for collective security. Therefore, their infrastructure and territory are crucial for providing force projection assets and creating the mechanisms for rapid reaction in crisis situations. Romania's geostrategic location as the easternmost ally, linking the Balkans to the Caucasus, the Black Sea and the Middle East has acquired an increased importance for national and allied forces' projection in distant areas of operations.

Romanian military and civil infrastructure has been extensively employed by the United States and other allies both for their Afghan and Iraqi operations and for contingent rotation in the Balkans. Following these experiences, the United States is currently analyzing within the Global Posture Review the location of a new type of expeditionary military base near the Black Sea. As a NATO host nation, Romania intends to launch a significant program of base modernization in areas such as command and communication, equipment, and training, and has recently signed an agreement of cooperation with Northrop Grumman in this field.

Second, the surveillance of NATO air space through NATINEADS will be extended to the new member states to cope with the risks created by terrorist attacks or renegade aircraft. Romania's national system for surveillance and interception has been gradually connected to the NATO system, which will also allow access to the NATO database and help prepare adequate responses. Air surveillance and radar capabilities are indispensable tools for preventing terrorist attacks on allied soil. Given the current security context, Romania supports their use to protect major gatherings such as the Olympic Games in Greece, an event that could have been a target of terrorist networks given its symbolic value. Increased radar capacity has been obtained by a partnership with Lockheed Martin, and the production is in a joint venture in Romania with Gap Fillers.

Third, ensuring force projection is a very important and costly business. Romanian Armed Forces have already been deployed in Afghanistan. One of the key aspects of the transformation of the armed forces is the increase of the C-130 fleet, which currently contains five aircraft and should be increased to twelve. Furthermore, the future participation in NATO efforts for creating a multinational transport fleet will also raise additional needs.

Fourth, the improvement of assets and capabilities for the protection of deployed forces is of major importance, given the complexity of current operations in Afghanistan and Iraq. Romania has already developed means of surveillance by acquiring a number of UAVs and plans enhancing electronic warfare capabilities. It has also deployed national intelligence cells during military operations. In Afghanistan, the intelligence component has been increased by one platoon, while in Iraq, a detachment has been deployed since the beginning of the current operational phase. NBC assets are also an important instrument in ensuring force protection, and the NBC company has participated in Iraqi operations and will be a part of future NATO Response Force designs.

Fifth, sustaining forces for more than two years in operations has required improved logistical functions. A new concept has been developed to harmonize existing procedures at the service level, and a National Coordination Cell has been set up to ensure appropriate and coordinated campaign services, as well as medical and maintenance capabilities for troops.

Finally, the conduct of new types of operations will extensively rely on the capacity of the army to continuously improve its strategies and doctrines and adapt to the situations on the ground. The "lessons-learned" type of managing knowledge in the military establishment is an intrinsic part of the transformation. At the end of 2003, Romania has created a new J structure to deal with doctrine and lessons learned under the coordination of the first field commander of Romanian troops in Afghanistan. Cooperation with NATO and its allies in this

area will significantly improve the capacity to react rapidly to changes in the theatres and produce an efficient design of participation in operations.

## NATO Transformation and the Way Ahead in Countering Terrorism

The Romanian military had both the advantage and the challenge of changing along with the Alliance, and in this context needed both to "catch up" with NATO members and to "keep up" with the current path of transformation. The future transformations will therefore be closely connected and derived from the ones that NATO has undertaken in the post–September 11 environment.

The terrorist attacks demonstrated to the Alliance that traditional military thinking and means are not enough to deal with new strategic threats. NATO can no longer afford to do business as usual, as the Secretary General put it. They also demonstrated the negative side of the growing interdependencies in the post–Cold War environment. What happened in United States could have happened anywhere. NATO has therefore dedicated a tremendous amount of work and internal debate to the assessment of collective ways of dealing with global threats such as terrorism, starting from the premise that vulnerabilities are not measured any more in national and international terms, but rather in terms of transborder and transnational phenomena.

Transformation of the role of NATO has both a military and a political dimension that are inseparable, since military reform creates the basic ground for new collective political ambitions.

### *Military Transformation*

The Prague Summit opened a number of initiatives directed toward the improvement of Allied military capabilities. It became obvious that NATO is required in different areas of the world and that previous thinking, focused mainly on the European continent, has become obsolete.

The construction of a NATO Response Force with deployment capacities within five days, the improvement of Allied capabilities for power projection and the sustainability of forces deployed abroad, and the enhancement of its surveillance and reconnaissance assets are some of the measures that are currently under development. NATO also decided for the first time in its history to reform its network of military command and facilities and to devote increased consideration to the

area of further military transformation within the newly established Atlantic Command for Transformation. Other tasks assumed by the Alliance have been extended and conceptualized through the Military Concept for Defence against Terrorism, the improvement of the Civil Emergencies Planning, and the creation of the WMD Centre.

Romania has committed its new capabilities to the entire range of the PCC areas of multinational cooperation, ranging from CBRN defence to information superiority, combat effectiveness, force deployment capacities, and survivability. The development of niche assets could lead to more efficient burden-sharing among the allies and to a significant improvement in national contributions to the Alliance. Furthermore, new concepts are now under discussion, such as the usability of forces in operations. If Romania wants to be effective, it should think about ways to enhance its commitments to NATO operations and be able to provide the necessary capabilities for the Alliance to be effective and responsive to today's security challenges.

The new security challenges have also shaped additional parameters for the national use and management of military force. If we pay a closer look to the way terrorist groups are acting, we find out that the mobility and flexibility of criminal networks should be replicated by a similar pattern of rapid-reaction forces. There is room for thinking further about building network-centric warfare and types of capabilities that could provide additional force multiplier means for NATO.

Planning the military operations should rely on an enhanced political willingness to engage forces, commit resources, and maintain a credible deterrent capacity. If the Prague Summit was about defining new means, the Istanbul Summit might focus again on ends and objectives. It is my belief that the use of the means of action decided in Prague might finally create new ends for the Alliance.

## *Political Transformation: New NATO Partnerships*

This is why the dimension of reform goes beyond strict military thinking. It is of course a matter of political transformation. It is also a matter of interagency cooperation in addressing the issues of terrorism, criminal networks, or arms proliferation. It involves sound intelligence structures, rapid decision-making procedures, information processing and analysis, border security, police cooperation, and diplomatic coordination. It is the area of networking and multistructure management that remains a very sensitive topic for individual countries and for multinational organizations.

NATO-EU cooperation in jointly addressing risks and vulnerabilities is therefore the key to success. Promoting and sustaining transatlantic

cooperation in fighting terrorism remains a major priority for Romania, and the government supports the development of a role-sharing concept between the two organizations. Cooperation with partner countries in the Caucasus and Central Asia, including Russia, could improve NATO efforts of promoting stability and addressing the asymmetric challenges in its new neighbourhoods.

Moreover, when thinking about the role of NATO in countering terrorism, one should define its new tasks. The most important one remains of course the extension of the ISAF mission to stabilize Afghanistan, which should soon cover the entire Afghan territory. The Istanbul Summit is expected to provide a significant boost to this complex and challenging mission. But there are other ongoing requirements we should think about in the future. One is addressing the areas of maritime security and border security in the Black Sea–Caucasus region. Another one relates to continuing and enhancing NATO operations in the Mediterranean to counter the terrorist threat along the southern border of the Alliance. Finally, one further task could be the development by NATO in preventing the emergence of new terrorist safe havens by supporting Mediterranean and Middle Eastern countries in their security sector reforms and the fight against terrorism.

While comparing national reforms and NATO transformation, one may notice that there is a common core concept behind the role of the military in fighting terrorism: the armed forces have to define their own niche function in all areas of countering asymmetric threats, from prevention and deterrence to war and stabilization. New capabilities, partnerships, and operations are intrinsically connected to a new vision about strategic interests and defence policies.

NATO's role and the mission of the armed forces should be enlarged to a broader perspective regarding the promotion of security, in which a new set of instruments is progressively designed to respond to a new set of transatlantic objectives. To rephrase a well-known dictum: the only thing that does not change is change itself.

# Combating Terrorism and Its Implications for Intelligence

FRED R. SCHREIER

> *"Terrorism is a global threat with global effects … Its consequences affect every aspect of the United Nations agenda—from development to peace to human rights and the rule of law…. By its very nature, terrorism is an assault on the fundamental principles of law, order, human rights, and the peaceful settlement of disputes upon which the United Nations is established…. The United Nations has an indispensable role to play in providing the legal and organizational framework within which the international campaign against terrorism can unfold."*
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> —Kofi Annan, UN Secretary-General, 4 October 2002

Terrorism has been of concern to the international community since 1937, when the League of Nations elaborated the Convention for the Prevention and Punishment of Terrorism. Subsequently, the UN and other intergovernmental organizations have dealt with terrorism from a legal and political perspective. Since 1963, the international community has elaborated twelve universal legal instruments related to the preven-

tion and suppression of international terrorism, many initiated by the United States.[167] Regional organizations such as NATO, the EU, OSCE, SAARC, and ASEAN have made counterterrorism a principal concern. And new organizations such as the Shanghai Cooperation Organization have provided guidance and cooperation.

Yet grievous incidents recorded in recent years in such disparate places as Paris, Jerusalem, Oklahoma City, Algiers, Dhahran, Lima, Karachi, Nairobi, Dar-es-Salaam, New York City, Washington D.C., Bali, Djerba, Casablanca, Riyadh, Istanbul, and Madrid – accompanied elsewhere by a myriad of less serious ones – dramatically confirm that in the twenty-first century, no country, society, or community is immune to terrorism.

While it is difficult to judge how successful the overall counterterrorism effort has been, inevitably there has been public discussion of the question of whether 9/11 and subsequent attacks were "intelligence failures."[168] The enquiries in the United States into the performance of the

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[167] On 12 September 2001, the UN General Assembly, by consensus of the 189 member states, had called for international cooperation to prevent and eradicate acts of terrorism and to hold accountable the perpetrators of terrorism and those who harbor or support them. The same day, the Security Council unanimously determined, for the first time ever, any act of international terrorism to be a threat to international peace and security. This determination laid the foundation for Security Council action to bring together the international community under a common set of obligations in the fight to end international terrorism. On 28 September 2001, the Security Council unanimously adopted resolution 1373 under chapter VII of the UN Charter. This established a body of legally binding obligations on all member states. Its provisions require, among other things, that all member states prevent the financing of terrorism and deny safe haven to terrorists. States were asked to review and strengthen their border security operations, banking practices, customs and immigration procedures, law enforcement and intelligence cooperation, and arms transfer controls. All states are required to increase cooperation and share information with respect to these efforts. The Resolution also called upon each state to report on the steps it had taken, and established a committee of the Security Council to monitor implementation. In October 2002, The Global Program against Terrorism was launched as a framework for UNODC's operational activities working through technical assistance projects on Strengthening the Legal Regime against Terrorism. The UN Office on Drugs and Crime is committed to deliver tailor-made assistance through: (1) reviewing domestic legislation and providing advice on drafting enabling laws; (2) facilitating and providing training to national administrations with regard to new legislation; (3) providing in-depth assistance on the implementation of the new legislation against terrorism through the mentorship program; and (4) maintaining a roster of experts to supplement specific expertise where required. See http://www.undoc.org/undoc/en/terrorism.html.

[168] A good analysis of the phenomenon of intelligence failures can be found in: Betts, Richard K. Jr., "Analysis, War and Decision: Why Intelligence Failures Are Inevitable," *World Politics* (October 1978).

intelligence community in the months preceding 9/11 uncovered both specific shortcomings and systemic weaknesses in intelligence performance[169] and have led to three major findings:

- The new indiscriminate terrorism, as represented by Al Qaeda and its associates, poses a major threat not only to the United States and its presence abroad and to the national security of individual nations, but to regional and international peace and security.
- The traditional counterterrorism approach of viewing terrorism as a phenomenon, which can be prevented and controlled by better identification and redressing of grievances, better governance, enhanced economic development, and measures to win the hearts and minds of the people, would be inadequate against the new indiscriminate terrorism. Many of those who have taken to the new terrorism come from well-to-do families, and economic deprivation and social injustice were not among the root causes of their terrorism. Since some of their pan-Islamic objectives—such as the creation of regional Islamic caliphates ruled according to the Sharia—cannot be conceded by the international community, there is a need for a more robust counterterrorism approach to neutralize these organizations.
- The national intelligence agencies, by themselves, however strong and capable, may not be able to deal with this new threat of international terrorism. Hence, the need for an interagency framework for planning, executing, and coordinating counterterrorist efforts, and improved regional and international intelligence sharing and cooperation between the intelligence and security agencies to counter these terrorist networks. Thus, the new terrorism calls for revamped intelligence apparatuses at the national level and reinforced coordination mechanisms at the regional and international levels.

But what has been the public perception of the counterterrorism performance of national intelligence and security services before 9/11 and thereafter? The common complaint against intelligence and security agencies in all countries confronted with the scourge of terrorism has been that the agencies, while effective and efficient in detection and investigation after a terrorist act has been committed, have been wanting in their abilities to prevent a terrorist act.

Yet it would be unfair to the intelligence services to say that they are not able to prevent acts of terrorism through timely intelligence. For every successful act of terrorism, there are others thwarted by

[169] See Best, Richard A., Congressional Research Service Report RL31650, *The Intelligence Community and 9/11: Congressional Hearings and the Status of the Investigation*, updated 16 January 2003.

the agencies, either through timely intelligence or effective physical security.[170] Details of many of these are regularly kept outside public knowledge in order not to compromise the sources or reveal the methods and professional techniques used by the agencies.

Despite this, it is normal that public opinion would judge the intelligence and security agencies not by their unannounced successes, but by their well-known failures. And failures there have been in plenty: not only in developing countries, but also in the United States and in Europe, despite their far greater financial resources and their more sophisticated technological capabilities. The world is also witnessing continuing terrorist strikes by Chechen groups in Russia and the unending wave of terrorist incidents in Iraq since May 2003, which speaks of continuing failures of the Russian and the U.S. intelligence communities. Though different terrorist organizations are responsible for these incidents, all of them have a similar *modus operandi*, involving the use of explosives activated through either timers, remote control devices, or suicide bombers.

What are the problems in combating terrorism, what are the possible remedies, and what are the implications for intelligence?

Key issues:
- What is the essence of combating terrorism?
- What makes combating twenty-first century terrorism so difficult?
- What are the challenges and problems for intelligence?
- Is there a need for a new approach to intelligence?

## What Is the Essence of Combating Terrorism?

Terrorism is the societal evil of our time, which must be combated as slavery and piracy were in the nineteenth century and fascism and apartheid in the twentieth century. Efforts to disrupt and destroy terrorist organizations occur in many ways: diplomacy in bilateral and multilateral fora; law enforcement efforts to investigate, arrest, and prosecute terrorists; financial and other measures to eliminate terrorist support;

[170] See for example "Oplan Bojinka," a complex plan to bomb eleven U.S. airliners over the Pacific as they travelled from Asia back to the United States. More than 4,000 people likely would have died had the plot not been discovered in 1995. A multifaceted attack on the Los Angeles airport and other U.S. related targets to coincide with millennium celebrations in January 2000 was foiled as a result of a chance apprehension of an individual with a car loaded with explosives by an alert customs service official. Attacks on U.S. embassies and facilities in Paris, Singapore, and other parts of the world have been thwarted because of intelligence leads.

military actions to destroy terrorists and regimes that harbor them; and covert operations by intelligence services.

The essence of combating terrorism can be found in the many strategies existing.[171] Most contain comparable content to the U.S. National Strategy for Combating Terrorism,[172] which claims leadership in the worldwide effort and is the most offensively oriented. For the United States, the best defense is an aggressive offense, in which traditional counterterrorism, antiterrorism, intelligence collection, and covert action are seamlessly integrated. All strategies seek to create a global environment hostile to all terrorist groups, whether they operate globally, regionally, or within the boundaries of a single state. They provide guidance to orchestrate all instruments of national power while coordinating the collective efforts of the international community. The end state of the strategies is invariably a world free of terrorism as an instrument of societal change and a global environment in which terrorism can not flourish again.

Since the fight against terrorism requires a multidimensional, multinational approach aimed at the entire spectrum of terrorism, the strategies call upon states, international and regional organizations, private and public entities, and individuals to collaborate in combating terrorism at all levels simultaneously. The UN should lead the effort while facilitating regional responses and assisting individual partner states. The goal is to reduce terrorism to a level at which it can be combated as mere crime.

All strategies place primary responsibility on sovereign states that have jurisdiction over terrorist activities within their borders. Many states are well equipped to combat terrorism. Others are weak and require assistance. A few are ambivalent or reluctant and require motivation. Some states still support or sponsor terrorists and must be compelled to stop. Thus the UN, NATO, and the EU, as well as the United States encourage all societies to pool diplomatic, informational, military, and economic capabilities to defeat terrorist organizations wherever they exist, deter future acts of terrorism, and ultimately diminish the underlying causes of terrorism through a concerted effort at the global, regional, and sovereign-state levels. At the same time, individual states are called upon to provide defense for their citizens at home and abroad.

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[171] Issued by the UN, NATO, the European Council in May 2004, and other international and regional organizations as well as by individual states.

[172] *National Strategy for Combating Terrorism*, February 2003.

## *Defeating Terrorist Organizations*

The first element of combating terrorism as an instrument of change aims at defeating existing terrorist organizations at the global, regional, and state levels. Terrorism will only be defeated by solidarity and collective action.[173] Through direct and indirect use of diplomatic, informational, military, and economic instruments of power, the international community should seek to defeat terrorist organizations by attacking their "centers of gravity," while directly compelling or indirectly influencing states that sponsor terrorists. The centers of gravity of terrorist groups include leadership, supporting ideology, finances, command and control networks, and sanctuaries. To defeat existing terrorist groups, the UN and the United States, its allies, and coalition partners need to:

- Identify and isolate terrorist organizations at each level
- Disrupt support infrastructure and sanctuaries
- Discredit ideology or reasons for committing acts of terrorism
- Destroy networks and leadership

While it is unrealistic to hope to eliminate every single terrorist who desires to threaten innocent individuals, it is possible to eliminate the synergy created by the cooperation of disparate terrorist organizations. This effort will reduce the operational scope and capabilities of global and regional terrorists to the point that they become threats only at the individual state level. At that level, the threat can be combated as criminal behavior, which will allow for a narrower focus of attack and enable the full engagement of law enforcement mechanisms.

## *Deterring Future Acts of Terrorism*

The second element of the strategy focuses on deterring future acts of terrorism. To establish a credible deterrent, the international community should develop and maintain a set of capabilities and mechanisms that clearly communicate to potential terrorists and their supporters that their costs will far outweigh any perceived benefits of engaging in terrorism. The deterrence message should be sent not only to terrorist organizations but also to states that sponsor them, nonstate actors that provide a front for their activities, and individuals who may contemplate joining or supporting them. The goal of deterring terrorism supports the strategic aim of abolishing terrorism by convincing individu-

[173] European Council Declaration on Combating Terrorism, May 2004.

als, organizations, and states to seek alternative methods of political change because terrorism is no longer a viable option. Providing a deterrent message to each of the four audiences associated with terrorism requires:

*Deterring terrorist organizations.* Terrorist organizations believe that they can conduct operations with impunity. Capabilities, particularly improved intelligence, should be acquired to detect, thwart, and destroy such groups and bring their members to justice. Actions should be taken to create the certainty that terrorists will be captured and imprisoned rather than becoming martyrs for their cause. Political, social, and religious leaders must understand that their organizations will be destroyed if they choose terrorism to advance their aims.

*Deterring state actors.* States must be deterred from providing support or sanctuary to terrorist organizations. This can be done by broadening international norms against terrorism and demonstrating the resolve to replace the leadership of any state that continues to sponsor terrorism. States must clearly understand that the costs will far outweigh any perceived benefits of engaging in acts of terrorism.

*Deterring nonstate actors.* Nonstate actors must be deterred from providing aid and assistance to terrorist organizations. This can be achieved by establishing an international environment of greater financial transparency, naming and shaming organizations involved in terrorist support, and lowering the barriers to asset seizures and freezing of funds.

*Deterring individuals.* Efforts to deter individuals from joining or supporting terrorist organizations include educating potential recruits on the sinister nature of specific organizations and of terrorism in general, dispelling the notion that terrorism results in positive gain, and demonstrating that terrorists will be brought to justice.

Although some believe that terrorists are undeterrable, we can find arguments that prove the contrary. State and nonstate actors *can* be deterred from providing assistance. The tougher challenge applies to the actual terrorist organizations and their followers. Deterrence of these will take time. The bottom line is that terrorists must believe that ultimately their efforts would be futile.

## *Diminishing the Underlying Causes*

The group of efforts to diminish the underlying causes of terrorism compose the third element of the strategy of abolishing terrorism as an instrument of change. Through an aggressive long-term campaign, the international community should mitigate the underlying conditions that foster the formation of terrorist groups and their support elements. To

do this, the international community should directly or indirectly engage vulnerable regions and disparate ideologies and peoples.

The major contributors to the underlying causes of terrorism are:
- Economic and social inequality in societies marked by both abject poverty and conspicuous affluence
- Poor governance and economic stagnation or decline that alienates many segments of a state's population
- Illiteracy and lack of education that lead to widespread ignorance about the modern world and resentment toward Western values
- U.S. and Western foreign policies, particularly regarding the Middle East, that have caused widespread resentment toward America and the West

To mitigate these underlying causes, the international community should renew efforts to address the causes by the following actions:

- Increase foreign development assistance and use it to promote accountable and participatory governance along with an environment favorable to sustained economic growth
- Promote literacy and education in the Islamic world and underdeveloped nations
- Engage in information operations to denigrate the concept of terrorism and discredit its supporting ideologies
- Reenergize efforts for peace and stability in the Middle East

## *Defending the State on the Home Front*

On the home front, states should remain vigilant and ready by establishing collaborative relationships between the ministries, the agencies, law enforcement, public health and emergency management entities, professional associations, and private partners. To that end, states should use every power available to defend their citizens against terrorist attack. States should be postured to provide an effective defense in three areas:

*Prevent terrorist attacks*. To the maximum extent possible, would-be terrorists and the weapons they intend to use must be denied entry into the country. Weapons of mass destruction must be detected and intercepted before they can be employed. Collaboration at all levels of government, along with the participation of private sector and individual citizens, is essential to disrupting terrorist aims.

*Protect critical assets*. To minimize the probability of a successful terrorist strike, states should harden critical infrastructure and other po-

tential terrorist targets. Cyber-based attacks are a real threat to the nation's critical computer-supported infrastructures, such as telecommunications, power distribution, financial services, national defense, and government operations.

*Prepare responses*. To reduce the effect of terrorism, states should be prepared to mitigate the consequences of an attack. This is particularly critical when responding to attacks from weapons of mass destruction. Collaboration among all ministries, agencies at the federal, regional, and local levels is essential. States should be safe and secure at home to preserve the way of life, maintain economic growth and stamina, and remain engaged in the international effort against terrorism.

However, while there are strategies that contain the essence for combating terrorism, the strategies by themselves, no matter how cohesive and comprehensive, will not ensure an integrated and effective set of programs to combat terrorism.

## What Makes Combating Twenty-First Century Terrorism So Difficult?

The motives behind twenty-first century terrorism are new. Globalization has enabled worldwide terrorism and has facilitated the development of worldwide goals. Rather than using terrorism to create change within a single society or focus on a specific government, terrorism has gone international to support global causes, and the United States and the West have become primary targets. Though the events of 9/11 saw terrorism produce its most destructive event to date, trends from the preceding decade indicated an increase in violence. Terrorist attacks are becoming increasingly sophisticated and are designed to achieve mass casualties, and the trend towards greater lethality will continue.[174] The difference, however, is more than an increasing magnitude of indiscriminate mass casualty attacks, deliberately targeted against civilians, noncombatants, and societies ever more vulnerable and dependent on functioning critical infrastructure: The terrorist threat is confronting all of society in the twenty-first century.

The new terrorists are backed by powerful organizations located throughout the world and have achieved a de facto sovereign status by acquiring the means to conduct war – and have in fact declared war – posing a significant military and foreign policy challenge for which the West had no preplanned response. With global motives, global capabil-

[174] *Global Trends 2015: A Dialogue about the Future with Non-government Experts*. NIC 2000-02 (December 2000).

ities, and the probable use of weapons of mass destruction, this really is a new kind of war.

Since the new terrorists are trying not only to coerce or intimidate governments or societies but also to create an environment that unites a larger Muslim population against Western ideals and societies, the world is seeing a global insurgency aimed at ultimately altering the global balance of power, with the West being caught up in "somebody else's civil war."[175] In almost every Muslim country, there are calls by conservative religious elements for the revival of very old traditions. These elements view modern Western civilization as threatening the survival of traditional Islam as Western civilization bolsters the real enemy – secularism. The struggle is not new, but the identification of the United States and the Western world as an ally of the enemies of Islam has gathered momentum with U.S. and Western policy support for secular, corrupt regimes throughout the Middle East and with the Palestinian-Israeli conflict. Civil wars are agony for all participants, and they tend to last longer than other wars. The struggle between secularism and Muslim tradition will likely last at least a generation or more.

Moreover, the concept of global insurgency applies not to a single terrorist organization but collectively to many terrorist organizations throughout the world. These organizations have established a global, interconnected network of operations that often provides mutual aid and support in which it is difficult to isolate a particular group or faction without drawing linkages to other organizations that provide direct support, indirect assistance, or pursue similar goals. States with poor governance, ethnic, cultural, or religious tensions, weak economies, and porous borders will remain prime breeding grounds for the new terrorism. In such states, domestic groups will challenge the entrenched government and transnational networks seeking safe havens. At the same time, the trend away from state-supported political terrorism and toward more diverse, free-wheeling, international networks enabled by informational technology will continue. Some of the states that sponsor terrorist groups today may decrease or cease their support as a result of regime changes, rapprochement with neighbors, or the conclusion that terrorism has become counterproductive. But weak states also could drift toward cooperation with terrorists, creating de facto new state supporters. Moreover, there is also a coalescence of terrorism and other transnational crimes, which provide terrorists with various sources of income to finance their operations. These include, for example, illegal immigration, contraband smuggling, visa fraud, piracy, human traffick-

[175] Doran, Michael, "Somebody Else's Civil War," *Foreign Affairs* 81, no. 1 (January-February 2002).

ing, diamond smuggling, and tobacco diversion and associated tax fraud.

Terrorist groups operating on their own in loosely affiliated groups have increased. In particular, Islamic terrorist groups tend to be loosely organized, recruit their members from many different countries, and obtain support from an informal international network of like-minded extremists. The resulting transnational and decentralized structure helps terrorists avoid detection. The new brand of international terrorism more closely resembles a virus that mutates as its environment changes. Individual subgroups are capable of evolving their own strategy, and gaming their opponents. And if hit, the adversary will adapt, regroup, generate new leadership, shift geographic locus, adjust tactics, and evolve into a new collection of cells and networks capable of self-healing, dispersal, reassembly, and innovation.

The overall strategy of the new terrorist groups recognizes that they are in an inferior power position and must strike asymmetrically while winning sympathies from other terrorist organizations, governments aligned against the West, and the larger Islamic population. But time is on their side. In support of their insurgency, they have adopted a transnational strategy characterized by its global, protracted, diffuse, decentralized, complex, and ideological attributes. Buttressing the strategy are the sophisticated exploitation of modern media and technology, telecommunications, antiglobalization sentiments, indoctrination techniques, and a recruitment pool of disenfranchised Muslims. These terrorists aim for support from active participants, who plan and conduct highly compartmentalized terrorist operations, and passive sympathizers, whose silence does not betray or impede the insurgents. Appeals to the masses are effective in broadening passive support, as well as gaining "troops" whose orders to fight may take them to a variety of terrorist battlefields, such as Afghanistan, Iraq, Kosovo, Kashmir, Chechnya, the Philippines, Indonesia, or sub-Saharan countries. Furthermore, global terrorism has been highly successful in influencing the intelligentsia of the Muslim world, whose passive support is particularly critical in thwarting intelligence efforts and whose active support provides executive leadership, financial backing, and ideological legitimacy.

Personal, social, political, cultural, and religious causes for disunity within the groups are largely impenetrable to Western influence. As a result, the West will have to depend upon moderate Islamic leaders and opinion makers to discredit the interpretation of jihad adopted by terrorist organizations. To disrupt the new terrorists' ability to organize, plan, integrate, synchronize, and conduct future operations is a daunting task, given the scope and complexity of global terrorist organizations, which are present in more than sixty countries. The extensive network of schools and training camps will make it difficult to undermine the terrorist support that has been built up over the last several years.

The protracted struggle with the irregular force that represents one side of the "Islamic Reformation" presents a radical departure from all models of conventional warfare to which the West and its intelligence services have been accustomed. This struggle is daunting since defeating a broad-based, decentralized, and self-generating network like Al Qaeda is an unprecedented task. The following table[176] makes clear that the new enemy is of a completely different nature. This adversary is an evolving, adapting, and self-organizing[177] force and network with roots that spread everywhere, for which models of deterrence fail.

*Self-Organized Terrorism Compared to Conventional Military Threats*

| Dimension | Conventional Military Threat | Self-Organized Terrorism |
|---|---|---|
| Organization | hierarchical, formal | flat, informal, networked |
| Leadership | concentrated, institutional authority | primarily symbolic, role in fundraising |
| Loyalty | a state and a policy | a tradition |
| Coalition partners | formal, perhaps shifting | informal, but likely enduring from conflict to conflict |
| Command and Control | centralized, with clear power relationships | decentralized, no one fully in charge |
| Role of intelligence | powerful, primarily offensive | weak, primarily defensive |
| Denial and deception | useful, but secondary importance | well developed, critical to mission |
| Doctrinal development | derived from formal study, historic experience, simulation, and gaming | evolutionary, trial and error |
| Other security obligations | numerous, including regional security, peacekeeping, formal alliances | none |
| Weapons arsenal | built through formal acquisition; takes years, even decades; resources abundant | adaptable, evolves quickly via natural selection; resources a constraint |
| Financing mechanism | formal budgets, funded by taxes | contributions from nongovernmental organizations, crime, narcotics |

[176] Table taken from Harris, James W, "Building Leverage in the Long War," *Policy Analysis* 439 (16 May 2002).

[177] Self-organization refers to the propensity of the elements of a system to establish order without central oversight, as though doing so spontaneously. The idea is especially germane to biological and political systems, in which cells begin to work synergistically—in the early development of an organism or when a political movement is quickly "born" of commonly shared but only recently formed opinions. Financial markets also exhibit self-organization, when "bubbles" are created out of the dynamics of the expectations of individual participants. Networks also exhibit an emerging structure, as subgroups are added and connectivity multiplies disproportionately.

Terrorist organizations, ranging from those with global reach to those with merely local influence, support one another in an interconnected fashion. They are linked together in two distinct ways. The first is through *hard links* in which there is direct interaction and cooperation among terrorist groups. These links can eventually be detected, analyzed, and acted upon. The second is through *soft links*, which remain difficult to detect or influence.

Hard links: Terrorist organizations work together when it is in their interest to do so. These organizations may have different ideologies, goals, adversaries, or sponsors, but there may be compelling reasons to cooperate. Some of the hard links among these organizations are:

*Financial support:* occurs in many forms, from direct financial transfers to engaging in such mutually beneficial business deals as illegal drug trafficking or diamond sales, counterfeiting goods,[178] charitable organizations that funnel money to terrorist groups, and legitimate businesses that launder money from illicit sources.

*Sharing intelligence*: terrorist organizations sometimes share information regarding Western operations, critical vulnerabilities, intelligence collection methods, counterterrorism and counterintelligence capabilities, and political activities. They also share information to maintain situational awareness and improve the quality of their planning.

*Coordinating activities*: terrorist organizations have coordinated their efforts to maximize the psychological effect of terrorist operations or to demonstrate the ability to conduct sustained operations over time.

*Sharing safe havens*: a number of terrorist organizations operate training camps and maintain bases of operations near one another. Safe havens have been shared by like-minded terrorist organizations, taking advantage of governments willing to sponsor them.

*Sharing materials and resources*: terrorists exchange technology to construct bombs and the techniques to employ them. Key materials are also shared among some organizations. This becomes particularly worrisome as some terrorist organizations pursue the acquisition of weapons of mass destruction.

*Sharing personnel*: closely linked terrorist organizations share personnel for training or intelligence purposes or to develop a key capability within the organization such as encrypted or encoded communications, counterfeiting documents, or traveling incognito.

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[178] Counterfeiting is estimated to yield some $600 billion a year for criminal organizations, including those that fund terrorists. Last year, law enforcement personnel in Lebanon seized $1.2 million worth of counterfeit brake pads and shock absorbers. According to a statement by Interpol chief Ronald Noble on 28 May 2004 in Brussels, the proceeds from their sales were destined for supporters of Hezbollah.

Soft links: This category characterizes the manner in which terrorist organizations operate without direct communications or coordination. Although difficult to delineate, some of the soft links are:

*Sharing opportunities*: as one organization strikes, other organizations may take advantage of an emerging opportunity.

*Sharing responsibility*: one organization may commit an act of terrorism while another organization claims responsibility. This may serve to confuse retaliation measures, cloak those who are truly responsible, and draw attention to the terrorist organization that elected to claim responsibility.

*Public diplomacy*: some terrorist organizations have access to or are able of influencing broad-reaching media mechanisms to communicate rationale or support for other terrorist organization activities.

*Sharing ideological views*: ideological leaders associated with a particular terrorist organization or a specific country sponsoring terrorism may communicate support to other terrorist organizations' activities or incite demonstrations supporting specific causes or opposing common foes.

In the aggregate, these hard and soft links work together to create a spectrum of terrorism that ranges from state-level terrorist organizations seeking to modify their government's behavior to global terrorists with worldwide hegemonic goals, ultimately striving to replace Western culture with their radical view of Islam. Due to these linkages, any viable counterterrorist strategy must embrace an integrated approach; hence the need to combat organized crime and terrorism collectively.

Organization tools such as ideology, leadership, recruitment pools, and publicity are necessary to sustain a terrorist group's existence as a cohesive entity. Operational tools such as command and control, weapons, training, intelligence, and money allow terrorists to conduct successful attacks. Understanding these factors may help identify the means of reducing a particular group's capabilities. To completely dismantle a terrorist group in the long term, counterterrorism activities should seek to dismantle a group's organizational tools. To prevent a particular attack or to alleviate an immediate threat, a group's operational tools should be targeted.

Groups of the Al Qaeda brand have shown the ability to evolve when faced with countermeasures by state authorities, changes in support from other states or militant groups, or shifts in popular support. However, terrorist groups in transition face difficult choices about their organizational structure, strategy, and tactics. Understanding the pressure at work on a group may help counterterrorism authorities apply measures that increase the chances of terrorists making bad decisions and mistakes.

## What are the Challenges and Problems for Intelligence?

Effective counterterrorism requires good intelligence, but counterterrorism intelligence differs in many ways from the intelligence support that was needed during the Cold War and for which intelligence services remain in large measure organized. The major challenges and problems for intelligence reside with human and signals intelligence collection, analysis, cooperation with law enforcement agencies, and the sharing of intelligence – ensuring that real-time intelligence about terrorist activities reaches those who can most effectively counter it.

Counterterrorism intelligence is of three categories:

*Strategic:* intelligence about the organization of the terrorist organizations, leadership, intentions, aims, modus operandi, sources of funds, weapons and means at their disposal, and contacts with external elements, including foreign intelligence agencies.

*Tactical:* intelligence relating to specific plans of terrorist action, also called preventive and indications-and-warning intelligence, which would enable the state to preempt terrorist action, prevent attacks, and frustrate terrorist plans.

*Psychological:* intelligence covering details of psychological warfare propaganda of the terrorists and data relating to the terrorists, which enable the state to mount its own psychological warfare against them. Indicators of discontent against the leadership in terrorist organizations, coercive methods in the recruitment of volunteers, and misuse of children and women for terrorist operations are examples of such data.

While the coverage of strategic and psychological intelligence by the intelligence services in general has been satisfactory, the collection of tactical, preventive, and indications-and-warning intelligence has left much to be desired. This is due largely to the difficulties in penetrating terrorist organizations for collection of human intelligence and intercepting their communications for the collection of signals intelligence.

While strategic and psychological intelligence can be collected from open sources, peripheral secret sources, interrogation of captured or surrendered terrorists, and the analysis and exploitation of captured documents, IT hardware, and software, precise preventive and indications-and-warning intelligence can generally be obtained only from moles in key positions in the terrorist organizations and through interception of communications. Occasionally, such intelligence may also be forthcoming from captured or surrendered terrorists, their couriers, and so on, but such instances are rather rare.

## *Human Intelligence Collection*

Counterterrorism is highly dependent upon human intelligence: the use of agents to acquire information and perform successful covert actions. Signals intelligence and imagery satellites have their uses in the counterterrorism mission, but counterterrorism intelligence depends much more on human intelligence collection. Though human intelligence collection is one of the least expensive intelligence disciplines, it can be the most difficult, and is undoubtedly the most dangerous for practitioners. Mistakes can be fatal, politically embarrassing, and undermine important policy goals.

There is a general belief that intelligence required for combating terrorism will require significant changes in the human intelligence collection effort. Terrorists do not usually appear on the diplomatic cocktail circuit or in gatherings of local businessmen. In many cases, they are also involved in various types of criminal activities on the margins of society. Terrorist groups may be composed almost wholly of members of one ethnic or religious group or family clan. They may routinely engage in human rights abuses. Developing contacts with such groups is obviously a problem for Western intelligence agencies. It requires long lead-time preparation and a willingness to do business with individuals sometimes of the most unsavory and corrupt kind. It cannot, in most cases, be undertaken by intelligence agents serving under official cover as diplomats or defense attachés. It requires in-depth knowledge of local dialects, customs, and culture. Much time and patience will be needed to train collectors in difficult skills and languages. Furthermore, the list of groups around the world that might at some point in the future be involved in terrorist activities is not short. Determining where to seek agents whose reporting will only be important under future eventualities is a difficult challenge, with the risk of needlessly involving the state with corrupt and ruthless individuals.

Penetration of terrorist organizations is an extremely difficult and also dangerous task. It is easier to penetrate the sensitive establishments of an adversary state than a terrorist organization. Moreover, it poses ethical problems that are not appreciated by public opinion. If an intelligence service plants a mole in a terrorist organization, its leadership would first ask him to carry out a killing or some other similar act to test the genuineness of his motivation and his adherence to the organization's cause. If the source comes back and asks his handling officer whether he should kill in order to establish his credibility in the eyes of the organization's leaders, the handling officer would be faced with a dilemma. He cannot tell his source: go and kill, so that we can prevent other killings in future. Setting a thief to catch a thief may be permissible for security agencies under certain circumstances, but committing a murder to catch a murderer is definitely not.

There are few other ways of penetration. One is by winning over and recruiting or by corrupting or blackmailing terrorists who are already accepted members of the terrorist organizations. Another way is a more indirect approach, through the channels of organized crime, which entertains relations with terrorist groups since it is an established fact that a number of Muslim terrorists have formerly been criminals, drug addicts, or alcoholics before their conversion to Islam and joining terrorist groups. To be able to successfully do this, the handling officer should preferably be from the same ethnic or religious group to which the targeted terrorist and his organization belong. Intelligence services often tend to avoid the recruitment of operational officers from the ethnic or religious group that has given rise to terrorism, and this gets in the way of penetration via winning over a terrorist already in the organization.

There cannot be a regular flow of human intelligence of the preventive or indications-and-warning type without the cooperation of the community to which the terrorists belong. Such cooperation is often not forthcoming, particularly with respect to Muslim terrorist organizations. Feelings of religious solidarity and fears of being perceived as betraying the cause of Islam by cooperating with the intelligence services come in the way of help from law-abiding members of the community.

There is a need for a series of policy decisions involved in a reorientation of human intelligence collection.

- A move towards greater reliance on nonofficial cover – meaning that agents are working as employees or owners of a local business and thus are removed from the support and protection of embassies that would be available if the agent had cover as a government official. If the agent must be seen as engaged in business, considerable time must be devoted to the "cover" occupation. Providing support, travel, pay, health care, and administrative services is much more difficult. The agent will not have diplomatic immunity and cannot be readily returned to his home state if apprehended in the host country. He may be subject to arrest, imprisonment, or, potentially, execution. Moreover, there is a potential for agents working in businesses to become entangled in unethical or illegal activities – to "go into business for themselves" – that could, if revealed, be highly controversial, embarrass their own government, and detract from the official mission.[179]
- Requirements for human intelligence collectors with highly developed skills in foreign languages are difficult to meet. Few graduates from colleges have such skills, and language education is expensive.

[179] The need to reorient the HUMINT collection effort to a greater reliance on nonofficial cover is discussed by Treverton, Gregory F, *Reshaping National Intelligence for an Age of Information* (New York: Cambridge University Press, 2001), 152–157.

Recruiting citizens who have ethnic backgrounds similar to members of the societies in which the terrorist groups operate may subject individuals to difficult pressures, especially if the agent has a family in the targeted area. Though there is a most pressing need for greater numbers of foreign-language capable intelligence personnel with fluency in specific and multiple languages, this lack of availability is the single greatest limitation in intelligence agency personnel expertise and a deficiency throughout most intelligence communities.

- It is administratively difficult to develop resources throughout the world over a long period of time, and costs are higher than adding intelligence staff to embassies. Few have predicted the intense concern with places like Somalia, the Balkans, Yemen, or Afghanistan that have recently developed. Ten years from now, there may be a whole set of challenges from groups that no one today is even aware of.

In short, reorienting human intelligence collection to give significantly greater attention to terrorist or potential terrorist groups would have important administrative implications for intelligence services. While budgetary increases would not necessarily be dramatic – even paying hundreds of human agents would be far less costly than deploying a satellite – the infrastructure needed to train and support numerous agents serving under nonofficial cover would grow significantly. Extensive redundancy would be required to cover terrorist groups that may never pose significant threats to Western interests.

A central issue for parliamentary oversight is the extent to which it and the public are prepared to accept the inherent risks involved in maintaining many agents with connections to terrorist groups. Unlike the situation in the Cold War years when some intelligence efforts were designed to be "deniable," it will be difficult for governments to avoid responsibility for major mistakes or ill-conceived efforts of their intelligence services, or for activities that, if revealed or leaked, could become highly controversial at home and abroad.

## *Signals Intelligence Collection*

Penetration of terrorist communications is the other way of collecting precise preventive and indications-and-warning intelligence. In the past, terrorist groups relied mainly on couriers for communications. This made the penetration difficult unless the courier was caught and interrogated. However, the same technologies that facilitate globalization allow terrorist groups to communicate and operate on a global level. With the expansion in the area of operations and their external networking, terrorists have increasingly been resorting to modern means of

communications such as satellite and cellular phones, fax, and e-mail. The Internet in particular enables instantaneous communications between parent organizations and their distant and isolated terrorist cells. However, this makes them vulnerable to detection by intelligence services, provided they could break their codes and get some details of their communications drills.

High-tech capabilities will be required to influence this center of gravity. Due to the high volume of traffic on the Internet, singling out specific e-mails is problematic. Using commercially available cryptographic systems and encoding the message with one-time-pad systems would make it exceptionally difficult to detect terrorist communications. Add to these procedures those that call for frequent user identification changes or the technique called steganography, which buries messages in Web sites or pictures, and intercepting terrorist messages becomes nearly impossible.

The Internet is also being used to market the religious views or ideology of several terrorist groups. Web sites display information on how support can be provided or where to send money. Members can also log onto Web sites to obtain moral support for their cause and receive updates on world events and how they affect the overall effort. By maximizing the use of the Internet, either through Web sites or e-mail, terrorist organizations can reach a large number of people at very little cost. This is important, since most legitimate media outlets are usually denied to terrorist organizations.

One of the greatest effects of instantaneous communication provided by the Internet is the ability to maintain constant contact and situational awareness. As a result, key leaders remain constantly engaged and take command of the organization relatively easily. This diminishes the ability to influence terrorist group leadership.

However, terrorists continuously learn from their failures and keep changing their modus operandi in order to frustrate the efforts of the intelligence services to collect intelligence about them. The successful use of SIGINT and COMINT by the United States for the arrest of some senior operatives of Al Qaeda in Afghanistan and Pakistan during the last three years has made Muslim terrorists more cautious in the use of modern communication gadgetry such as satellite and mobile phones and adopt better communication security procedures. One can witness the results of this in Iraq.

Many successful counterterrorism operations all over the world could be attributed to successful communications interceptions. But even this is now becoming difficult, not only due to, for anyone who can afford it, the availability of sophisticated concealment, deception, and evasion technologies, but also due to the reluctance of political, judicial, and human rights organizations to admit the need for the updating of the laws and procedures relating to communications interceptions in order to

empower the intelligence and security agencies to deal with this new threat and to deny to the terrorists the benefits of these technologies.

## *Analysis*

Actionable intelligence is essential for preventing acts of terrorism. The timely and thorough analysis and dissemination of information about terrorists and their activities will improve government's ability to disrupt and prevent terrorist acts and to provide useful warning to the private sector and the population.

Terrorist activities present intelligence analysts with major challenges. The prerequisite is an awareness of the social, ideological, and political environment in which terrorist movements develop. Such awareness requires detailed knowledge of geographic, ethnic, religious, economic, and political situations in obscure regions. There is no ready supply of analysts with command of such skills, except perhaps among recent emigrants who may have complex ties to their former homelands. And brand-new analysts sometimes take years to grow into mature and sophisticated analysts who see patterns, remember history, and know how to communicate well. Moreover, areas of concern are likely to shift over time. Thus, analysts could serve their whole careers without producing anything that the government really needs, and no good analyst wants to be buried in an inactive account with peripheral significance.

And there is the scarcity of needed language skills for translation, interpretation, and analysis, which is both a matter of quality and quantity. Technology, seen by some as the panacea for translation, is not highly regarded by real linguists or analysts who need high-quality translations. Language is an art as well as a science, and the current needs, with respect to terrorism, require an elusive mix of formal language, slang, codes, and multilingual capabilities. Al Qaeda, for example, contains many nonnative speakers of Arabic, poorly educated South Asians, and Muslims of very different countries; attention to perfect grammar is not the issue. And there remains the problem of how language-skilled employees and the broader regional knowledge they often possess is used in the intelligence process. Some elements of intelligence services know how to treat language officers as a vital part of the organization. In other parts of the intelligence community, language is more often considered a secondary skill, and is not valued sufficiently in recruitment or promotion of regional experts. Linguists should also not be physically separated from all-source analysts, and should be integrated to the maximum extent possible into the career development track of analysts.

In the case of the classical battlefield, knowledge of enemy capabilities is the focal point of interest at the tactical level, while knowledge of the enemy's intentions is paramount at the strategic level. The need for this knowledge has been translated into criteria and procedures aimed at producing essential elements of information, other intelligence requirements, and, more comprehensively and systematically, order of battle intelligence. With regard, in particular, to the imminence of aggression and the avoidance of surprise, indications-and-warning intelligence criteria and procedures have likewise been developed. These are not entirely or indiscriminately applicable to the counterterrorist effort. Nevertheless, from an intelligence perspective, if domestic as well as international terrorism is to be countered, it is precisely the capabilities and intentions of the various terrorist groups and their supporting networks that must be identified and dissected early on. The skillful adaptation – as opposed to the direct adoption – of time-tested classical intelligence methods, foremost indications-and-warning intelligence, constitutes and essential step in this direction.

What follows is a frame of reference for developing a specific set of indicators for terrorist threat assessment in terms of both terrorist strengths and weaknesses – in other words, indications-and-warning intelligence.[180] If properly adapted to the different geopolitical settings, it may serve as a substantive element in planning terrorist counteraction. Both components of terrorist counteraction – antiterrorism and counterterrorism – are predicated upon the collection, evaluation, and analysis of timely and accurate intelligence. Though this collection-evaluation-analysis process is the main task of intelligence services, it should also be conducted by other government agencies and the private sector to the degree and extent that defensive measures legitimately contribute to enhancing the security of the population and of corporate business.

- *Identify exploitable societal conditions*. These conditions are historical, political, economic, social, and religious. Terrorism does not develop in isolation, but feeds upon and exploits a wide variety of societal conditions present in a given community, country, or broader geographical area. Terrorist acts are in fact frequently conducted out of sympathy for causes extraneous to the venue where perpetrated – as demonstrated with the terrorist attacks in Nairobi, Dar-es-Salaam, and Bali, which had hardly anything to do with issues concerning Kenya, Tanzania, or Indonesia.

[180] Taken in adapted form from Pisano, Vittorfranco S, "Terrorism and Intelligence-and-Warning Intelligence," *Rivista di intelligence e di cultura professionale*, no. 12 (Servizio per le Informazioni e la Sicurezza Democratica: Roma, September–December 1998).

- *Determine the presence of one or more radical subculture*. While societal conditions strongly influence the birth and viability of domestic as well as transnational terrorist groups, particular attention should be devoted to a dominant factor: the presence of one or more radical subcultures. These draw their inspiration from well-defined or hazy ideologies corresponding to leftist, rightist, ethnic, theocratic, or mixed schools of thought. Subversive agitation is the offspring of a milieu directly traceable to a radical subculture.

- *Monitor subversive agitation, revolutionary publications and propaganda, as well as anti-institutional demonstrations and activities*. Because subversive agitation constitutes the operational cradle of terrorism, it is imperative that it be closely monitored. Subversive agitators typically recruit additional subversive cohorts, incite the population to disobey the laws, create civil disorder, and resort to street violence. Since groups of subversive agitators who have not reached the terrorist stage often coexist with ideologically kindred terrorist groups, the former can provide recruitment and support pools for the latter, thus reinforcing the terrorist ranks. In turn, the presence of subversive agitators belonging to different radical subcultures increases the potential emergence of terrorist groups with contrasting ideological or political orientations, thus producing more sources of terrorism.

- *Analyze terrorist ideological tracts and responsibility claims to identify ultimate goals and intermediate objectives*. Terrorist literary production, though often untruthful or based upon an ideologically biased perception of society, furnishes nonetheless valuable insights regarding the mindset, self-image, aims, and preferential targets of a given terrorist group. Terrorist manifestoes and declarations can also indirectly provide data to assess a given group's organization and capabilities.

- *Record systematically all terrorist incidents to establish modus operandi and to understand behaviors*. Modus operandi, whose sophistication varies according to group, includes recruitment, training, and employment of personnel; targeting (selective or indiscriminate); tactics (weaponry selection, ambushes, attacks, raids, abductions, hijackings, hostage taking); patterns (time element, coordination, target clusters, major and complementary actions); internal security and communications; logistics and finances, responsibility claims; and captivity rules. Modus operandi reflects both current and potential capabilities of specific groups. The fact that two or more groups issue from the same radical subculture is not necessarily indicative of shared operational methods and practices. Modus operandi is also

subject to modifications over time. Track and analyze group behaviors for early detection of potential threats.

- *Track technologies and technological innovations*. Closely follow the development of different types of technologies useable as components for manufacturing terrorist weapons, or which could be misused as weapons and explosives or to enhance the effects of terrorist attacks. Also track the development of new telecommunication technologies in order to get a better hold on terrorist interconnectivity and timely interception of communications.

- *Determine the structure of terrorist groups to assess capabilities*. Identify relationships by uncovering interactions and relationships between terrorist groups and their members, and link group members to understand formal and informal organizational structures. The structure is indicative of immediate as well as longer-term potential. Unicellular or multicellular and compartmentalized terrorist groups are rigidly or loosely structured, with centralized or decentralized leadership. In some cases, they can also serve as an umbrella for lesser aggregations. Militants are part-timers, full-timers, or mixed. In many cases terrorist groups reflect an ephemeral or ad hoc aggregation. Structure and size will affect not only security, discipline, training, command and control, communications, planning, operations, and logistics, but also a group's life span. Groups belonging to the same radical subculture do not necessarily, and in fact often do not, adopt the same structure.

- *Identify support organizations, movements, and networks*. Connect networks to expose connections between group members, other organizations, outside individuals, locations, facilities, and communication networks. These aggregations of external supporters facilitate terrorist propaganda, recruitment, logistics, and intelligence. Some of them are institution-based: in schools, factories, labor unions, unemployed societal strata, extraparliamentary political circles, refugee camps, immigrant communities, or extremist religious congregations. Others may be area-based, particularly where ethnic or separatist terrorism is active. In some cases, terrorist groups are flanked by political parties, usually extraparliamentary but with certain notable exceptions. Some groups are further supported by unlawful finance-gathering networks and charities totally dedicated to the terrorist cause.

- *Verify the presence of possible international linkages with kindred foreign groups and/or sponsor states*. Expose group operations by showing shared assets, materials, and supplies for carrying out terror-

ist missions. When present, these linkages are precarious, generally range from ideological solidarity to logistical cooperation, and occasionally entail operations. Nonetheless, they constitute a clear threat, since they broaden the terrorist support base and sphere of action. State sponsorship, which is a notable exception and not the rule, is more readily available to terrorist groups having a dual structure: an overt one for sociopolitical action and a covert one for terrorism itself. State sponsorship for subnational terrorist groups is generally self-serving and predicated upon plausible denial.

- *Probe exploitable terrorist structural and operational weaknesses and failures.* Assess vulnerabilities by evaluating funding resources, recruiting methods, communication networks, storage facilities, and other resources to uncover potential vulnerabilities. Terrorist groups thrive primarily on the elements of initiative and surprise, both of which are highly dependent upon clandestine structures and dynamics. At the same time, these groups are subject to constraints exploitable by counterterrorism agencies. The necessarily clandestine nature of terrorist aggregations is a double-edged sword. Living hidden requires discipline, commitment, and the ability to cope with stress. The application of security rules, particularly compartmentalization, must be constant: there is no room for exceptions or relaxation. Terrorist groups must also foreclose internal dissent and schisms. Likewise, the mood and reactions of supporters and sympathizers must always be gauged by the terrorist core. Indiscriminate recruitment can also constitute a fatal flaw. Personnel renewal is a challenge. Finally, failure to achieve its ultimate radical or revolutionary goal within the expected time frame can prove to be devastating to any terrorist group. Counterterrorist agencies must be prepared to exploit all of these factors.

- *Determine the type and extent of counterterrorism assistance available from the governments of allied and friendly states.* States often entertain different perceptions – accompanied by conflicting national interests and priorities – regarding the threat of terrorism and, more so, the adoption of suitable countermeasures. Unanimity or divergence of views among states contribute to strengthening or weakening the operational options of international and domestic terrorist groups as well as their respective supporters, particularly sponsor states. Concurrently, the absences of international or, at a minimum, regional consensus, seriously downgrade the options available to the counterterrorist agencies of single states.

Although conceptually sequential, the above outlined steps in practice usually require nearly concurrent application, particularly if multiple and separate actors account for subversive agitation, terrorism, or both. Moreover, it should not be forgotten that even after the emergence of terrorism, when prevention has obviously failed for political or technical reasons, indications-and-warning intelligence can still play a major role in the containment and repression phases of terrorist counteraction.

Once a terrorist group hostile to Western interests has been identified, the intelligence services will be called upon to focus closely upon its membership, plans, and activities. Many collection resources will be targeted at it and much of the information will be classified and highly sensitive. The terrorist target requires extraordinarily close attention to seemingly innocuous details, but it also demands big-picture thinking. Both require two different kinds of skills and analysts. One is the forensic work of piecing together minute fragments of information to make hypotheses about past events or potential planning. But the labor intensive, fine-grained work of developing databases on known or suspected terrorists is a job with little glory or reward. At the other end of the spectrum is the anticipation of the next moves or to imagine new scenarios for terrorist attacks. The most challenging problem for analysts at this point is to attempt to discern where the terrorists will strike and with what means. Open societies are inevitably vulnerable to terrorists, especially those terrorists willing to commit suicide in the process of seeking their goals. The skills necessary to anticipate the unpredictable are extremely rare. Thus, there is a need to bring the intelligence community's analysts together to do some longer-term thinking, scenario building, and estimative work. But the production of such work must have an audience. One of the reasons the strategic analysis of terrorism is declining is the greater value that senior customers place on more actionable or operational intelligence. Customers have to be willing to receive both tactical and strategic intelligence and to understand the difference between the two.

Some suggest a useful approach may be to assemble a special task force center, consisting of a number of analysts, to sift through all the available data. Such a counterterrorism center was created in the United States, to follow Al Qaeda, but did not foresee 9/11. The bottom line is that anticipating such attacks is intellectually difficult. Hiring more people and spending more money do not guarantee success. Moreover, expertise can even get in the way of anticipating a radical departure from the norm. Terrorists succeed by undertaking actions that are unprecedented or, to Western eyes, irrational. Thus, trained analysts with years of experience may be less inclined to "think outside the box" – al-

though ignorance of the terrorist group's composition and goals does not guarantee unique insights, either.[181]

Others suggest greater reliance on outside consultants or intelligence reservists when terrorist threats become imminent. Such an approach might also allow intelligence services to acquire temporarily the services of persons with obscure language skills. While there are security problems involved in bringing outside experts into a highly classified environment, this may be one approach that can provide needed personnel without unnecessarily expanding the number of government analysts.

Much of the information required to analyze terrorist environments derives from the extensive study of open-source documents – newspapers, journals, pamphlets, books, religious tracts, electronic media broadcasts, and so forth. Some believe that intelligence services overly emphasize sophisticated technical collection systems and lack a comprehensive strategy for collecting and exploiting such open-source information. Although efforts are clearly underway by all intelligence services to expand the use of open-source intelligence, many believe that the services should continue to concentrate on the collection and analysis of secret information. In this view, the intelligence services should not attempt to become a government center for research that could more effectively be undertaken by think tanks and academic institutions.

In regard to analysis, major issues for parliamentary oversight include holding intelligence services responsible for the quality of their work, the effective and efficient use of open-source information, and the appropriate use of outside consultants and academics. Analytical judgment is not easily mandated or acquired; leadership is primordial, along with accountability and a willingness to accept that even the best analysts cannot foresee all eventualities.

## *Intelligence and Law Enforcement Cooperation*

Intelligence and law enforcement are becoming increasingly intertwined. Few doubt that valuable insights can derive from the close correlation of information from differing intelligence, security, or law enforcement sources. However, should the two communities draw too close together, there are well-founded concerns that either the law enforcement effort would become increasingly inclined to incorporate intelligence sources and methods, to the detriment of long-standing legal principles and constitutional rights or, alternately, that intelligence collection in-country or abroad would increasingly be hamstrung by regu-

[181] Betts, Richard K., "Fixing Intelligence," *Foreign Affairs* (January–February 2002):58.

lations and procedural requirements, to the detriment of national security.

But countering terrorism requires close cooperation between law enforcement and intelligence agencies. Some terrorists will need to be brought to justice in courts; others are dealt with by military forces or covert actions. In recent years, important steps have been taken to encourage closer cooperation between the two communities, but some believe terrorist acts may have been facilitated by poor information exchanges between intelligence services and law enforcement agencies and by blurred lines of organizational responsibility.

A recurring concern reflected in reports about activities of those involved in the 9/11 attacks has been the perception that information about the possible terrorist involvement of individuals may not be available to immigration, visa, border guards, and law enforcement officials who encounter the individuals. Sharing between all these critical interfaces was underdeveloped. There have not been centralized databases containing intelligence by which individual names could be checked. Although there are many potential concerns about the establishment of centralized databases, there is a need to ensure that law enforcement and other agencies, including those of regions and localities, have better access to information acquired by intelligence services about potential terrorist activities.[182] Investigating today's terrorist groups requires interagency communication and collaboration. It is essential that law enforcement agencies and task forces be able to collect and analyze data from multiple data sources in order to monitor, penetrate, infiltrate, disrupt, and prevent terrorist activity.

The bureaucratic response to shortcomings in sharing is usually to adjust training protocols, to develop job-swapping programs, and to have the leaders make symbolic gestures about the need for greater cooperation and collaboration across agencies. These steps are necessary but not sufficient. Collaboration is not instinctive in systems that are competitive, where incentives and rewards are structured within organizations and careers flourish most when talented staffers make themselves useful to their superiors and not by spending time in other agencies or ministries or making a priority of helping people across town. What is also needed is greater inculcation of civic values – of a belief that the success of others is a shared success, in service to the nation and its citizens. The reward system needs to recognize that the integration of information and policy knowledge so badly needed to defeat the terrorist threat is a newly important value.

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[182] Krouse, William J. and Perl, Raphael F., *Terrorism: Automated Lookout Systems and Border Security: Options and Issues*. (Congressional Research Service: The Library of Congress, Report RL31019).

The relationship of intelligence collection to law enforcement in dealing with terrorism poses complex issues for policymakers. Terrorism can, of course, be attacked militarily without concern for domestic law enforcement, but most believe that such an approach is appropriate and practical only when terrorists directly threaten the state. In other cases, law enforcement may be the approach that can effectively deal with the problem while not undermining support for larger policy interests or leading to significant own casualties.

Information used in judicial proceedings is often of a different type than that usually collected by intelligence services. It is collected differently, stored differently, and must usually be shared to some extent with opposing attorneys. Nevertheless, in most countries, initiatives have been undertaken to enhance the usefulness of information collected by intelligence services to law enforcement agencies and vice versa.

Bringing law enforcement and intelligence closer together is not without challenges. The two sets of agencies have long-established roles and missions that are separate and based on constitutional and statutory principles. The danger of using intelligence methods as a routine law enforcement tool is matched by the danger of regularly using law enforcement agencies as instruments of foreign policy. Difficult decisions will have to be made, some affecting organizational responsibilities, and fine lines will have to be drawn. Bureaucratic overlap and conflicting roles and missions are not unknown in many government organizations, but such duplication is viewed with great concern when it affects agencies with power to arrest and charge individuals or to affect the security of the country.

But even if statutes and policies encourage closer cooperation between intelligence and law enforcement agencies, there will be other bureaucratic obstacles to be overcome. Within the intelligence community, there has been a tendency to retain information within the services or to establish special compartments to restrict dissemination for security reasons. Similar tendencies exist among law enforcement agencies that guard information necessary for their particular prosecutions. But channels for transferring information must be clearly established, and close encouragement and oversight by both the executive branch and parliamentary oversight committees is required to ensure a smooth functioning of transfer arrangements.

A key issue is the overall direction of the effort. Law enforcement may require that some information be closely held and not shared outside the organization or the ministry, but if law enforcement and intelligence efforts are to work more closely in dealing with international terrorist threats, procedures will have to be in place to ensure that important information is shared. However, a seamless system encompassing all echelons of intelligence and law enforcement agencies for storing

and exchanging information in real time on potential terrorist threats has yet to be developed.

## *Is There a Need for a New Approach to Intelligence?*

Public debate over the U.S. government's responsibility for failing to prevent the 9/11 attacks has focused on the performance of U.S. intelligence and law enforcement institutions. There is a widespread perception that these agencies were organized and managed in ways that inhibited the flow of information and the proactive behavior that could have prevented the attacks. Few seem to be reconciled to the notion that 9/11 might not have been preventable. As always in Western democracies, such events regularly produce three responses:[183] (1) hot-tempered and hastily written allegations of intelligence failure, (2) postmortem studies of the intelligence record by groups inside and outside government, and (3) follow-up official commissions advocating far-reaching reorganization of the intelligence apparatus. Of these, only the postmortems are certain to be useful. Reorganization suggested by follow-up official commissions never seems to eliminate subsequent intelligence shortfalls. And finger-pointing has a singularly unproductive history. Although the mission and focus of intelligence is regularly revisited, innumerable reorganizations later, intelligence has still not been "fixed" to the satisfaction of all. If there is blame to assign, it must be shared by the intelligence community and those who have had a hand in reforming it.

The fact is that failures there have been and failures there will be. No intelligence agency in the world, whatever its human and material resources and its technological and human collection capability, can claim or hope to achieve omniscience. Intelligence services were never all-knowing, even with respect to conventional state adversaries. They cannot be expected to be all-knowing with respect to evolving, self-organizing networks of nonstate terrorist adversaries. The resulting gap has to be made good by better analysis and utilization of the available intelligence – however sparse it may be – and better coordination amongst different agencies of the intelligence community, better physical security, and better international cooperation. Many breaches of national security occurred in the past and continue to occur today, not for want of intelligence, but due to poor analysis of the available intelligence and inadequate follow-up coordination and action.

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[183] Harris, James W., "Building Leverage in the Long War," *Policy Analysis* 439 (16 May 2002).

Intelligence services themselves are conscious of their inadequacies and of the gaps in their knowledge. They are making unpublicized efforts to improve their capability and performance. Better human agents, with language skills and knowledge of the cultures of their nonstate adversaries, are being recruited. Better training methods are being used, with the intelligence services of different countries helping one another in producing better trained operators and analysts.

Intelligence is a critical and early input into the government's ability to work the terrorist problem. But it is a contributing factor, and not necessarily the determining factor, in the government's success. Intelligence is more often than not policy-neutral information, and the intelligence collected can lend itself to multiple policy outcomes. Moreover, intelligence is all too often an invisible piece of policymaking, and the top of the executive branch rarely acknowledges to what extent decisions or actions were based on intelligence.

Intelligence collection and analysis, physical security, and crisis management are the three important components of counterterrorism management. If the intelligence machinery fails to provide early warning about an act of terrorism, the physical security apparatus should be effective enough to thwart the terrorists in their attempts to engage in terrorism even without advance warning. In the event of both the intelligence and the physical security mechanisms failing, the crisis management infrastructure should be able to cope with the consequences. On 9/11, while the intelligence and physical security apparatus failed, the crisis management machinery performed commendably, and did not let itself become paralyzed into inaction by the trauma of the terrorist strikes.

Intelligence remains the first line of defense and the critical element in combating terrorism. However, the adaptable nature of the adversary demands an equally agile intelligence effort. This will require changes in the intelligence field, going far beyond redrawing the organizational chart of intelligence and redesigning its chain of command. Thus, if there is a need for new approaches to intelligence, this is to be found in at least eight domains or processes: breaking down outdated barriers, fostering individual initiative, bolstering and opening analysis, improving intercourse between analysis and collection, strengthening counterintelligence, promoting research collaboration and better use of technological innovation, establishing metrics for measuring progress, and improving international intelligence sharing and cooperation.

## *Breaking Down Outdated Barriers*

There is a need to counter the adaptable adversary with our own adaptation. Hierarchies are handicapped when confronted by flexible, highly adaptable, and networked enemies; thus they must be flattened. Intelligence communities remain hampered by internal barriers and walls meant to protect intelligence sources and methods—this at a time when the outside world sees great value in making unprecedented investments in getting interconnected. There is no clearer manifestation of stifling hierarchy than intelligence community "stovepipes" – barriers to lateral collaboration by restricting communications and rewarding only bureaucratic loyalty within the organization. This approach makes it possible for unrelated intelligence components in different institutions to do essentially the same work against terrorist targets, wasting resources and preventing many professionals from leveraging the efforts of counterparts who remain outside their immediate circle. The "need-to-know" principle, of course, cannot be jettisoned entirely, but the trade-off between protecting security and promoting collegiality certainly bears recalibration. Hierarchy and stovepipes prevent too many of the people working against terrorist targets from effectively communicating with one another. At times, these barriers even prevent organizations from becoming aware of one another's existence. Moreover, intelligence components working against terrorist targets should not be forced to deal with a maze of bureaucratic and security-derived obstacles. And there is the question of the relevance of classification and definitions devised long ago, which no longer fully correspond to the new types of threats.

## *Fostering Individual Initiative*

The successful intelligence enterprise can become sufficiently agile if, like the terrorist network, it is driven largely by individual initiative rather than commanded entirely from the top. For this, senior intelligence leaders need to engage in creative delegation and promote initiative and creative thinking by the workforce, and, thus, have to break radically with the past tradition of striving to be the authors of new initiatives, rather than their enablers. Instead, they have to devote more time to challenge those managers and analysts ambitiously climbing the ranks, who have become so used to avoiding risks that would take them off the fast track. This tendency to confine risk taking to the top and to constrain individual initiative because it might lead to mistakes must change if the fight against terrorism is to succeed. An additional reason for empowering individuals is the efficiency gains produced by reducing the multiple layers of supervision designed to provide redundancy in an

effort to avoid mistakes. Economies can be realized by placing the individual analyst closer to the end-users of the product and relying more on individual accountability to ensure quality. In order to achieve such a change, intelligence services need to adopt a more risk-taking and failure-tolerant management approach.

### *Bolstering and Opening Analysis*

More creative approaches to analysis are needed, and multidisciplinary analysis must be strengthened. Unlike traditional intelligence, where analysts are recruited right out of school and "grown" over time, intelligence needs to hire analysts at mid-career, after they have achieved a personal standing and complete fluency in – and at the expense of – the private sector. To handle secrets, the analyst must be an authority in his given area of expertise. Intelligence services should dispense with the idea that analysts should confine their attention to the dimensions of the terrorism problem that play to their "comparative advantage" of the collection intake – that is, secret information. All-source analysts can no longer rest their conclusions and their reputation on the 2 to 5 percent of the information from secret sources they deal with. In recent years, intelligence services have improved analysts' access to all of the resources made available by the information revolution. Thus today, when over 90 percent of the relevant information is readily available, analytic tradecraft – the truly superior ability to create value-added insights through superior analytical knowledge and techniques – has become a decisive element in the fight against terrorism.

The bureaucratic office, with analysts physically co-located with one another, must give way to virtual task forces comprised of the top individuals from different agencies, each having a personal reputation that is more important than their parent organization's reputation. Moreover, analysts fighting terrorism need to break down barriers to their ability to form alliances with external centers of expertise. For this, they need the ability to share data and analyses spontaneously. Informal peer-to-peer networks, creative alliances with think tanks, academic institutions, and other centers of expertise are a force multiplier. In addition, measures have to be taken to create and sustain "out-of-the-box" analytic approaches to difficult antiterrorism and counterterrorism issues, as well as to develop mechanisms to tap such expertise outside the intelligence community. Good academics invest considerable energy in finding out about the research efforts of their colleagues in other institutions. From similar efforts, analysts would reap dividends that at least match those of their academic counterparts. Thus, intelligence community business practices should promote rather than impede informal and

mutually beneficial contacts between analysts and the outside community. No organization can have a monopoly of expertise, especially on subjects as complex as the Islamic Reformation and terrorism. Only a vibrant, self-directed network with global reach will attract the bulk of the relevant information – hence, analysts and terrorist groupings will have to become magnets for relevant information from private sector peers.

The counterterrorism output from analysis must be based on research, conferences, and workshops; intake from informal networks; analytic gaming with red-teaming; advanced agent-based modeling and computer simulation; and collaboration across agencies and institutions. No approach should remain untested for its applicability to the counterterrorism problem. Processing matters must become a core competency in analysis. Moreover, only by establishing a digital network for collection, processing, exploitation, and dissemination can the full resources of various parts of the government, agencies, academics, corporations, and NGOs be brought to bear on topics such as terrorism and terrorism-connected crime. And only a connected community of analysts can know immediately where to find the specialized bit of expertise or the arcane fact that makes the difference in a piece of analysis or in a clandestine collection program.

## *Improving Intercourse Between Analysis and Collection*

Combating terrorism will place intense pressure on all intelligence collection systems, and it may do so for a generation or more. While the collection of raw intelligence will remain critical, it will also remain insufficient against an adversary that is a dynamic, constantly evolving, and self-regulating force. No central authority within the network of terrorist organizations can control future operations, or has the responsibility for designing them. Thus, there is no triumph of intelligence collection that can completely remedy all of the intelligence shortfalls. But collection needs to be sharper and more focused on what counts rather than hopelessly broad. Improving the analytical component of counterterrorism and the intercourse with the collectors may be the most promising way to ensure that collection initiatives are well focused. Hence, steps have to be taken to sharpen the collection of raw intelligence by taking advantage of deeper analytical expertise, thus better focusing human intelligence, signals, imagery, and other collection systems. The issue is not exclusively the collection of tactical, preventive, and indications-and-warning intelligence, but also of enabling the counterterrorism community to tailor the long-term development of collection systems to targets. To achieve this, multidisciplinary intelligence analysts

and collectors can no longer function in largely separate electronic compartments, but need to build, entertain, and foster a permanent intercourse among one another.

### *Strengthening Counterintelligence*

Counterintelligence becomes ever more important in combating terrorism. Particularly, operational counterintelligence and analytic specialization in denial and deception require greater emphasis. In the face of the information explosion and the globalization of transnational terrorism, the "needle in the haystack" problem in terms of anticipating terrorist threats and attacks becomes more difficult. Counterintelligence is one of four core competencies needed to protect intelligence from being misled. The other three are cultural intelligence specialization, denial and deception specialization, and the combination of global open-source benchmarking – essentially the art and science of pattern analysis from signals intelligence, which must be brought over to the open source world, both in print and broadcast media monitoring – with vastly improved processing to detect anomalies and patterns. Denial and deception consists of measures to counteract the efforts of the terrorist adversaries to escape detection by intelligence satellites, reconnaissance drones, signals intelligence, and other collection means, as well as measures to counteract adversary efforts to purposefully mislead intelligence services by generating data that point in the wrong direction. While the adaptable adversaries have the incentives and the means to deceive Western intelligence services, these cannot allow the terrorists to play games by placing false leads and producing false warnings.

### *Promoting Research Collaboration and Better Use of Technological Innovation*

Investment in research and development and better use of technological innovation will undoubtedly bolster the position of intelligence services and expand their lead in counterterrorism capabilities. Particularly, innovations in intelligence collection and decision support, sensors, monitoring, and a greater emphasis on crosscultural communication will lead to a more effective response to international terrorism. So far, it seems that only the United States is willing and able to rigorously exploit the potentials offered by research collaboration and technological innovation. Other nations' intelligence services would be well advised to invest more in this area. Several tools, either on the drawing board or already implemented within the intelligence services of the United

States, will undergo great enhancements and refinements over the next years. How quickly they will mature or how vigorously they will be exploited cannot yet be known. Among the most promising innovations likely to emerge and having the greatest effect on winning the fight against terrorism are:[184]

- *Forward-looking intelligence*: The greatest value of intelligence – and the greatest challenge—is to anticipate terrorist actions and to translate that information into an effective response. Leaps in development will provide improved computer-based data fusion capabilities, modeling, and simulation to better understand possible scenarios and responses. Moreover, advanced language translation software is in development to better track terrorist communications.

- *Comprehensive space, air, land, and sea monitoring*: a network to monitor aircraft in flight already exists, as well as extensive tracking and imaging coverage of the earth from space satellites and selective monitoring of the land surface. Integration of current and new technology will lead to a global surveillance system that covers the sea as well as land and airspace. Such a capability will substantially improve security by monitoring vessels bound for Western waters, and will improve border and territorial surveillance and security.

- *Electronic tracking of money*: To a large part, terrorism is funded through complicated electronic transfers of funds. If such money is tagged electronically, it can be tracked worldwide to key operatives to effectively shut down a terrorist operation. New software and tagging technology is being developed that will not only strengthen global counterterrorism investigations, but also law enforcement efforts to bring organized criminal enterprises to justice.

- *Biological and chemical sensors*: The future of sensors may lie in the mimicry of nature, otherwise known as bio-mimetics. Imagine employing the sniffing capabilities of a beagle or the heat-seeking abilities of a viper to detect concealed bombs or weapons. The need for more accurate and timely detection of viral and bacterial pathogens will drive advancements in sensors, with the ultimate goal of combining chemical and biological threat detection into a suite of sensors. Advances in infrared, sonic, optic, and other types of imaging will provide innovative ways of long-range sensing and identification of

[184] See "Technology Forecasts. Battelle Panel's top ten innovations for the war on terror headed by technology advances to support better intelligence, decision-making." 2004 Press Release. At: http://www.battelle.org/forecasts/terror.stm.

threats in the air, water, or food supply. Sensors of the future will be deployed by highly mobile, reliable, and affordable robotics.

- *Technologies to neutralize explosive chemicals*: Many terrorist bombs today are improvised, made in homes and small laboratories using common chemicals, including ingredients in fertilizers. Terrorists can be denied the opportunity to gain the attention they want by creating, in essence, bombproof chemicals. A new generation of chemistry could neutralize the explosive compounds contained in these chemicals, rendering them unusable as bombs, even as research continues into emerging chemical threats.

- *Noninvasive and nondestructive imaging*: A new generation of X-rays is emerging to identify what is inside shipping containers, crates, trucks, luggage, handbags, sealed packages, and so forth. Such noninvasive imaging will provide a faster and more reliable level of security at harbors, airports, train and subway stations, and borders, and be commercially viable. A technology under development is terahertz radiation, or T-rays, that offer the potential of seeing the contents of closed containers without opening them or damaging contents. Great strides have also been made in using advanced technology for the identification of drugs and explosives.

- *Nonlethal directed energy*: In the arsenal of nonlethal weapons, the Vehicle Mounted Active Denial System (VMADS) offers much promise. Now in advanced development, VMADS uses high-powered directed energy that is capable of stopping people and machinery. It has the potential to interrupt a signal between a terrorist and a detonating device, or to set off land mines – all from remote location. The high-powered microwave also has potential law enforcement use, as the directed energy can be adjusted to focus on making a person's skin uncomfortably hot, while causing no dermal damage.

- *Twenty-first century public diplomacy*: The fight against terrorism is, in part, a war with extremists whose culture, worldview, and values conflict with those of the West. There are economic, religious, political, and ideological tensions between the Middle East and the West. Thus, tools for combating terrorism must include deploying mass communication to break down these barriers. What is needed is to project a more balanced image of Western culture through strategic, positive communication. This could be achieved by communicating the Western message through targeted use of mass media, developing a next-generation "Voice of America" approach, perhaps supported by the distribution of inexpensive, disposable televisions.

- *Distributed forces and an interlocking network*: This is military network-centricity taken to the smallest node. It will give the twenty-first century land warrior continual situational understanding while being a member of a widely distributed, noncontiguous force. Effective combat operations against terrorists and their allies require widely distributed armed forces. Enabling technologies such as advanced minicomputers and communication networks will turn these forces into distributed sensors as well as combatants, and allow them to provide information back to command headquarters. The forces are operated like a distributed information system with real-time awareness of the battlefield, giving commanders better data for decision making. Such technologies also will identify friend from foe in combat environments.

- *Encouraging public awareness and self-identification of terrorists*: The coming years will see innovative applications of behavioral science to combat terrorist activity. In some ways, terrorists operate like criminals, trying to behave secretively and inconspicuously and in the process, sometimes calling attention to themselves. To find criminals, law enforcement relies on a watchful public to provide tips. The worldwide information-saturated culture that we live in will expand further, creating new opportunities to engage the public to ferret out terrorists. A global "Amber Alert" system could be used to distribute multilingual information on known terrorists. A "Most Wanted" list could be tailored to help find terrorists hiding in plain sight. In addition, innovative methods will be deployed to coax terrorists into identifying themselves. For example, warning signs might be placed along a controlled access announcing that a security-screening checkpoint is coming up, just before a convenient opt-out or exit point. Anyone avoiding the checkpoint can be watched for further examples of self-incriminating behavior.

## *Establishing Metrics for Measuring Progress*

Metrics will be needed for measuring progress in the counterterrorist effort, both on the results and the actions taken by intelligence. They should include measures of improved connectivity within the intelligence community, measures of the multidisciplinary approach of analysis and the structures that connect the community to the best and brightest outside the world of intelligence, and indicators of true analytic innovation and deepened expertise in outwitting the adversary. Any metric employed to gauge progress needs to make room for intelligent risk taking and failure tolerance. Intelligent risk taking and the

ability of individual initiative to overcome bureaucratic caution would be central themes in a successful counterterrorism effort.

### *Improving International Intelligence Sharing and Cooperation*

International cooperation is taking place at the political and the professional levels, bilaterally and multilaterally. Networking at the level of intelligence professionals is more important than that at the political level. Professional networking has to occur at the multilateral as well as bilateral levels. The multilateral networking can take care of the development of appropriate concepts, processes, communications, and liaison arrangements; of coordination and use of technologies and databases; mutual legal assistance in dealing with terrorism; and training and other support. But sensitive operational cooperation will have to remain at the bilateral level and cannot be the subject of multilateral discussions, since leaks could come in the way of the effectiveness of such cooperation, which may involve ideas and concepts for joint operations to penetrate terrorist organizations in order to improve the quality of available human intelligence collection.

International intelligence cooperation has three aspects: making available technology, training, operational, support, and other facilities to one another; sharing of intelligence collected independently; and joint operations for the collection of intelligence through penetration and for neutralizing and disrupting terrorist organizations identified as common enemies.

While the sharing of technology, training, operational, support, and other facilities seems to have made satisfactory progress, intelligence sharing has yet to improve to the needed extent. Intelligence sharing provides a particularly significant lever and opportunity collectively to overcome obstacles, achieve quality control and consistency, to enhance responsiveness, and to create economies of scale and critical mass that would be difficult to attain if approached by individual nations. However, in a number of cases, sharing is still limited because of political, legal, and security concerns, and in some cases, legacy interests. Moreover, there are still lingering legacy organizational cultures that result in animosity and rivalry between intelligence services, between the services and law enforcement, communications voids, delayed or withheld intelligence, and breaches of the "third party rule." Furthermore, collective intelligence sharing is still too much limited by contrasts in processes and interests of intelligence collectors and law enforcement, European legal codes and English-based Common Law, and national regulations on the status and relations between the armed forces, police, and intelligence. Although there may also be organizational and political obsta-

cles on the supranational level, only NATO is in the position of a unique provider of deliverables in multilateral intelligence sharing. It is established, trusted, neutral, and proficient. It has political mechanisms for bringing matters forward. Unlike other international or regional organizations that would enter this field anew, it is cost-effective and does not have the reputation of squandering large amounts of funds without tangible results.

Joint intelligence operations have become much more numerous and have resulted in some successes. However, depending on the nations involved, there may still be considerable mental resistance to engage jointly in such ventures. Political and subjective factors such as "one nation's terrorist being another's freedom fighter" and "one nation's state sponsor of terrorism being another's strategic ally against terrorism" continue to come in the way of joint operations. As long as such mental resistance continues, international intelligence cooperation will remain halfhearted and only partially effective. The terrorists and their state sponsors will be the beneficiaries.

Reducing bureaucratic barriers, boosting multidisciplinary analysis, and rigorously improving interconnectivity and emphasis on individual initiative will remain prime strategies in the fight against terrorism.

# Policing Terrorism: Rhetoric and Implementation

OTWIN MARENIN

Policing systems worldwide, in recent years, have attempted to move toward or strengthen existing democratic forms of policing. One can see such developments in efforts within established democracies to advance community control over forms of policing delivered locally; to move formal and informal conceptions of the police role toward a service orientation (rather than focus in a more limited fashion on crime fighting or the control of order as the basic job of the police); to stress prevention rather than after-the-fact reaction to threats, crime, and disorder; to see the goal of policing as providing for the well-being of communities rather than protection of the state and regimes; to entrench at the core of police operational policies and programs attention to the rule of law, human rights, and fair treatment of all the police come into contact with; and to assure oversight and accountability of the police by civic society (both by the acceptance by the police that these are legitimate demands on them to which they need to be responsive and by the enhancement of civic society's capacity to effectively carry out oversight).

In societies in transition, either on the road to development or trying to resurrect minimal capacities for order and state action ("failed states"), both domestic and international actors have been actively seeking to move discredited, ineffective, brutal, and repressive policing systems toward more democratic forms, as part of development assistance programs and the establishment of security sector architectures that protect civic society, individuals, and the state in a balanced way – that is, democratic policing methodologies that lean neither too heavily toward state protection (and potential repression, discrimination, and arbitrary, politically controlled actions) nor toward the protection of rights that renders unattainable the achievement of that minimal social order necessary for people to live their lives with some certainty that their safety and well-being is protected. Democratic forms of policing have become essential goals of development assistance. Democratic forms of political life and societal order are not likely to be stable unless the police behave democratically.[185]

[185] Caparini and Marenin, 2004; Cawthra and Luckham, 2003; Das and Marenin, 2000; Neild, 2002; Peake, 2004; Perito, 2004.

The threat of terrorism—and the need by societies and states to deal with the fear that terrorist attacks might happen on their soil or against the citizens wherever they are, as well as the objective realities of terrorist actions and plans – has had and will continue to have a harmful effect on the capacity to maintain democratic forms of policing where they exist and will hamper and stifle the movement toward democratic forms of policing in societies seeking that goal.

Engaging the police in antiterrorist work will undermine and distort democratic policing in specific ways:

- It will strengthen the power of the state and its intrusion into and control over the lives of people
- It will lead to police organizational structures that centralize administrative control, bureaucratize role expectations, and enshrine secrecy and stealth as a fundamental operational policy, both within law enforcement and in the police's articulations to other security structures
- It will tilt the balance of order versus rights in favour of order and protection
- It will lead to political manipulation of law enforcement and order maintenance
- It will lessen the capacity of civic society for oversight and insistence on accountability
- It will stop or slow down the movement toward democratic forms of policing in societies undergoing change
- It will enhance the power and autonomy of the police and will tempt them to engage in abuses of their powers and in discrimination against specific social groupings
- It will change the routine operational styles of police work
- It will enmesh the goals, rhetoric, and justifications for actions offered by the police and their leadership in the "securitization discourse" (Loader, 2002).

Before arguing the reasons why these developments are likely and why they will be harmful to the spirit of democratic politics and policing, some basic assumptions that underlie the argument must be stated, and some issues that are not dealt with in this paper must be set aside.

First, the discussion of the effect on the police by their participation in antiterrorist work is discussed in general terms, rather than being based on detailed analyses of how police forces in different states have been drawn into the orbit of antiterror work and how that has changed democratic policing. The argument describes tendencies likely to occur as these can be extracted from the general literatures on policing and terrorism, and are apparent to common sense and based most fundamentally on knowledge of how the police think, what they value, and

how they work. The tendencies listed do not have to happen – but they will occur, unless civic society and political and police leaders oppose these tendencies proactively. There is a need to control and prevent terrorist acts, but when doing so, one needs to be aware of what is likely to happen to the values, goals, and operational styles of the police who participate or are drawn into antiterror work unless concerned people make a conscious and persistent effort to prevent the distortion of democratic policing as listed above and as argued below.

Second, the rhetoric of fighting terror can be quite democratic. Goals, plans, and policies will be stated with a proper concern for rights and the liberties of individuals, and only some minimal intrusions on privacy and deviations from the rule of law (and these reluctantly engaged in) that are necessary for national security and the protection of state and society are envisioned and will be sanctioned by the state and the police. But rhetoric is not reality, nor are abstractly stated goals and assurances self-enacting. Given how all governmental policies tend to be implemented and knowing how people and organizations that do participate in antiterror work will use their newly given authority and justifications, it will not be surprising to find that what will actually be done is not quite what the rhetoric states or the policy envisions. Once the human element is introduced into how policies will be carried out, there will be distortions of the formally stated goals and practices, for the people and the organizations will have their own interpretations of what they are expected and allowed to do in order to be effective; they will interpret directives in light of their own experiences, interests, and values. And one can assume, again based on the experience of police reforms in any society, that both administrators and workers (those doing the antiterrorist activity whatever these may be – intelligence collection, interrogations, the shadowing of likely suspects) will see the rhetoric as a guidelines and authorizations targeted for public consumption by different domestic and international audiences, while the police know that they will be judged on how effectively they achieve their antiterrorist goals. The police will see a lot of discretion and leeway in how they do their work and they will use that discretion to shape the manner in which policies are implemented.

This argument – that the human element will distort policy design and implementation – applies to political leaders. They will be or may be sincerely committed to suppressing terrorist threats, but they will not be unmindful of the political implications for their public careers of how they deal with and are seen to deal with terrorist threats. Notions of national security, conceptions of who is a terrorist, what terrorist acts are, or what the rule of law requires are flexible concepts that can be given substantive content in various ways. Fears can be manipulated, information selectively interpreted, and actions announced that deal

with terror but are also useful to shore up the credibility of those in power and undermine the claims of competitors.

In short, among police, intelligence, and security workers, operational policies on the ground (or "at the coal face," as the British police would say) will incorporate formal and informal goals and styles, and political leaders will see and use antiterrorist rhetoric for both public protection and personal and organizational advantage. Thus, the argument is not based on what is formally stated as the goals and policies for fighting or dealing with terror threats, but on what the people who will plan and carry out the work of antiterrorism are most likely to do. What happens will reflect the perceptions and values of the police, as seen through their eyes, as well as what civic society and the state expects them to do.

A third basic assumption deals with how terrorism is conceived as a threat and what, therefore, is the best and most effective way of dealing with it. The distinction here is between fighting a war against terrorism or seeing terrorism as a policing problem, different in some aspects from the work police normally do, but nonetheless essentially a question of investigating and substantiating that individuals or groups are likely to commit or have committed a crime. The war metaphor as the context for antiterrorist policing provides a fundamentally different set of justifications for how to do policing (or how to engage the normal police in antiterrorist work) than does the notion that terrorists are a specific type of criminal. The distortions of democratic policing listed above are much more likely to happen and be more massive and intensive in a political milieu that stresses the war metaphor. Put differently, the distortions will vary from state to state, depending on how the political, intelligence, and security leadership talks about terrorism.

Fourth, without going into any details about the values and elements of democratic policing – for there exists a large literature on this topic[186] and such notions have become enshrined in domestic reforms and innovations, international conventions, and the criteria for police assistance programs and peacebuilding efforts – one only asserts that democratic policing norms as defined in these documents and embodied in practice are the standard against which likely distortions will be judged.

Bracketed out, there are three issues: the question of what terrorism is, antiterror policies conceived as warfare, and normative evaluations of the effects of antiterror work on the police, society, and the state.

Definitions of terrorism, what terrorist attacks are, and who is a terrorist are notoriously ambiguous and relativistic. The same acts could

[186] e.g., Bayley, 2001; Independent Commission…, 1999; O'Rawe and Moore, 1997; OSCE, 2002; UN, 1994, 1997.

be characterized as terrorism, legitimate self-defence, or revolutionary reactions to repression based on the ideological standpoints, value judgments, and objective conditions of participants in the discourse. There will always be unavoidable political judgments that influence the labelling of violent acts, even when people condemning terrorism are on the same ideological side, an argument not to be disputed here. First, it is a fact that governments will label certain acts and groups as terrorist, respond to those acts and threats, and seek to enlist the support and cooperation of others in that effort. The effects of perceiving and dealing with threats from terror (however defined) on normal or conventional policing will be assessed.

The second issue not dealt with is antiterrorist operations conducted as war against suspect governments and states. There will be issues of how to deal with suspected and committed terrorist actions in those conditions, but the police, such as they exist, will be largely irrelevant.

Third, it is not questioned whether these tendencies, if they happen, are a good or bad thing. Some regimes and members of civic institutions, and most police and security workers, will consider the trade-off of rights for protection against terror a legitimate risk and sacrifice (or deny that there will be trade-offs at all), while other will see aspects of antiterror work as fundamentally undemocratic and subversive of basic democratic and human rights (such as expectations of privacy or fair and equal treatment under the law).

Democracy is a balancing act among competing but equally legitimate values. Valuing tradeoffs is a political question that societies will have to decide for themselves. It is a political question, since different groups and individuals will have different normative ranking schemes and priorities, and how to judge the effects of antiterrorism work on "the democratic balance" will fluctuate over time.

There is also no real method for valuing tradeoffs since the losses to democratic politics (which I think the tendencies discussed embody) are quickly visible, while the gains are hard to detect or measure. Governments and security agencies will announce that so many attempts by terrorists have been prevented by good intelligence, police work, and international cooperation (but no details can be released to the public since that would reveal means and methods). One has to take such announcement on trust that what agencies and leaders say is true rather than as self-serving attempts to justify their work and show successes. That trust is often in short supply, since enough evidence exists that such claims have been manipulated or fabricated in the past.

## Values, Goals, and Operational Styles

In contrast are the values, goals, and operational styles of normal and democratic policing with antiterror work to support the argument that involving the police in antiterror work will lead to distortions of democratic policing. The model of community-oriented or community-based policing (COP) is used as representative of democratic policing,[187] and goals and policies of state security agencies as representative of antiterror work (which is not war).

### *Relations with the Public and Local Communities*

A fundamental objective of COP and democratic policing is working with people – that is, being partners with communities and establishing the necessary trust and confidence to allow the police and the public to engage in reciprocal support and cooperation. To achieve this, the police have to be transparent, accessible, willing to listen to people's demands and complaints, and accept their communities as legitimate voices in the development and execution of operational policies.

Gaining trust requires having had successful experiences (that is, having worked together with mutual respect and cooperation) in the past; a belief that the police treat people in the community fairly and equitable, that is, without discrimination, stereotyping, or disdain; the understanding that the police limit the exercise of their powers by acknowledging the legitimacy of legal constraints and that they deal with complaints in an open and visible manner that actually holds officers responsible and accountable. The public, in turn, trusts the police, since their interactions and encounters with the police have been courteous, polite, and professional, and have led to effective order, crime, and safety conditions.

Security agencies have, of necessity, a completely different style of interacting with the public. Their work is not transparent; they are not accessible, except if the public wishes or is expected to provide information on suspected individuals or groups (that is, become informants for the government, its eyes and ears at the local and intimate level); they do not routinely and visible interact with the public (they are not out in the open); their work is shrouded in secrecy; and the effectiveness of their work cannot be assessed realistically, since many successes are events that did not happen.

[187] e.g., SEESAC, 2003.

## *Intelligence*

The police collect intelligence and so do security agencies, but the type of information sought and the manner in which it is gathered differ profoundly.

The police collect information relevant to their normal order maintenance, crime control, and service work. They seek specific information on specified individuals or groups that can be linked to legal allegations of misconduct (done or planned). Information that cannot be shown directly relevant to the cases they are working on (such as political leanings, food preferences, reading habits, and so forth) is suspect and should not be collected at all. In COP, especially in problem-solving activities, information that is relevant is more broadly defined, since it is not tied to casework but to dealing with a problem that is perceived by the community and the police as broadly defined.

But in neither situation – casework or problem solving – are the police allowed to go beyond what the law authorizes. Their intelligence collection is constrained, in democratic systems, by the rights possessed by the public both in substance (what they can collect) and in manner (how they can collect). The police will be interested in many kinds of information (and they often will illegally collect that information or know of it) but they also know that they cannot use it without repercussions for their work and the trust they have gained from their community.

Security agencies also are interested in information converted to intelligence, but they are much less constrained by law (or they are, but in ways either unknown to the public or in a way that makes it hard to assess whether the security agents have abided by the constraints placed on their powers). They collect information that may or may not be useful in the future (not just legally relevant data), on all aspects of the lives of suspect individuals and groups, often by surreptitious means that would be illegal or extralegal if the police employed them. They also pay differential attention to and collect information on particular groups and ignore others – that is, they engage in forms of categoric, racial, or cultural profiling, often based on stereotypes – even if most members of those groups are not likely to be suspected of or involved in terrorist acts.

And security agencies, especially if fighting a war on terror, may use means for extracting information from suspects or even innocents (since it will not be known until the interrogations have been conducted who is who) that may come close to or do violate both domestic law and international conventions that seek to protect individuals against abuse by security agents. If the police engaged in such methods they would be quickly condemned and held accountable (in clear cases of violations); if security agents abuse suspects, their acts are much less likely to be made public or condemned, since they are perceived as doing this to

protect societies against dangerous and damaging threats and acts to public well-being and a sense of security.

## *Prevention and Preemption*

The police seek to solve cases and prevent disorder and crime. Security agencies also have these goals but, in addition, seek to preempt terrorist acts. The differences in goals leads to profoundly different views of what work needs to be done.

The police solve or prevent crime and disorder through evidence that can be connected to tangible conduct. Persons and groups of interest to the police must have engaged in activities that have a direct and provable link to acts legally defined as crimes. In democracies, thoughts and speech do not constitute such evidence; these are protected as rights people are entitled to, and governments and security agencies, even though they may find such speech and thoughts offensive or dangerous, cannot allege or prosecute these as criminal conduct unless speech and thoughts lead, have led to, or will incite others to actions that constitute crimes.

Security agencies, in contrast, pay attention to thoughts, speech, and legal conduct (as well as to criminal acts) that indicate that individuals or groups might be engaged in planning terrorist acts. The goal is preempting even the planning of acts or support for them by speech, material support, or services, because if agencies wait until clear evidence of likely actions has been collected, it may be too late. In preemption, all information on suspected groups and categories of people, no matter how collected, is valuable, relevant, and utilizable. Security agencies are interested in collecting, combining, and analyzing what used to be called, if the police collected that information, "political dossiers" – that is, all acts and thoughts, whether legal or not, that might indicate a pattern of predispositions, values, ideologies, and conduct that could pose a threat to the order of society and the stability of the state.

The ultimate goal is integrated databases, incorporating in close to real time information which can be instantly accessed, combining all known data on individuals into electronic dossiers. No distinction can and will be made between information of a personal nature and information that can indicate criminal or terrorist intentions and acts. All data matters, and only after acts have been preempted and prevented, arrests made, or individuals convicted will one know what was relevant information and what was not. The goal is a government in which the lives of people are an open book.

Harnessing or drawing the police into antiterror work will lead to policing goals, values, and operational policies that move normal police work in the direction of intelligence and state security work.

### *Strengthening the Power of the State*

Antiterror work is state-centred and tied to notions of national security and interests, rather than to local order and safety. Control, influence, and oversight of the police will tend to shift toward the national level, and local control and the legitimacy (and capacity) for local oversight will decline. There are a couple of aspects to this.

In states with decentralized policing systems, such as the United States or Switzerland or, to a lesser degree, the Netherlands, the capacity and authority to make decisions about collecting intelligence and by what means, or what events and people to keep track of, shifts toward the national level, in effect seeking to harness the local police to priorities in work and operational practices set by the state.

In the more centralized policing systems typical of continental Europe, the EEC, and transitional states, antiterror work will have a less pronounced effect on local control, which is not a common characteristic in the first place, but it will tend to bureaucratize or "intelligencize" police work at the local levels. That is, the collection of intelligence on terror suspects and categories will assume a greater priority than conventional police, including COP.

The second and obvious issue is that engaging the police in antiterror work will undermine COP – most specifically, the commitment to work with the community to establish trust and abiding by legal constraint on surveillance of suspects. For example, in the United States, a number of local police departments have refused to collect information demanded by the state (through the Department of Homeland Security and the FBI, such as listing activities at mosques or interviewing Muslims who have travelled to specified countries), on the grounds that this would both destroy the trust departments have worked hard to establish between themselves and minority communities and would also require the police to collect information that has no direct legal (rather than a security) justification.

### *Centralized Administration Within Police Agencies*

Many departments in the United States that are sufficiently large have also developed new antiterror units within themselves, which compete quite well in the struggle for resources, glamour, and rewards against

other units, and may lead to a subtle but important shift in the thinking and cultures of the police, elevating the operational methods and priorities of intelligence work over normal police work, which lacks the excitement and recognition of conducting a successful antiterror operation. The police, as do members of other occupations, value aspects of their work differentially (for example, investigative work tends to have a higher status than patrolling, and crime fighting is more professionally challenging, rewarding, and interesting than service work) and will use available opportunities to move the work toward those areas and stress effectiveness as the success criterion. This is true everywhere, as in many EEC states, where efforts to strengthen local control, a service orientation, and adherence to rights has been undermined by the police, who used the growing threats of organized crime to continue to focus on crime fighting. Antiterror work merely gives them more opportunities to make that argument.

The police will not be shy about making that argument, or using the justification of antiterror work to appeal for new legal authority and financial resources to pursue cases that before they had trouble investigating, or to manipulate data to show how effective they are in dealing with terror.[188] For example, in the United States, the legal powers granted the government under the Patriot Act and the Department of Homeland Security have been used to investigate local corruption cases which have no discernible connection to terror. Local departments have reported vast increases in criminal cases labelled "terror-related crimes" – cases that before used to be classified under other criminal designations. The police are not stupid. They know where the money, attention, and rewards are.

## *Unbalanced Rights and Safety*

Antiterror provides a justification, often propagated by security agencies, that the need to protect society, the state, and the nation requires a (one hopes temporary) shift by police and security agencies away from the importance attached to the rights of the public and suspects. There is nothing wrong or illegitimate, for example, about finding information on what books people read, what Web sites they look at, what organizations they belong to, how they have voted, what food they order when they fly, or what religious institutions they attend, if the goal sought is security against terror.

The idea that a bright line should separate what is public and what is private, a fundamental distinction in democratic legal systems – and

[188] e.g., *Law Enforcement News*, 2004; *Police Chief*, 2004.

that the state and its agencies can only invade private spaces on clear and specified legal or judicially sanctioned grounds – becomes blurred and its legitimacy weakened by antiterror work; and control over deciding when the line should be crossed by the state shifts to executive or quasiexecutive agencies and away from the courts and legislative oversight.

## *Political Manipulation of Law and Its Enforcement*

Antiterror work has great legitimacy. It is, by the experiences of the past few years and by the horrific consequences to the lives of innocent people, a frightening assault on people's sense of security. Being unpredictable, and knowing that many targets exist that are vulnerable and hard to defend, terrorism creates and seeks to create a pervasive climate of fear and uncertainty. This fear and the legitimacy of fighting the source of that fear tempt many political and police leaders into overreaction and manipulation. In the long run, this will make people more uncertain, even if manipulation leads to short-run political gains. For example, the colour-coded terror alerts in the United States may reflect changes in the objective risks of terror attacks, but, as the threat level has been raised and lowered and colours for the day changed and little has happened, with no concrete guidelines having been provided on what to do when threat levels oscillate, some people have concluded that these announcements could be politically inspired manipulations or reflect organizational competition among the various security agencies at the federal level rather than real changes in threats. In practice, the colour scheme has done nothing, as far as one can tell, to either make the public feel more secure or provide concrete guidance to the public and local and state security providers on what to do. Most police agencies have begun to ignore these changes in threat levels, since no specific information about time, place, type of threat, or groups involved has been given out.

## *Lessened Accountability and Oversight*

Antiterror work, with its focus on preemption and its extensive, integrated, and secret data collection, has an obvious effect on accountability and oversight by the political actors, legal and judicial agencies, or the public. To increase transparency, it is argued, would undermine the antiterror effort. To the degree that the police become involved in antiterror work, that same argument will be made and sustained. The police, no more than any other occupation, do not like people standing

over their shoulders and examining their work. They will now have one more, and very legitimate-sounding reason, to reject transparency. Accountability will shift from structures and political agencies having the authority for oversight to the language of trust: "You can trust us. We are not doing anything which is illegal or violates your rights, and if we do (or are forced to do) it is for your own protection and good."

Effective accountability over the police has been one of the most difficult tasks to accomplish, even in democratic systems. The justification and cloak of antiterror work makes this task devilishly more difficult. This is probably one of the more harmful consequences for democratic reforms of the police, especially in transitional societies that are trying to move away from the history of state security agencies controlled by state and party, with unchecked powers to engage in surveillance and detentions of "suspects."

### *Slow Movement Toward Democratic Forms of Policing in States and Societies Undergoing Changes*

The arguments on how democratic policing will be affected in democracies also apply to societies undergoing change. Progress in developing democratic policing systems in countries having little tradition of democratic policing has been slow, and has been as much a process of two steps forward and one step back as one of steady and incremental progress. Much of the unevenness of progress can be tied to security conditions faced by these countries, most commonly an explosion of domestic and transnational organized crime, which have led to demands for effective police responses but have limited progress toward the rights side of police reforms. And in countries in which COP has been the model that is seen as the preferred goal, the threat of terror has tended to override the "softer" side of police work enshrined in COP.

### *Enhanced Power and Autonomy of the Police*

In the same way that the threat of terror stresses the need by civic society to trust its leaders, antiterror work emphasizes the expert capacity of the police, their professional acumen, and their skills in detecting and dealing with threats from terror. Professionalism has been used by the police to assert the need for and legitimacy of autonomy and discretion. As professionals, they should be left to apply their skills and good values to most effectively deal with threats, rather than be overseen continually and interfered with by public "misjudgements" and ill-founded complaints of both their intentions and their work. Antiterror gives

them another lever for asserting autonomy, especially when combined with the operational need for secrecy.

## *Changing the Operational Style of Democratic Policing*

Police are notorious simplifiers of the world they work in. The tend to categorize events and people by often crude indicators of likely criminal intents, actions, or dangerousness, and will treat individuals on the basis of group categories they have been placed into. Racial profiling in the United States or the attention paid by the police to the Roma in many EEC states, which makes practical sense to most police, are well-known examples that have been rightly condemned as a practice offensive to the spirit of democratic policing. The police simplify their world since their time, attention, and resources are limited, and they need clues on how to most effectively allocate their work. Categorical placements of individuals do that. The police do not pay attention to everything, but to those aspects of their working world they believe indicate danger, criminality, or a propensity for deviance.

The harmful effects of antiterror work are that it strengthens the predisposition of the police to direct their gaze toward certain groups and individuals and not to others, on the basis of categorical placements and expectations, rather than by objective indicators.

## *Strengthening the Securitization Discourse*

The way in which people talk about security – what it means and how it can be achieved – will have an effect on the types and priorities of security policies pursued by the state. A war metaphor will lead to different perceptions of the justice and legitimacy of security policies and how people are treated than will a "we are dealing with crime" metaphor. Security is a fundamental value and need for societies, but security can be tied to different notions of what type of security matters and when societies and people are secure enough. As Cawthra and Luckham (2003: 310) note, security reform "requires a new conceptual understanding of security based on human security imperatives rather than security of the rule of a regime, cabal, or individual." The rhetoric of antiterror devalues the conceptualization of security as human security. In terms of sector reform, which already focuses mostly on the military and border control agencies, policing will be seen as less relevant (unless tied to antiterror work). The thrust of the reform of policing means that an emphasis on service and responsiveness to community will be relegated to secondary status.

The securitization notion (Loader, 2002) argues that rise of transnational threats, especially in Europe, as it has moved toward the integration of new members into the European Union, has altered the way people conceive of and talk about security and what threatens it. Such democratic values as the tolerance of diversity, openness of governance, and adherence to the rule of law have been weakened as states and societies have reinterpreted and redefined who and what is a threat. The climate of discourse has hardened into certainties that appeal to less democratic and often reactionary political values and practices. Civic life has coarsened. The trust and respect underlying democratic life and sensibilities have given way to a distrust of the stranger and of cultural diversity. The police will be drawn into and may actively support the reproduction of that discourse – and it will channel their gaze and work in specific directions. Their mandate will shift and the relative priorities for attention and work will be reorganized to reflect the stress on security from terror.

## Concluding Thoughts

None of the tendencies discussed are inevitable. Yet the degree to which they will happen will depend on the efforts made by civic society and progressive political and police leaders to set in motion processes and create organizational structures that will lessen the probabilities that these tendencies will reach fruition. For the tendencies to happen, all that is necessary is for people who are concerned about the threats to democratic policing (and democratic life) to do nothing.

Terrorism is a serious threat and must be confronted. Yet three implications on how to prevent the tendencies from becoming reality are obvious:

- The police should be organizationally separated from antiterror work. Let the police be the police and let them perform normal policing and let other agencies perform the antiterror work. The police cannot do both community or democratic policing and antiterror work effectively and fairly.
- The meaning of security in security architecture reform needs to encompass human as well as state security. The discourse of security has to be complex, inclusive, and diverse.
- The capacity and legitimacy for civic oversight of the police and antiterror agencies has to be strengthened even more than has been done so far.

# The Contribution of Border Security Agencies in the War on Terror

ANDRUS ÖÖVEL

## The Rise of "Hyperterrorism"

In recent years, an important transformation has taken place in the international security environment. The attacks on the World Trade Center and the Pentagon on 11 September 2001 provided the most dramatic evidence of this shift. In the words of François Heisbourg, the post–Cold War interregnum of soft power and defence diplomacy has been eclipsed by the rise of "hyperterrorism" – that is, the terrorism of mass destruction.[189] This threat comes principally from nonstate actors and is new by virtue of the fact that such groups today have both the will and the capacity to carry out terrorist attacks on an unprecedented scale.[190]

The gas attack in the Tokyo subway in March 1995 was a first indication of this change, but since then developments in technology have made it even easier for nonstate groups spread across the world to communicate and coordinate their actions and to gain access to knowledge that in the past was the preserve of national security agencies and government bureaucracies.[191] A recent example of this was the avowal made by Pakistani nuclear scientist A. K. Khan, that he had leaked secrets to Iran, Libya, and North Korea. This discovery in turn uncovered the existence of an elaborate nuclear proliferation network, suggesting that what was in the past closely guarded state secrets are increasingly filtering into the public domain. With the collapse of secular ideologies such as Arab nationalism, space has been left for the emergence of nihilistic doctrines of religious fundamentalism. "Political terrorism" of the kind practiced by the FLN in the Algerian war against France or by the PLO in the 1970s has been replaced by messianic terror without political content.[192] Combined with the technological developments that

189 François Heisbourg, "Quelles Menaces pour l'Europe," *A.F.R.I.* 3 (2002).

190 See the interview in *Le Monde*, with François Heisbourg and Hubert Védrine, "Pourquoi le Térrorism?" *Le Monde* (26 March 2004).

191 *ibid.*

192 92 See "One Man's Terrorist is Another Man's Terrorist," Andrus Öövel (unpublished, 2000).

have facilitated international communication and information sharing, contemporary groups such as Al Qaeda now have both the will and the means to carry out attacks on an unprecedented scale.

## Counterterrorism Strategies Post-9/11

In the light of this threat, it is evident that conventional methods of defence are of little use. Standing armies and conventional weapons were developed in order to respond to territorial threats. As such threats have receded – at least in Europe – it follows that responses must also evolve. Generally, it is recognized that defence strategies should be preventive rather than reactive. That is, the aim should be not to deal with terrorist attacks as and when they occur, but rather to prevent terrorists from being able to organize them in the first place.[193] Such preventive strategies must have at their core an effective system of intelligence gathering. The centrality of intelligence in the fight against terrorism has long been recognized by specialists. Writing in 2000, Paul Wilkinson argued that

> High quality intelligence is the heart of the proactive counterterrorism strategy…It has been used with notable success against many terrorist groups. By gaining advanced warning of terrorist-planned operations, their weaponry, personnel, financial assets and fund-raising tactics, communications systems and so on, it becomes feasible to preempt terrorist attacks, and ultimately to crack open the terrorist cell structure and bring its members to trial.[194]

However, in observing the counterterrorism strategies existing at the time, Wilkinson concluded that

> Sadly, such high levels of international cooperation against terrorism are hard to find. Just as the lack of intelligence sharing between uniformed and nonuniformed security agencies often damages national counterterrorism responses, so international mistrust and reluctance to share information often vitiates an effective international response. *The most useful enhancements of policy to combat terrorism, at the international level, need to be made in intelligence gathering, by every means available, intelligence sharing, intelligence analysis and threat assessment.*"[195]

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[193] See the U.S. Government's *National Security Strategy*, September 2002 (accessed at http://www.whitehouse.gov/nsc/nss.pdf). See in particular chapter 5, "Prevent Our Enemies From Threatening Us, Our Allies and Our Friends, with Weapons of Mass Destruction," 13–17.

[194] Paul Wilkinson, "The Strategic Implications of Terrorism, " from *Terrorism and Political Violence. A Sourcebook*, edited by M. L. Sondhi, Indian Council of Social Science Research (Haranand: India, 2000).

[195] *ibid*., my emphasis.

The events which followed 9/11 have corroborated Wilkinson's words. On the one hand, the criticism of U.S. government policy concerning the attacks has tended to focus on the work of the intelligence agencies and on the lack of coordination and clash of priorities between the CIA and the FBI. On the other hand, policy developments since the attacks have focused on rectifying these intelligence failures and on the need to increase interagency cooperation.

In Europe, the response has similarly been focused on intelligence measures and the need for greater cooperation. At the conclusion of the extraordinary European Summit on 21 September 2001, EU leaders presented a counterterrorism strategy made up of seven points. These points included: strengthening antiterrorist legislation, increasing cooperation among magistrates across EU member states, increasing cooperation and coordination of operations by the security services of EU member states, broadening EU-US cooperation, and tackling the financing of terrorism.[196]

Following the terrorist attacks in Madrid in March 2004, the emphasis on intelligence and cooperation was taken even further. In the Declaration on Combating Terrorism adopted at the EU summit held after the attacks, the measures included the creation of a counterterrorism "tsar" responsible for overseeing the EU's antiterrorism activities, the integration of an intelligence structure on terrorism within the Council Secretariat, deepening the use made of existing EU bodies such as Europol, Eurojust, and the Police Chiefs Task Force, and a move toward adopting a database of persons convicted for terrorist activities and other serious crimes.[197]

In this context, the most significant aspects of the EU legislation concerning terrorism are set out below. While much of the strategy does not involve border security organizations directly, the remainder of the paper will highlight in which areas border guards can play a role.

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[196] Described in Dr. Willy Bruggeman, "Security and Fighting Organized Crime and International Terrorism," Catholic University of Leuven & Deputy General Director of Europol, December 2002.

[197] See "The European Terror Challenge", at http://news.bbc.co.uk/1/hi/world/europe/3563713.stm.

*Figure 1: EU Anti-Terrorism Strategy:*[198]

- Council Regulation (EC) No. 2580/2001 of 27 December 2001: freezing of funds, financial assets, economic resources of terrorist groups
- Council Regulation (EC) No. 881/200 of 27 May 2002: adds an annex list of persons, groups related to Al Qaeda
- Council Common Position 2001/930/CFSP of 27 December 2001: freezing of funds, financial assets, prevention terrorist acts, denial of safe haven, bringing to justice, prohibition free movement across borders
- Council Common Position 2001/1931/CFSP of 27 December 2001: Adds also to list (29 persons and 13 groups)
- Council Common Position 2002/402/CFSP of 27 May 2002: prohibits supply, sale, and transfer of arms to Al Qaeda, Taliban, and related groups
- Council Framework Decision 2002/475/JHA of 13 June 2002: Initial definition of terrorist offences, minimum penalties for terrorist offences
- Council Framework Decision 2002/584/JHA of 13 June 2002: European Arrest Warrant
- Council Framework Decision 2002/465/JHA of 13 June 2002: Joint Investigation Teams (JIT)
- March 2004: Appointment of Gijs de Vries as EU Terrorism Tsar

It is within this context of an emerging counterterrorist strategy based on interagency cooperation and intelligence sharing that border security agencies have an important role to play. In the light of the changes in the security environment, and the rise of nonterritorial threats, the most violent of which being hyperterrorism, border security agencies have also had to adapt themselves. In the past, and certainly in a Europe that was divided by an Iron Curtain and still marked by the memories of World War I and II, border security was above all composed of defensive strategies based on the idea of defending the border line. It was an extension of a broader national defence strategy aimed at preserving

[198] EU antiterrorism strategy and legislation from 2001 to 2004. Details on legislation drawn from presentation made by Marcel H. van Herpen, entitled "After Madrid 3/11: Does Europe Do Enough in the War on International Terrorism?", CICERO Foundation seminar on Justice and Home Affairs, "The Role of Europol and Eurojust in Combating International Organized Crime," Paris, 13 May 2004.

territorial integrity, and was either carried out directly by military units or by organizations organized along military lines. In short, border guards were either literally or metaphorically soldiers. They were not policemen.

In the post–Cold War period, border security in Europe has seen a number of profound changes. With the collapse of the Soviet Union, the likelihood of territorial conflict in Europe has greatly receded. At the same time, the developments that have opened the way to hyperterrorism have also been partly responsible for the emergence of other transborder threats, such as organized crime and illegal migration. In response to these threats, border security organizations have had to rewrite their missions and strategies. It is this adaptation that puts them in the front line in the war against terrorism.

## Cooperation and Intelligence Gathering in Border Security

The main shift in strategy has been from defending the border line to a defence that extends across four tiers. In the past, border security was focused on defending the border line from territorial threats, the extreme example of which was the French Maginot mentality in the interwar period or the Berlin Wall during the Cold War. However, in the post–Cold War period, at least in Europe, security threats have shifted away from territorial threats and are now perceived to be far more diffuse (they have been "deterritorialized"). For instance, organized crime and illegal trafficking are activities that take place across borders, and require policing as much inside a state as along its border line. The four tiers model was developed by the EU as a way of capturing this change. Now the role of the border police is not only to guard the border, but also to liaise with third countries and to maintain close ties with internal security agencies (such as the national police). In this context, terrorism is a perfect example of a diffuse threat, which is difficult to pin down and requires not just manpower and equipment on the border but activities "beyond the border line."

As set out in the EU's Schengen Catalogue on Border Management, these four tiers are:

- Activities in third countries, especially in countries of origin and transit, including the collection of information by liaison officers as well as the key role of the consular post abroad in the process of issuing visas
- International border cooperation

– Measures at external borders: border management (border checks and surveillance)
– Further activities inside and between the territories of the Schengen States[199]

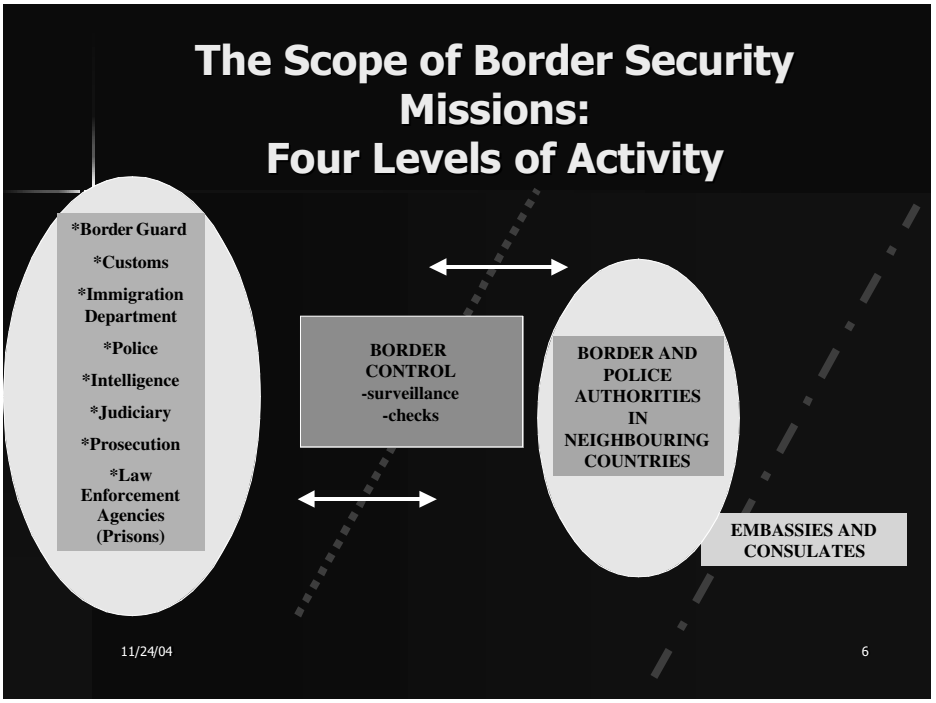


*Figure 2: Four Tires in Border Security*

Underlying these four tiers is the idea of cooperation. For instance, on the issue of illegal migration, a number of initiatives have been launched that have brought European border guard agencies and other security agencies together. Under the Belgian presidency of the EU, a law enforcement operation called the High Impact Operation was organized. This operation took place on the borders that are now, after the 1 May enlargement, the EU's new external borders. The goal behind this initiative was to develop the contacts between the border security authorities of existing EU member states and those of future member states. Under the Spanish presidency, two similar operations were organized, Operation RIO and Operation Pegasus. The former focused on the use of air-

199 *EU Schengen Catalogue, External Borders Control, Removal and Readmission: Recommendations and Best Practices*, Council of the European Union (February 2002), 11.

ports as transit points for illegal migrants, and the latter on the use of shipping containers as means of transporting illegal migrants. All these activities took place with the support of Europol and demonstrated the capacity for border guard agencies to cooperate with other actors in the combating of common threats such as those of illegal migration. Similar cooperation initiatives could be launched as part of a broad counterterrorism strategy.

Along with cooperation, border guard agencies are also capable of contributing to the intelligence requirements of the new counterterrorism strategies. With the close cooperation established between border guard agencies and embassies and consulates in third countries, such agencies are well placed to contribute to the dismantling of terrorist cells in third countries. Such terrorist cells could be made subject to intelligence and investigation activities carried out by border guard services. At the same time, border guard agencies have a great deal of information valuable to national security actors, above all the police. For instance, the Schengen Catalogue on Border Management makes the following recommendation on intelligence activities:

> A two-way information exchange should be arranged between central and local levels of the border management authority. The local authorities should be instructed to gather information on illegal immigration and other cross-border irregularities, analyze it locally, and pass it on to the central level. The central level should compile all information country-wide, process it into usable form, and deliver it to local authorities to be used as a tool for tactical risk analysis and operational planning.[200]

Additionally, the Schengen Catalogue outlines as a best practice the establishment of "a network of intelligence liaison officers…to connect different units and different organizational levels."[201]

A graphic illustration of possible cooperation between border guard authorities and intelligence organizations is set out below.

The figure above on intelligence cooperation illustrates the role that border guards can have in intelligence gathering, a central plank of most countries' antiterrorism strategies. While border guards are not themselves specialized intelligence-gathering authorities, if a border guard organization is independent and has its own command and control structure (such as Germany, Finland, and Hungary), then it will also have its own intelligence units. These should cooperate closely with other intelligence agencies. The controlling and surveying of borders places border guards in a special position concerning the collection of intelligence on who is entering and exiting the country. This is what could be of use to other services.

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[200] *EU Schengen Catalogue,* 19–20.
[201] *ibid.*, 9.

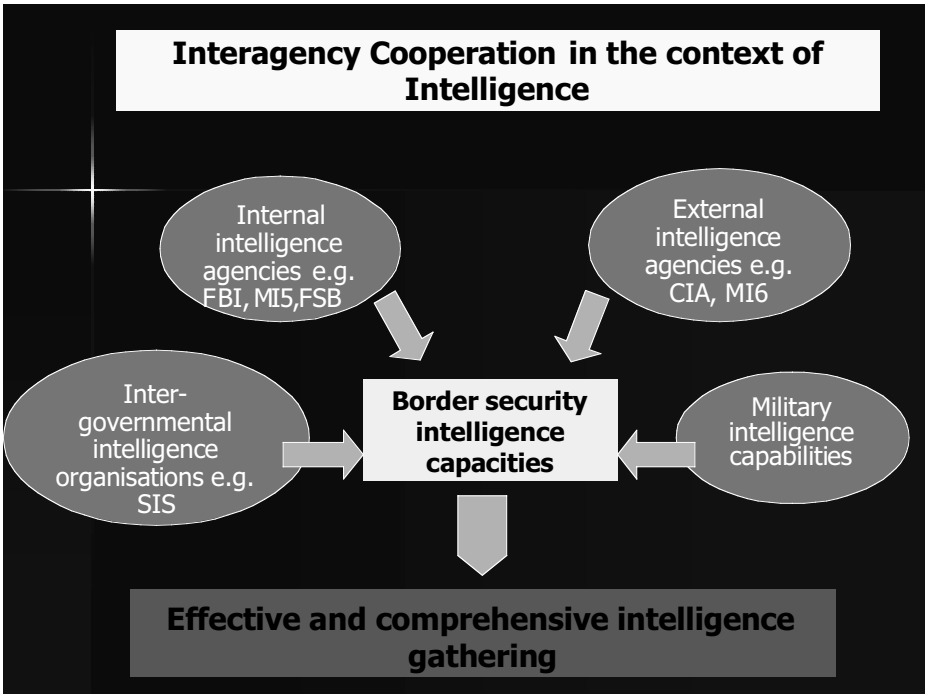


*Figure 3: Interagency Cooperation in Intelligence*

Clearly, such intelligence operations and data flow management can be put to use in counterterrorism strategies.[202] Similar strategies could be envisaged in the field of antiterrorism. Information on the identity of those crossing the border is essential for national police services investigating the presence of terrorist suspects on national territory. With carefully coordinated information sharing measures, and by providing various actors with access to their intelligence, border security organizations can play an important role in preventing terrorist attacks. In the words of a paper produced by DCAF's International Advisory Board for Border Security, "border guards should be the primary sensors for information that will be systematically developed to countrywide strategic assessments of risks and threats."[203]

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202 This kind of progress has already been made in the field of organized crime, with the cooperation of the International Crime Investigation Cooperation Centre (NEBEK), Europol, and the South Eastern European Crime Investigation Centre (SECI).

203 Jukka Savolainen et al., "Benchmarking Border Management in the Western Balkans Region," paper produced by the DCAF International Advisory Board for Border Security (2004), 40.

## Cooperation and the Quality Cycle

A way of understanding the gains from cooperation is in terms of a quality cycle. This cycle describes the relationship between manpower, resources, and the public expectations that shape the strategies and goals of individual institutions. A graphical illustration of the quality cycle is given below:

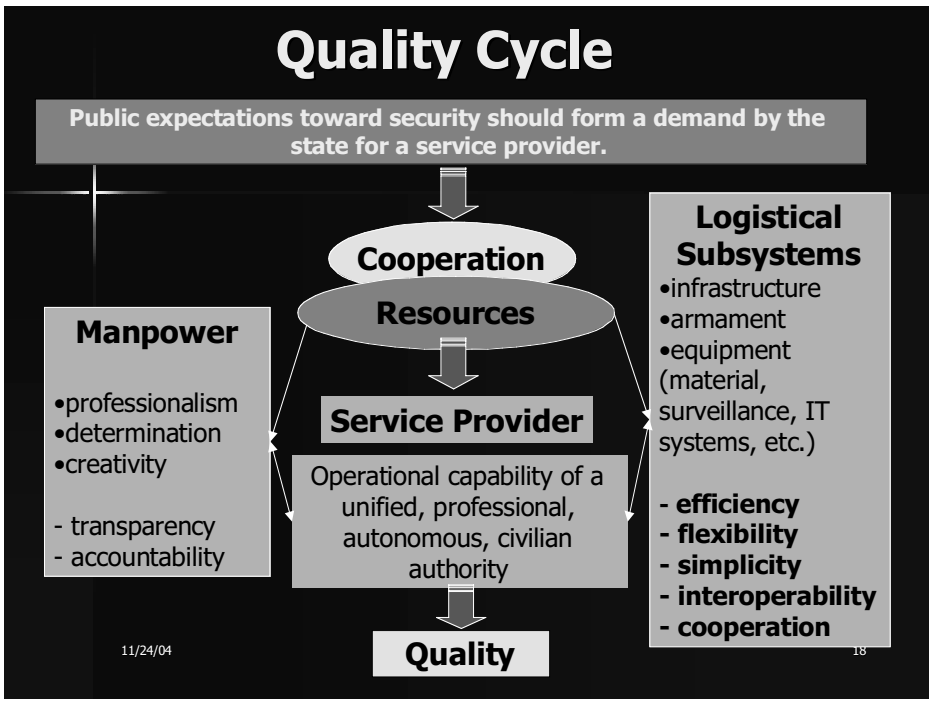


*Figure 4: Quality Cycle in Border Security*[204]

As a general principle and not just in border security, national governments should base their strategies on public expectations. These expectations include living in a secure environment, which means that national governments demand security from service providers and channel the necessary resources to these areas. Resources should be divided between manpower and logistical support systems. Logistical support

[204] In order to improve the quality of the work of border guards, it is possible either to increase the resources available or to use existing resources more effectively. The latter is the aim of cooperation, so cooperation becomes a means of achieving improvements in quality. The figure also illustrates a particular definition of quality, namely that which keeps the public happy and is in line with their expectations.

consists of a series of subsystems, which are infrastructure, armament, and equipment (material and IT). The principles to be applied to logistics are efficiency, flexibility, simplicity, interoperability, and cooperation. Regarding manpower, the principles are professionalism, independent decision making, and creativity, and the methods to be followed are transparency and accountability.

If the resources channelled to the service provider generate the results expected by the public, we can say that quality has been achieved. This applies to border security and to most government-funded activities in the security sector as much as in healthcare and in education.

When there is a quality problem, it means that there is a gap between the provision of the service and the expectation of the citizens. To solve a quality problem, there are generally two options: increase resources or improve the utilization of existing resources through increased cooperation. In border security, a simple increase in resources is rare, especially as border security services are always competing for funds both with other authorities in the security sector and with other areas of state responsibility such as health and education. A more realistic option is to increase cooperation, though this requires both will and a degree of strategic thinking that sees where opportunities for cooperation exist.

In the case of terrorism, the public expects that security agencies are capable of dealing with the threat. An example of a quality problem is in the public debate taking place in the United States over intelligence failures related to the 9/11 attacks.

## *Conclusion*

At present, Europe has the possibility to anticipate such problems and to act now to prevent future attacks. The response to the Madrid bombings outlined above suggests that some progress has already been made. However, opportunities remain with respect to an integration of border security capacities into the overall antiterrorism strategy. The wide scope of the border guard mission means that border guards are involved in a number of different activities, from intelligence gathering to cooperation with embassies in third countries. In all these different activities there exists the possibility to cooperate with other security actors and to achieve important quality improvements as a result.

This is the challenge for border security services, and makes border guards important actors in the fight against terrorism.

# The Implications of the Fight Against Terrorism For the French Gendarmerie

DENIS VAULTIER

## Introduction

The French Gendarmerie is one of two French police forces. Consisting of approximately 100,000 career or contracted officers and of civilian staff, it can be reinforced by 40,000 reserves if necessary. This 800-year-old institution operates in the field of homeland security and can adapt to the intensity and variety of all types of missions, from peacetime to low or high crisis levels.

The Gendarmerie, as the French Police, contributes to the commitment of the government to ensure public security and adequate policing. This dualism ensures an efficient democratic balance in homeland security. Its participation alongside the armed forces is justified as a specific means for the fulfilment of police duties during a high level crisis.

Moreover, taking into consideration the evolution of the geostrategic situation, the Gendarmerie is a major player in civil and military crisis management within the context of the European Policy for Security and Defence. As both a military force and administrative entity, the French Gendarmerie operates to protect individuals and properties all over the national territory but works alongside the armed forces in overseas peacekeeping missions.

Given its dual police and military culture, the Gendarmerie must adjust to the complexity of the fight against terrorism both inside and outside the national borders. Thanks to its versatile organisation and its wide range of activities, the institution is able to operate in different fields in the fight against terrorism, in the form of planned counterterrorism intervention, prevention measures, and antiterrorism. The first phase of its counterterrorist activities involves analysis, benchmarking, audits, training, and defining and setting up of means, and the second phase consists of a combination of intelligence work with police and judicial action, leading to the discovery of criminal activity, the arrest of perpetrators, and the collection of evidence.

Asymmetrical terrorism, brought to light by the attacks of 9/11, weakens Western countries. As it becomes an international phenomenon, undercover agents infiltrate working-class and rural circles. Con-

sidered as wartime actions, these security-threatening attacks have required the police to provide a new response to the threat. As a result of this terrorist phenomenon, the Gendarmerie has redefined its role and the involvement and use of its law enforcement techniques and strategies.

## Players Involved in the Fight against Terrorism

The events of 11 September 2001 and of 11 March 2004 have demonstrated the striking power of terrorists throughout the world. Facing the new challenge of a complex terrorist network, the French Gendarmerie has adapted its tools in order to optimise the French government's ability to combat this phenomenon. The entire institution is thoroughly dedicated to the fight against terrorism. Because of the wide range of its capacities, the Gendarmerie has imposed an overall system within centralized headquarters.

## Restructuring the Main Headquarters

The French Gendarmerie headquarters is made up of three main departments. The Operations and Deployment Service includes, since the 2003 reorganisation, five subdivisions that aim at being complementary, as far as homeland security is concerned. Four of them are directly involved in the fight against terrorism and are the prime movers in the fight against terrorism.

- Subdivision of Defence and Public Order: responsible for the deployment of the GSIGN[205] and of the national operation centre, it leads the planning working groups in cooperation with the relevant interministerial structures (such as the Defence Department).
- Subdivision of Criminal Police: in charge of the processing of intelligence, coordination, follow-up, and support to criminal police and antiterrorist units. Also liaisons with other police departments, intelligence units, and special magistrates.
- Subdivision of International Cooperation: forwards the intelligence collected by the Gendarmerie officers involved in cooperation missions and provides support to the other subdivisions, enabling an international network of prevention and crisis management.

[205] Groupe de sécurité et d'intervention de la Gendarmerie Nationale = French Gendarmerie Security and Intervention Unit

– Subdivision of Public Security and Traffic: in charge of defining the principles governing the deployment of specialised branches and special means of action of the Gendarmerie.

All these services work in synergy. They are closely and continuously linked to the other governmental players who take part in the fight against terrorism.

## Coordination Between the French Gendarmerie and the Other Services of the State

The French Gendarmerie coordinates its actions with other state services on different levels:

### *Interministerial*

a. Governmental planning: The gendarmerie participates in the projects carried out not only by the SGDN[206] but also by the MAE,[207] the DGAC,[208] the DAMGM,[209] and the DTMPL.[210] It maintains a permanent contact with the High Representative of Defence (HFD) of the Homeland Office (MISILL). Thus, it contributes to global risk assessment and monitors the current geopolitical situation.
b. Intelligence and criminal police fields: The French Gendarmerie takes part in the works of the UCLAT[211] and has direct relations with the specialised magistrates from the Paris pool, and also works with other national (CIR[212]) or international departments (G8, UE[213], OSCE[214], UN) tasked with the fight against terrorism. As a matter of

[206] Secrétariat général de la Défense nationale = National Defence General Office
[207] Ministère des Affaires étrangères = Foreign Affairs Department / "White Paper" regarding the security of French natives abroad
[208] Direction générale de l'aviation civile = National Civil Aviation Headquarters
[209] Direction des Affaires maritimes et des gens de mer = Seamen and Maritime Affairs Headquarters
[210] Direction des transports maritimes, des ports et du littoral = Coastline, Harbours and Maritime Transport Headquarters
[211] Unité de coordination de la lutte antiterroriste = Antiterrorist Coordination Unit
[212] Comité interministériel du renseignement = Interministerial Intelligence Committee; the SGDN provides the permanent secretary's office.
[213] Union Européenne = European Union
[214] Organisation pour la sécurité et la coopération en Europe= Organisation for Security and Cooperation in Europe (OSCE)

fact, the Gendarmerie is directly involved in the threat assessment process.

### *Joint Forces*

The French Gendarmerie implements permanent plans in aerial and maritime fields in which military forces are involved. It trains a part of its staff in techniques specific or common to the armed forces.

### *Coordination with Corporate Entities*

Agreements with corporations are considered vital for the country, and play an important part in the surveillance and intervention processes, especially in the high-tech energy field.

### *The Forming of Concepts and Forecasts*

In association with civilian or military partners from the research world, it initiates, promotes, and participates in studies of the existing or projected consequences of terrorism. This work is in keeping with the continuous adjusting process of its organisation and its means of meeting the requirements of the antiterrorist fight.

The involvement of all the Gendarmerie units (headquarters and ground units) in the fight against terrorism was particularly significant on the occasion of recent major events (the G8 summit in Evian in June 2003 and the Sixtieth Anniversary of the D-Day Normandy Landings in June and August 2004). This shows that the whole institution has taken into specific consideration the terrorist threats. These interventions are carried out at a strategic, operational, and tactical level, involving all levels of the Gendarmerie in cooperation and coordination with the governmental departments concerned.

## A Global and Consistent Contribution to the Fight Against Terrorism

Intelligence, specialised intervention, and the criminal police are the three pillars of the Gendarmerie framework.

## *Intelligence*

The intelligence is worked through a process that includes searching, collecting, analyzing, and forwarding data to operation and intelligence centres at local, regional, and national levels.

a. National level:

Acting as an "integrated police" thanks to its territorial networking, the Divisional Gendarmerie collects information that may be useful in terms of antiterrorism. Through specialised forces (for example, aerial transport and maritime units), it also monitors travel routes, which provides an important source of information and makes it more difficult for the terrorists to move about undetected. The French Gendarmerie is therefore a part of the French intelligence network, which is composed of specialised institutional agencies (DCRG,[215] DST,[216] DGSE,[217] and DRM[218]).

b. International level:

Intelligence is also collected by the Gendarmerie's Commissioned Officers assigned to embassies within the ASI[219] network and their exchanges with the services of host countries. Moreover, in the OPEX[220] scheme (UN, NATO, EU, OSCE), the deployment of gendarmes among the J2 structures (intelligence), engaged forces or specialised groups such as CIAR[221] in Bosnia-Herzegovina and Kosovo, and within the PGSI[222] and Military Police, enables the processing of criminal and terrorist-related intelligence collected in the field. The collected and analyzed intelligence is forwarded to data bases that will be processed in order to be useful to Homeland Security. Therefore, this task of the Gendarmerie is a component of the strategic function of "prevention."

## *Intervention*

Within the framework of its protection missions, the French Gendarmerie can consistently and gradually deploy specific means at the regional

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215 Direction Centrale des Renseignements Généraux = Central Intelligence Agency

216 Direction de la Surveillance du Territoire = Domestic Security Service

217 Direction Générale de la Sécurité Extérieure = Secret Overseas Intelligence Service

218 Direction du Renseignement Militaire = Military Intelligence Service

219 Attaché de Sécurité Intérieure = Homeland Security Attaché

220 Opérations Extérieures = Overseas Operations

221 Cellule d'Investigation et d'Analyse du Renseignement = Intelligence Analysis and Investigation Group)

222 Peloton de Gendarmerie de Surveillance et d'Intervention = Gendarmerie Surveillance and Intervention Platoon

or national level: PIGM,[223] GSIGN under its different forms, and the national NRBC group.

The French Gendarmerie reaction capacity is then ensured by close territorial networking that allows a proportionate and gradual response whose cornerstone is the deployment of the GSIGN, the national unit for counterterrorism, or the key figures of the international community protection (GSPR,[224] EPIGN[225]) or crisis management (GIGN or even EPIGN for some crucial interests abroad).

## *Criminal Police*

The deployment of specialised units as a reaction to a terrorist action – units also able to play a role in crisis management – represents the third part of French antiterrorist policy. In its everyday criminal police duty, the French Gendarmerie is more and more confronted with the connections between criminality and terrorism (for example, the black market, petty and more serious offences, drugs and weapon trafficking). In order to cope with this set of problems, its criminal police units (BR,[226] SR[227]) are provided with IRCGN[228] technical support, in addition to their standard equipment, as well as the STRJD[229] analysis capacities. The GSIGN units can here also supply operational support, especially the EPIGN, which sets up the GOR[230] (specialized in shadowing and surveillance).

Furthermore, the French Gendarmerie provides experts to requesting countries (technical and scientific cooperation with Egypt over the Egypt air Boeing 737 crash that occurred on 3 January 2004 in Charm El Sheik). It also takes part in operational action plans in communitarian (EUROPOL) or international structures (UN, G8).

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223 Peloton Intervention de la Gendarmerie Mobile = Mobile Gendarmerie Intervention Platoon

224 Groupe de Sécurité de la Présidence de la République = Security Unit for the Presidency of the Republic

225 Escadron Parachutiste d'Intervention de la French Gendarmerie = French Gendarmerie Airborne Intervention Squadron

226 Brigade de Recherches = Criminal Investigation Unit

227 Section de Recherches = Criminal Investigation Squad

228 Institut de Recherches Criminelles de la French Gendarmerie = French Gendarmerie Institute of Criminal Research

229 Service Technique de Recherches Judiciaires et de Documentation = Documentation and Criminal Investigation Technical Department

230 Groupe Observation renseignement = Observation-Search Group

# The Targeting of the Terrorist Threat by the National Gendarmerie

In order to face the persistent terrorist threat, the authorities have set up and implemented appropriate responses in order to prevent illegal acts. Supported by its specialised units, the French Gendarmerie has developed a global security culture that places it among all the sectors of activity that might be weakened by a terrorist threat. A versatile security force, it can intervene in the transportation field, operating close to sensitive areas, when faced by a NRBC threat, but also for the benefit of the diplomatic corps.

## *Involvement in Transportation Issues*

The Gendarmerie transport security policy is the result of expertise, a well-known security label, as well as a multipurpose territorial competency. It is involved in all the systems and in all the action plans pertaining to the transport issue.

### *1. Air counterterrorism*

Terrorism employing airplanes is among the most symbolic and dramatic types. The hijacking of the Air Algérie airbus in December 1994 as well as the 9/11 attacks caught the public attention. In the face of this new threat, the French Gendarmerie has had to review its action plan and adapt it in order to reduce the risk of an attack against aircraft.

The French Gendarmerie acts in different areas:

a. Airport security (checks, investigations, protection)

The purpose is to prevent any sensitive devices from boarding (explosives, dangerous items, weapons that could be used during the flight) or suspicious persons from perpetrating a terrorist action.

In connection with the other departments of the state (Police, Customs, and DGAC in particular) and in relation with private operators (air companies, development societies), the GTA,[231] mainly in charge of the airports' restricted areas, has stepped up its action. It is supported by the Mobile Gendarmerie in its mission of securing sensitive aircraft.

As for the Divisional Gendarmerie, it is involved in the intelligence collecting process and in detection of all suspect activities in the areas surrounding airports located within its jurisdiction. It is necessary to emphasize that Gendarmerie experts take part in the airport security audit carried out by the DGAC.

[231] Gendarmerie des Transports Aériens = Aerial Transports Gendarmerie

b. Flight security

The GIGN has been tasked to provide armed undercover security officers on board certain sensitive commercial flights since late 2003. These officers are able to handle a hijack situation thanks to their capacity to combine operational intelligence analysis, negotiation, and assault skills. The antiterrorism office is in charge of the specific intelligence pertaining to aerial transport in connection with other antiterrorism departments.

According to the governmental "plan VIGIPIRATE," the GTA, the Divisional Gendarmerie, and the GBGM[232] (Roissy and Orly) are involved in ensuring airport security and have to secure the external surrounding area against any armed attack (MANPAD or other) directed at aircraft. These units are harmoniously deployed in their areas of responsibility. Furthermore, the GTA and the Divisional Gendarmerie represent a basic part of the intelligence community and continuously monitor the activity of flying schools and flying clubs that are likely to turn out "kamikaze pilots." Additionally, in connection with aerial operations and defence headquarters, the French Gendarmerie takes part in the monitoring of every aircraft flying over a restricted zone.

Finally, the specialised governmental plan (PIRATAIR-INTRUSAIR) determines the GIGN as a reference unit as far as aerial counterterrorism is concerned. For that, nationwide exercises are organised regularly in order to make sure the Gendarmerie action is at its best in the case of an actual threat.

## *Maritime Counterterrorism*

Taking the sea terrorism issue into account has led international bodies to take security measures regarding the transportation of passengers as well as freight. The enforcement of those measures has given security missions a new dimension with respect to government action at sea and has prompted a security assessment of ships and port facilities. The French Gendarmerie, a major inland security player, is also actively involved in the current sea security voluntary policy.

### *The positioning of the Gendarmerie's sea security*

The French Gendarmerie's presence on the entire coastline is manifested by the maritime Gendarmerie positioning in large port facilities and by the divisional Gendarmerie's operations in small harbours. This implies a continuous presence alongside the Navy in the permanent safeguard-

[232] Groupement Blindé de Gendarmerie Mobile = Mobile Gendarmerie Armoured Batallion

ing of the sea. The maritime Gendarmerie involvement in that structure enables it to efficiently tackle illegal immigration and the drug trafficking that finances terrorist networks; it also permits the Gendarmerie to gather intelligence, to secure sensitive facilities, and to protect French coastal waters.

Its action is relayed in smaller ports by boats and divisional units that work alongside local maritime authorities on a daily basis. This close joint ministry collaboration is today reinforced by the implementation of an international legal framework that has been recently altered. In the near future, maritime Gendarmerie seagoing units will be involved in automatic intelligence gathering for maritime purposes, within the deployment of SPATIONAV phase 3.

*ISPS code enforcement*

Outside VIGIPIRATE plans, ISPS code provisions have been added to the French "droit positif" by the decree of 26 March 2004 and have been enforced since 1 July 2004. The ISPS code implementation has required involved ministries to set up a working party that joins together safety and security experts. The security visits were led, in accordance with the DAMGN, by mixed teams made up of the ISN (Inspectors of Ship Security), the DAMGN, and experts from the Gendarmerie. The headquarters of the Gendarmerie represents the Ministry of Defence, as part of the interministerial committee for the ratification of security measures, and participates in the maritime counterterrorism training of the ISN at the Merchant Navy School.

*Maritime counterterrorism intervention*

The specialised governmental plan of intervention "PIRATE MER" sets out the framework for intervention and places the Gendarmerie as the central point of action in a plan coordinated with the Navy. To this effect, the Gendarmerie is charged with outlining scenarios while working out specific training exercises.

## *Railway counterterrorism*

Aware of the importance and also the vulnerability of the rail network, the Gendarmerie has been working on this issue for many years. Its nearly nationwide coverage (3,600 Divisional Gendarmerie units covering 95 percent of national territory) allows it to act resourcefully and to carry out the securing of a TGV train or a site in quick time. The increase in rail travel caused by the TGV has sparked an increase in the risks of terrorism. This fact forces the Gendarmerie to counter this ter-

rorist threat by specially training part of its personnel. In order to provide a full response, teams of bomb-sniffing dogs are deployed as part of the rail network team. The GIGN has trained for many years in the area of rail transport.

## *Road counterterrorism*

The Divisional Gendarmerie, reinforced in certain situations by the Mobile Gendarmerie, escorts convoys of dangerous materials travelling across French soil. To provide security for this form of transport, equipment and specific training are required. It also works closely with the national NRBC unit.

Furthermore, in its mission of public security, the Gendarmerie regularly inspects the substructure of the roads. The Gendarmerie is responsible for 90 percent of the French road network. In this regard, the risk of terrorism on the involved transport is regularly assessed and is integrated into the way the GIGN acts.

## *The fight against NRBC terrorism*[233]

The attack on the Tokyo metro in 1995 showed the necessity of taking seriously the threat from NRBC. The 9/11 attacks served to reinforce the necessity of this approach and forced the SGDN to redefine the specific intervention plans for the problem issue of NRBC.[234] The Gendarmerie has adopted a plan of action comprising two levels. One level is for the units dedicated to national competence, by providing support to the local Gendarmerie units, and the other level is for the Gendarmerie units that intervene outside national territory. All this training is necessary to enable the Gendarmerie to provide a response to governmental authorities during the management of an NRBC-type crisis.

### *The national NRBC unit (C2NRBC)*

The national NRBC unit, created in June 2001, provides technical support to the units of the Gendarmerie. It is notably responsible for providing NRBC-related support to the GSIGN and its operational subdivision in Satory, with whom it is sometimes deployed. Its personnel are trained to understand and have knowledge of NRBC and also of newly implemented techniques of detection, evacuation, and decontamination.

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[233] Nuclear Radioactive Bacteriological Chemical.

[234] The PIRATOME plan, which concerns the nuclear threat, and the BIOTOX, which concerns the bacteriological threat.

Taking into account the entire range of the NRBC threat to both the civilian and military domains, the unit informs both the civilian and military authorities charged with the management of the crisis (whether a terrorist act or a technological catastrophe), and provides technical and operational advice for the police or Gendarmerie operations commanders (COPG) in a zone where a plan of action for public safety has been put in place. It participates in the creation of training exercises for the Gendarmerie units on the topic of NRBC. It also maintains established links with specialist national and international organisations in order to improve the relevant expertise of the operational capacity of the Gendarmerie.

Lastly, a unit which is under a state of alert can require any gendarme, in the event of a judicial police inquiry into a contaminated area.

*The operational subdivision NRBC, SGO NRBC*

The SGO-NRBC is made up of four squadrons of GBGM who are on a permanent state of alert. As well as carrying out the traditional missions of the Mobile Gendarmerie, their units are both prepared and trained to intervene in a contaminated area anywhere on national territory.

The SGO, a rapid intervention unit, coordinated by a tactical headquarters, if necessary can call on air support. It is systematically accompanied by a unit of the C2NRBC.

*The other components of the action plan in the fight against the threat of NRBC*

The NRBC action plan of the Gendarmerie also works at a regional and local level. In effect, the efficient regional structures allow for the deployment of two mobile Gendarmerie squadrons per defence district area, which are already armed with specific equipment (and who, close to the areas at risk, are in charge of the escorts of nuclear convoys, whether civilian or military). On the local plan, each Gendarmerie company has one or several trainers who specialise in ecology and the environment at its disposal. They give training to all French divisional gendarmes.

This basic training is the first operational level that considers the NRBC issue.

Then, any commanding level faced with an event of NRBC nature can ask at any time for support from these units, who are able to be one of the key instruments in the management of the crisis.

# The Protection of French Vital Interests in France and Abroad Faced with the Terrorist Threat

Within the framework of its strategic function, which is described in the 1994 "White Paper" on defence, the Gendarmerie is in charge of protecting vital infrastructure (sensitive areas and networks, state institutions) in France, and protecting French interests abroad, such as diplomatic buildings.

## *Protection of Sensitive Areas and Networks*

The French Gendarmerie is involved at different levels in the protection of sensitive sites.

Within the framework of its daily service, its main mission is to look for information in the vicinity of sensitive areas and networks. This involvement is managed by the OCR[235]. He is in charge of coordinating and boosting information research and deals with its centralisation and daily management. Finally, he is the main contact for all the functional authorities of the sensitive areas and networks concerned (including state, administrative, and judiciary authorities).

The Gendarmerie also draws up particular plans and operation orders relating to the organisation of the defence of these sensitive areas and networks. Within this framework, as a member of the CIPRS,[236] it participates in audits to assess the safety of these set ups. In times of crisis or of DOT,[237] the Gendarmerie deals with the external security of these sensitive infrastructures. It is involved in their internal defence only in the case of a terrorist attack.

## *Protection of VIPs*

The Gendarmerie participates in the protection of people important to the state, in both France and abroad. Therefore, in 1983, it put in place an innovative structure to protect the Chief of State by creating the GSPR. Since then, this unit has worked in close collaboration with the whole of the services and protection units for French and foreign VIPs. Its military statute naturally marks it to ensure the protection of impor-

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[235] Officier centralisateur du renseignement = Information Gathering Officer

[236] Commission interministérielle des points et réseaux sensibles = Interministerial Commission for Sensitive Areas and Networks

[237] Défense opérationnelle du territoire = Inland security in case of a threat or aggression against the national territory

tant military personnel, who are sensitive on the national territory (EPIGN, Air Force Gendarmerie, Arms and Ammunitions Gendarmerie) as well as personalities who are particularly vulnerable in some countries where France and its interests can be threatened (EPIGN).

### *Protection of Diplomatic Interests on the National Territory and Abroad*

Faced with a terrorist threat, the French Gendarmerie has a significant capacity to increase its power, relying on a permanent plan for the protection and the security of embassies, which can be reinforced by GM and EPIGN officers, according to the level of threat. In effect, this issue is currently controlled by the GSIGN, whose capacity of projection and interoperability with military structures gives it a particular ability to act abroad. The EPIGN has vast experience, and share these skills among several French services in the diplomatic buildings or in sensitive metropolitan sites. Gendarmes carry out missions as security guards in two-thirds of the French diplomatic representation, within the framework of the permanent security of diplomatic missions. If needed, mobile or divisional gendarmes – or even GSIGN officers – can provide a temporary reinforcement of the security guards plan for the security of state representatives, or even of the NRBC capacity. Moreover, the Gendarmerie has developed an expert capacity by participating in assessments of the protection plans of diplomatic buildings, carried out by the CSI.[238]

## The Involvement of the Gendarmerie on the International Plan

With respect to the inland security forces, the Gendarmerie is present in all the national authorities dealing with the fight against terrorism as well as within international organisations (EU, Europol, NATO, G8, etc.). The French Gendarmerie, which is an active member of the work group "G8 Roma Lyon," participates in all work linked with counter-terrorism issues.

It also intervenes and plays a part in specific topics where its civilian and military experience gives it a great deal of credibility. Thus, the "Maritime Gendarmerie," for instance, participates in work meetings

[238] Comité de sécurité interministériel = Interministerial Security / Safety Committee

with other European countries. It also participates in the putting in place of European maritime coordination centres for the fight against illegal immigration in Spain and Greece. It is also involved in combined forces exercises, particularly with Spain and Italy, in order to improve reaction capacities when faced with a terrorist threat. Within the CEPOL,[239] the Gendarmerie participates in training dedicated to the fight against terrorism. There experts and trainers explain its involvement and actions, and trainees are sent to the different annual sessions organised by the member states of the EU. On theatres abroad, it participates in multinational operations in the fight against terrorism.

Wiser for its experience and for the conclusions it draws from its constant surveillance, the GSIGN contributes, through its training Centre, to display know-how and skills, which are essential to manage and tackle crises. Thus, it provides international coverage to prevent risks and to assess threats, as French strategic policy decrees.[240] In the framework of the European policy of Security and Defence, the Gendarmerie develops antiterrorist strategies through the capacities permitted within the European Union in the context of European policy forces and within the European Gendarmerie forces. These are in the process of being set up with four partners: Spain, Italy, the Netherlands and Portugal.

## Conclusion

In accordance with the traditional roles fulfilled by its large subdivisions and its highly specialised devices, the Gendarmerie is one of the principal parts of the crisis plan, notably the specialised plans of the government for the "pirate" families.

Indeed, it can mobilize a high reinforcement capacity very quickly using not only the mobile Gendarmerie, but also the 40,000 personnel of the operational reserve, which allows for the reinforcement of the active personnel in a flexible way during missions.

Moreover, it has specialized units capable of intervening in the case of a serious situation that involves a terrorist action. The Gendarmerie takes into account the whole measures relating to the security for a terrorist attack. It enables it to proceed in an interdepartmental – indeed, international – environment. Therefore, the Gendarmerie can provide a warning and the first response for the state in the event of a terrorist threat, not only throughout the national territory, but also at the bor-

[239] Collège Européen de Police = European Police College

[240] 1994 "White Paper" on Defence structures the defence of France around four strategic functions: protection, prevention, deployment and deterrence.

ders. The Gendarmerie is extremely flexible, which enables it to increase its power according to the threat and to bring the appropriate tools in the event of a major crisis. The Gendarmerie is well assimilated among other national mechanisms for the fight against terrorism. It is a military force, which provides police missions and can act in an interdepartmental or international environment. The Gendarmerie offers excellent solution to the issues of terrorism, which includes both strict ways of operating and a perfect respect for the legal framework imposed by the French conception of a constitutional state.

The current thoughts concerning the land and rail transportation network and their protection and adaptation to the NRBC threat is that the use of new technology could provide the "missing link" in the fight against terrorism, and that the Gendarmerie wants to be proactive. It has developed projects that provide an assessment of its own skills. The participation of its units in the fight against terrorism in major public events (G8 summit in Evian, sixtieth anniversary of the D-Day Normandy Landings) proves this.

# Private Military Firms

MARINA CAPARINI

For the first time in the history of the modern nation-state, governments are voluntarily surrendering one of the essential and defining attributes of statehood: the state's monopoly on the legitimate use of force. This leads to the privatization of war and conflicts.[241]

The peace dividend, the downsizing and modernization of armed forces following the end of the Cold War and apartheid, the overextension of American and Western militaries deployed abroad, and the transition of national security away from risk avoidance to a risk-management focus have increased the trend toward the outsourcing to private military firms of functions previously performed by the military.[242]

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[241] This study is the basic document. It has been discussed at DCAF's International Advisory Board in May 2004 and will be extended and published in a different DCAF document later in 2004/05.

[242] There are various terms and overlapping definitions presently used in the literature. One of the more systematic systems of classification is provided by P. W. Singer, author of *Corporate Warriors*, who employs the term **privatized military firms** to refer to the entire industry of business organizations that trade in professional services intricately linked to warfare. He further breaks down the industry into three subsectors: **military support companies**, which handle logistics such as feeding and housing troops, provide rear echelon technical support, and supply chain management, transportation and services; **military consulting firms**, which train and advise police, paramilitary and military institutions, and may offer strategic, operational, and organizational analysis crucial to the functioning or reform of armed forces; and **military provider firms**, which provide direct military assistance ranging from training programs and staff services to armed personnel for both guard duties and front-line combat. It is this last category that raises the most questions about accountability. Within this last category, one could also distinguish between extralegal, clandestine **mercenary** groups who fight for financial gain in foreign conflicts that are primarily used by nonstate armed groups and more occasionally by governments, and corporate groups that seek to be considered legitimate, operate in accordance with international law, and claim to work only for established governments. Additionally, the term **private military companies** has been used to describe corporate entities providing offensive services designed to have a military impact on a given situation and are generally contracted by governments, while the term **private security companies** has been used to describe corporate entities providing defensive services to protect individuals and property, frequently used by multinational corporations in the extractive sector, humanitarian agencies, and individuals in situations of conflict or instability.

Since the end of the Cold War, seven million servicemen have been pushed onto the employment market with little to peddle but their fighting and military skills. The booming private military and security sector has soaked up much of this manpower and expertise, which entails replacing soldiers wherever possible with much better paid civilians, formerly expensively trained by the state, but not subject to standard military disciplinary procedures.

Demand for services provided by private military firms (PMFs) increased after the 9/11 attacks, when many corporate executives and government officials increased their security overseas. However, with the occupation of Iraq, demand for PMF services has exploded, where an estimated 15,000–20,000 civilian contractors now provide a spectrum of security-related services.

The end of bipolar confrontation and the withdrawal of military patronage left a power vacuum in certain regions and countries affected by conflict. In some places, this has been filled by private military and security companies hired by warring factions. Their role relates not only to provisions contained in the contracts to provide weaponry, but also how they and their training contribute to the demand for weapons in the regions where they operate. The opening up of the international arms trade to an increasing number of buyers and sellers has allowed a broader number of different actors to access weaponry. And there are a number of ways in which private military and security companies are involved in arms proliferation that need to be taken into consideration at the UN Small Arms Conference, where the arms procurement and brokering issue has become a major focus for concern.

The absence of regulation in the private provision of military and security services – and thus the difficulty of democratic control – and the inadequacy of measures to hold private military firms and their employees to account for their actions are of particular concern.

To date, action to control PMFs has been *ad hoc* and sporadic. While most countries recognize the need to prohibit the activities of mercenaries, few have developed laws to support the international agreements that exist (UN, OAS). The more complicated matter of corporate military provider firms has been left largely to self-regulation and corporate responsibility, with only a few countries (South Africa, United States, France) developing and implementing specific laws on this issue. There is a need for states to control not only the role of these actors in the arms trade, but also their provision of military and security services.

There are difficulties in applying international law and the Geneva conventions to PMFs. The personnel of PMFs are individually liable under international humanitarian law, the UN and EU Declaration of Human Rights, and aspects of international criminal law. However, this is a highly theoretical proposition, as PMFs usually operate in weak states that do not have adequate legal and judicial systems, even if they are

made accountable for hiring PMFs by entering into a contract with them. Moreover, the companies, as opposed to the individuals that work for them, do not fall within many aspects of international law and would not, for instance, come within the Statute of the International Criminal Court. Thus the most appropriate means for holding PMFs accountable is to make their home government responsible for their activities.

There are also questions of the applicability and enforcement of national laws. If a U.S. soldier uses his weapon in an off-duty bar brawl, he is subject to the U.S. judicial military code. But if an employee of a military provider firm uses his weapon on guard duty, he is answerable to the law of the nation where he is deployed. However, since PMFs frequently operate in "failed states" where national law is notional, there is the risk that PMF employees can get away with murder, sex slavery, rape, human rights abuse, etc. There are the issues of subjecting PMF employees to the same rules of engagement as foreign troops, of their being licensed to kill, and the fact that private civilians are now operating some of the most sophisticated weapons systems available.

Governments may see in PMFs not only a means of saving money but a way to use a low-profile force to solve awkward, politically sensitive, or potentially embarrassing situations that develop on the fringes of policy. Since PMFs are willing to go where the government would prefer not to be seen, they offer a way to create conditions for "plausible deniability" and may be used to carry out operations that would be expected to meet with public or legal disapproval, or operations that sidestep legislatively imposed limits on military operations and force levels. PMFs enable states to wage wars by proxy, without the parliamentary and public oversight to which conventional deployments are subject, and they are politically less problematic when it comes to casualties. PMFs thus are a means of reducing the political risk and repercussions of sensitive missions.

The problem of defining PMFs: While there have been numerous attempts to define the different kinds of enterprises which operate in the sector, in practice, the categories of companies will often merge into one another. Moreover, all companies evolve according to circumstances, making a consistent categorization of them as entities difficult. Clarity over which activities are permitted and which are proscribed appears to be essential for any legislative measures regulating this sector. However, it is not always the activity itself that can be judged as legitimate or not, but rather the consequences of that activity taking place in a given scenario.

## Related Issues and Uncharted Territory

PMFs do not pursue national, UN, or EU policy: being profit-driven, their primary aim is to make money. How will that affect the provision of what is perhaps the ultimate public good—national security?

Issues like loyalty, ideology, and national interest are not taken into account.

Certain states are now facing serious retention problems in their special forces, as they lose highly trained personnel to the significantly better-paying private military firms. What effect is the PMF industry having on career strategies of military officers?

Increased reliance on outsourcing to PMFs also raises questions of the longer-term effect on governments' planning, strategy, and decision-making processes and capabilities.

## Models and Alternative Options

PMFs represent the newest addition to the modern battle space, and their role in contemporary warfare is becoming increasingly significant. PMFs are now so firmly embedded in intervention, occupation, and peacekeeping duties that the phenomenon may have reached the point of no return: The U.S. and UK militaries would struggle to wage war without PMFs. The proportion of contracted security personnel in Iraq is now ten times greater than during the first Gulf War. In 1991, for every private contractor, there were about 100 servicemen; now there are only ten. Official figures list the British as contributing the second largest number of troops, with figures around 9,900 – and thus they are outnumbered by the 10,000 to 20,000 private military contractors now on the ground in Iraq. Consolidation is evident in the U.S. Department of Defense's aspiration that civilian contractors should account for 50 percent of deployed manpower in all future operations. Since there is the risk that things may get out of hand and that PMFs could become small armies, there is a need for regulation.

The increase and diversification of activities of PMFs, as well as their expanding customer base, has prompted a number of governments to consider adopting legislation. In the United Kingdom, the government issued on February 2002 a "Green Paper" meant to outline various options for regulating PMCs and PSCs. Six possibilities were laid out, ranging from an outright ban on military activity abroad to a general licensing scheme and even a self-regulatory system.

To date, the 1998 South African Regulation of Foreign Military Assistance Act is the most far-reaching national legislation dealing with mercenaries, PMCs, and PSCs. Mercenary activity is banned under the

Act. Its wider purpose is, however, to regulate foreign military assistance, defined as including: "advice and training; personnel, financial, logistical, intelligence, and operational support; personnel recruitment; medical or paramedical services or procurement of equipment." The rendering of foreign military assistance is not proscribed under the Act but instead controlled by a licensing and authorization procedure under the competence of the National Conventional Arms Control Committee. The Act includes extraterritorial applications and punitive powers for those that do not abide by it. However, to date it has been enforced only to a limited degree and controversy has surrounded its practical application.

The U.S. regulations are of equal interest: arms brokering and the export of military services are covered under the same legislation, the International Traffic in Arms Regulations, overseen by the U.S. State Department's Office of Defence Trade Controls. Under ITAR, registered companies must apply for licenses before signing contracts with foreign clients, and failure to do so is a punishable offence. Once a contract has been signed between a company and a foreign government, the State Department continues to monitor and regulate the flow of assistance and weapons, while U.S. Customs enforces the regulations. However, there are few provisions for information to be provided to Congress. This lack of transparency and controversial use of military contractors by the government has been highlighted in a couple of cases, among them the military aid package to Colombia, which relies heavily on PMFs to carry out its counternarcotics strategy.

If governments or international bodies intend to employ PMFs in the future, they must first establish regulatory control. Given the new corporate nature of Western PMFs, such regulations would be easy to enforce, if an interlocking framework of national, regional, and international control mechanisms is provided for. To achieve sufficient regulatory control, the priorities for states include:

1. Ratification of relevant international and regional legal instruments
2. Introduction of controls over arms brokering and shipping agents into the scope of arms export controls that recognize the role played by PMFs
3. Development of national legislation to control the activities of PMFs
4. More rigorous implementation of UN arms embargoes and sanctions that include in their scope PMFs and the technical assistance that may accompany arms transfers
5. Support for the continuation and broadening of the mandate of the UN Special Rapporteur on mercenaries to include PMFs
6. Development of international measures to share information on PMFs

7. Promotion of measures to ensure that employers of PMFs introduce sufficient safeguards to prevent breaches of human rights standards, international humanitarian law, and other relevant aspects of international law by PMF personnel
8. Promotion of security sector reform programs that lead to accountable PMFs with proper civilian oversight and control so as to reduce the need for private contractors engaging in combat and support efforts to combat illicit trade in arms

## Alternatives to the Use of PMFs

Most international conflicts are relatively easy to handle, as they are initiated by one party's breach of the peace, for example, in the form of an attack on another state, which clarifies the legal and international law aspects of the case. Such conflicts are usually terminated with a ceasefire and a clearly demarcated separation of the warring parties.

Along this line of demarcation, UN or other armed forces are deployed, usually with a mandate from the UN Security Council, with the mission of ensuring the lasting separation of the warring parties. The rule of the game for such "interpositioning forces" is impartiality, the main task is observation, and the use of force is the exception, only resorted to in self-defence. The risks to the troops are limited and the requirements in terms of weapons and equipment are usually rather modest. This was the case with the deployment of UNMEE after the truce between Ethiopia and Eritrea, a traditional peacekeeping mission in most respects.

Much more complex is the setting in the aftermath of an intrastate conflict, be it a civil war or the collapse of a state – the majority of armed conflicts in recent years. Often there are not two but a plurality of conflicting parties and the end of hostilities is frequently marked by a ceasefire agreement merely signed by some of the parties, who are rarely able to implement it satisfactorily. Hence, the truce is usually fragile, seldom with any clear line of demarcation between the parties to patrol, and there is a risk of peacekeepers ending up under fire. The impartiality rule is hard to apply where the very identity of the parties may be unclear, and where there is a constant risk of "mission creep" – a mission developing so unpredictably that the initial mandate may be rendered inadequate. For such deployments, more muscular equipment is indispensable, and there is a significant risk of casualties from the ranks of the peacekeepers.

## Military Alternatives

The available alternatives may be subdivided into three categories – leaving aside the option of doing nothing at all, even in the case of genocide, chaos, starvation and misery, or of confining assistance to humanitarian aid. The tasks can either be shouldered by armed forces from the North, the industrialized world; the South, the Third World; or by local forces.

Regular forces from the North would be the ideal solution for all of the tasks because they are generally well trained and have access to an immense support structure in their homelands. Certain of them, especially U.S. forces, may not have much experience with complex peacekeeping missions nor the will to learn from others. But other countries – small and medium powers such as the Nordic countries, the Netherlands, and Canada – have decades of experience with these kinds of missions. Moreover, fairness demands that contributions are proportional to economic and military weight, hence NATO allies should assume most of the responsibility. Unfortunately, nothing seems to indicate that the rich countries are willing to do so, especially not in Africa. Not only have they allocated a large part of their forces to the Balkans and Afghanistan, but their general interest in Africa has declined considerably.

Regular troops from Third World countries are the obvious alternative. Hence the attraction of regionalization, allowing the North to pass the problem on to the South. Though regional forces have some advantages in terms of familiarity with local conditions, this approach is not without problems: for example, they will often be suspected of pursuing hidden agendas in their regional neighbourhood.

Local troops would be then the obvious alternative, if it were not for the fact that they have usually been among the warring parties in the intrastate conflicts. Thus, they are often part of the problem rather than a possible means to its solution. Moreover, they are often of mediocre to poor quality and their equipment inadequate for the task, unless they are armed, equipped, and trained either by other countries or by PMFs.

All of the above problems have made some advocate the use of PMFs for international peacekeeping missions. Either present practices could continue where PMFs are occasionally hired for specific tasks on an *ad hoc* basis, or a more formalized practice could be developed.

Northern countries could make use of PMFs for peace operations in the South as an alternative to sending their own troops, or of tasking troops from the South. The latter option often implies the use of conscripted troops from other countries, which is hardly more ethically justifiable than the use of mercenaries, as the latter are, after all, volunteers and adequately compensated for their risks and inconveniences. The countries of the North might thus meet their obligations as UN mem-

bers without sacrificing anything but money. One can also imagine the UN itself making use of PMFs, either *ad hoc* or on a more permanent basis.

In many scenarios, a rapid deployment of even small forces could make a big difference. It has been estimated that a force of a mere 5,000 troops could have prevented the 1994 Rwandan genocide, which had a death toll of around 800,000, mainly civilians. Considering the limited numbers and primitive equipment of most of the local forces, a military provider firm could probably have recruited the requisite forces to defeat them – and the price for such a limited deployment would surely have been worth paying.

What stands in the way of such options is primarily the stigma that remains attached to "mercenaries." This raises the question as to whether it might be possible to regulate the use of PMFs to such an extent that they could be accepted as legitimate military instruments.

## Which Countries Do It and How

The privatized military industry has become a big business. Several hundred companies operate in over 110 countries all over the world, the majority in the service of states like the United States, the United Kingdom, Russia, and Israel – among numerous other nations. The hard fact is that an increasing number of countries cannot go to war without PMFs. In the United States, the shift in policy came with Executive Order 12333 during the Reagan-Bush period, under which so-called "national security" and "intelligence" functions were allowed to be privatized. Today, U.S. armed forces rely on PMCs to maintain 28 percent of all weapons systems.

PMFs have been critical players in a number of conflicts, and in many, the determinate actor. The end of apartheid in South Africa and the subsequent restructuring of the armed forces was an important factor in the formation of Executive Outcomes (EO), one of the most well-known military provider firms, dissolved at the end of 1998. Another example is Papua New Guinea, which was the setting for the well-publicized aborted 1997 intervention by Sandline International. Both EO and Sandline were hired on separate occasions by President Kabbah of Sierra Leone in his efforts to defeat the Revolutionary United Front (RUF), which had kept his democratically elected government from ruling the country.

The contrasting experiences in Sierra Leone between EO and the UN's peacekeeping operation are the most often cited example of priva-

tization's promise. In 1995, the Sierra Leone government was near defeat from the RUF, a nefarious rebel group that chopped off the arms of civilians as a terror tactic. Supported by multinational mining interests, the government hired EO, made up of veterans from the South African apartheid regime's elite forces. Deploying a battalion-sized unit of assault infantry numbering in the low hundreds, supported by combat helicopter, light artillery, and a few armoured vehicles, EO successfully quashed the rebel movement in a span of weeks. EO drove the rebels out of the capital, Freetown, retook key mines from the RUF, destroyed its headquarters, and maintained peace during the 1996 and 1997 elections. However, the withdrawal of an IMF loan due to the mercenaries' presence made it impossible for Kabbah to pay EO. The group's withdrawal led to a coup ousting Kabbah less than three months later. During the twenty-one months that it was in Sierra Leone, EO's costs were just $35 million. Despite having a budget and personnel size nearly twenty times that of EO's, the UN force took several years of operation to come close to the same results.

In 1998, Sandline was hired to finish what EO had started. Its involvement in Sierra Leone again restored Kabbah to power, but controversy quickly arose in the United Kingdom, when Sandline came under investigation by the Department of Customs and Excise for alleged violations of an UN arms embargo in Sierra Leone. The controversy only deepened when Sandline claimed that it had the support of the British High Commissioner in Sierra Leone and the tacit approval of the British Foreign Office. Sandline was forced to withdraw after a peace accord with the rebels was hastily signed and the RUF leader was installed as vice president under Kabbah. When further bloodshed followed Sandline's withdrawal, British troops were sent along with a UN peacekeeping force.

This shows that mercenaries can be an effective tool in ending conflict, but can also lead to further chaos if not part of a long-term plan. The question is whether they are better suited to such efforts than UN peacekeeping forces or those of other governments. As Sandline's former chief Tim Spicer said in 2000, it was much cheaper for the British government to pay Sandline $1.5 million than the £350 million it is costing to maintain British troops and the UN operation.

Low cost, however, does not eliminate the moral issue. Without proper regulation by an organization such as the UN, military provider firms cannot be counted on to adhere to the same ethical standards as national military forces party to international agreements such as the Geneva Conventions. There are some commendable attempts at self-regulation, such as those of Sandline, which claims only to "undertake projects for internationally recognized governments, preferably democratically elected, international institutions such as the UN, and genuine, internationally recognized and supported liberation move-

ments."[243] But if governments are to allow PMFs to intervene in the future, they ought to be held to strict standards of conduct. Responsible companies such as Sandline are not likely to commit egregious ethical errors, but their regulation would make them more appealing to legitimate governments as tool of foreign policy. For this reason, military provider firms may even welcome international oversight.

In Annex A, the British "Green Paper" contains eleven pages on Africa's experience from the 1950s through the 1990s with mercenaries. Other lesser-known cases include:

- In Sri Lanka, the government has hired PMF pilots to fly gun ships.
- In Nepal, ex-Gurkha soldiers have formed a PMF of their own, *Gurkha Security Guards*.
- In Cambodia, a French PMF provides demining services.
- In the Philippines, the number of PMF employees almost outnumbers the police or the army. *Control Risks Group* provides security planning for mine sites. *Grayworks Security*, a Filipino company, provides military training to government forces.
- In Taiwan, PMFs provide advisory services to the military.
- In Angola, the government makes it a requirement for foreign investors that they provide their own security by hiring PSCs.
- In Saudi Arabia, U.S.-based PMFs practically run the armed forces, with defence contractor *BDM*, parent of *Vinnell*, providing logistics, training, and advisory services to the Saudi forces. *Vinnell* itself trains the Saudi National Guard, while *Booz-Allen & Hamilton* runs the military staff college, *SAIC* supports the navy and air defences, and *O'Gara* protects the royal family and trains local security forces.
- In Kuwait, *DynCorp* supports the air force.
- In Afghanistan, 150 employees of *DynCorp* are guarding President Karzai and other leaders of the Afghan government.
- In Russia, tens of thousands of demobilized soldiers from the former Soviet armed forces have joined PSCs, of which 12,000 are now registered. One example is the Moscow-based *Alpha* firm, founded by former KGB Special Forces personnel, which has a link to the international *ArmorGroup* firm. Contract soldiers have been found alongside regular forces in Chechnya and have defended facilities in Azerbaijan, Armenia, and Kazakhstan.
- In East Timor, Australian forces leading the UN Transitional Administration peacekeeping force in 1999 were dependent on logistics outsourced to PMFs, while the UN employed private intelligence and security firms to assist.

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[243] See: http://www.sandline.com/company/index.html. Also see the paper by Sandline International. *Private Military Companies — Independent or Regulated?* (28 March 1998).

- In Malaysia, *TASK International* trained the Royal Malaysian Police in hostage rescue, close protection of infrastructure and people, defensive driving, and crisis management for the Commonwealth Games held in September 1998 in Kuala Lumpur.
- In Indonesia, *Executive Outcomes* provided training and support to the Indonesian Special Forces in hostage rescue operations in 1996. The training was to aid the Indonesian Special Forces in an operation in West Papua (Irian Jaya).
- In Brunei, Nepalese Gurkha battalions that formerly served in the British Army are in charge of territorial defence.
- In Israel, revenues generated by PMFs are said to surpass defence expenditures. Israel-based PMFs such as *Levdan*, *Ango-Segu Ltd.*, and *Silver Shadow* have worked in the Congo, Angola, and Colombia.
- In Liberia, *Intercon Security* personnel guarding the U.S. Embassy have fought during the rebel sieges.
- In the South China Sea, PMFs like *Trident* have taken on antipiracy duties. *Marine Risk Management* and *Satellite Protection Service (SPS)* deploy airborne mercenaries to deal with piracy.
- In Colombia, *British Petroleum* hired a PMF to work with a battalion of the Colombian army for the guarding of pipelines. U.S. PMFs are engaged in cocaine eradication, flying crop-duster spray planes, and tracing drug smugglers.

*In Table 1, the British "Green Paper" lists the following examples of activities and users of PMFs:*

| **Activities & services provided** | **Examples of companies** | **Main users of services** |
|---|---|---|
| Combat and operational support | Executive Outcomes<br>Sandline International<br>Gurkha Security Guards | governments |
| Military advice and training | DSL, MPRI, Silver Shadow<br>Levdan, Vinnell, BDM | governments |
| Arms procurement | Executive Outcomes<br>Sandline International<br>Levdan | governments |
| Intelligence gathering | Control Risk Group<br>Kroll, Saladin, DynCorp | governments<br>multinational companies |
| Security and crime prevention | DSL, Lifeguard, Group 4<br>Control Risk Group<br>Gurkha Security Guards<br>Grey Security<br>Coin Security | multinational companies<br>humanitarian agencies |
| Logistical support | Brown & Root, DynCorp<br>Pacific Architects & Engineers | peacekeeping groups<br>humanitarian agencies |

While no authoritative figures are available, there are estimates that PMFs generate $100 billion in annual global revenue. Since 1994, the U.S. Department of Defense alone has entered into more than 3,200 contracts, valued at more than $300 billion, with twelve of the thirty-five U.S.-based PMFs. Some 2,700 of those contracts were held by just two companies: Kellogg, Brown & Root, a subsidiary of Halliburton; and Virginia-based management and technology consulting firm Booz-Allen & Hamilton Inc. Seventeen of the leading PMFs have invested more than $12.4 million in congressional and presidential campaigns since 1999. In 2001, 10 PMFs spent more than $32 million on lobbying.

Following are some examples of PMFs:

**Military Professional Resources Incorporation** (U.S.): Founded in 1987 by retired senior military officers, some former Chiefs of Service and Commanders in Chief, and civilian leaders, and closely linked to the U.S. administration. MPRI, based in Alexandria, Virginia, has some 700 full-time employees, standby arrangements with more than 2,000 former officers, and more high-ranking military officers per square meter than the Pentagon itself. It provides a wide range of services to the U.S. government and, under license by the U.S. government, to a number of foreign countries. Engagement ranges from assisting ministries of defence establish policies, procedures, and strategic plans; doctrine and force development; training and equipping of armed forces; simulation centres and combat training centres; assisting armed forces in democracy transition efforts; working with armies to attain greater efficiencies, economies, and effectiveness; working with legislators to provide effective oversight; humanitarian and peace operations; etc. It taught tactics to the Kosovo Liberation Army in the weeks before the NATO bombing campaign. Its collaboration with the Colombian military in the drug war became a case study in PMC mismanagement. In 2001, the Pentagon chose not to renew its Colombian contract. A wide range of programs continue in Africa, newly independent states of the ex-USSR, Asia, and the Middle East.

**DynCorp** (U.S.): Based in Falls Church, Virginia, DynCorp won a $50 million contract to send 1,000 ex-policemen and security guards to Iraq to train the new police force. It reported $1.96 billion in revenue for 2001, $6.8 billion in contract backlog, and a global network of more than 23,000 employees, providing a broad range of military services from building camps, protecting borders, running the Naval Air Warfare Center, providing escorts in the Gaza Strip, and protecting Afghan president Karzai. Together with Pacific A&E, it has recruited and managed the U.S. contributions to monitoring operations in the Balkans and was involved in the Kosovo monitoring force.

**Vinnell** (U.S.): Used extensively in Vietnam. Now a subsidiary of Northrop Grumman, it has been hired for $48 million to train the nu-

cleus of a new Iraqi army. It has a long presence in the former Yugoslav republics, where it helped Croatia and Bosnia and Herzegovina build up their military forces during the secession wars of the 1990s. Northrop Grumman received up to $1.2 billion to fly planes that spray suspected coca fields and monitor smugglers in the war against drugs in Colombia.

**Halliburton** (U.S.): Through its subsidiary, Kellogg, Brown & Root, it landed two contracts worth more than $1.7 billion for such services as building and managing military bases, providing logistical support for the 1,200 intelligence officers hunting Iraqi WMDs, delivering mail, performing bug control on U.S. bases, producing millions of hot meals, and repairing oil fields. In the Balkans, it provides U.S. forces with everything from water purification to repatriating bodies.

**ITT** (U.S.): Supplies armed guards, overwhelmingly U.S. private citizens, at U.S. installations.

**Global Risk Strategies International** (UK): Based in Hampton, Middlesex, it provides security for the coalition provisional authority, U.S. Department of Defense, USAID, and the UN in Iraq. Uses more than 1,100 Gurkhas, ex-SAS and ex-Special Boat Service personnel, former Fijian paramilitaries, etc.

**Northbridge Services Group Ltd.** (UK): Has staffing from organizations such as the CIA and American and British special forces. It offers a wide range of services designed to meet the needs of most organizations: whether strategic advice, intelligence support, humanitarian disaster relief, counterterrorism, support for law and order, or close protection teams.

**Erinys International** (UK): Awarded a $40 million contract to guard oil sites and pipelines in Iraq. Is chock-full of former South African special forces training 6,500 Iraqis to guard oil infrastructure.

**Rubicon International** (UK): Partner with Erinys in many projects, including in Iraq.

**Olive Security** (UK): Provided security for TV crews during the war. Was awarded initial security contract by U.S. contractor Bechtel.

**Control Risks Group** (UK): Hires armed guards to protect officials from Whitehall, aid workers, and businesses.

**Janusian Security Risk Management** (UK): Subsidiary of Risk Advisory Group. Was running Western trade delegations into Baghdad.

**International Peace Operations Association** (IPOA): An association of military service provider companies who work or are interested in international peace operations around the world. This includes companies that do everything from armed peacekeeping to mine clearance, armed logistics, and emergency humanitarian services.

**Isec Corporate Security Ltd.** (UK): A PMC specializing in all forms of military combat and training. Claims to have some 1,200 hand-picked ex-British special forces, recruited solely from the Special Air Service

(SAS), Special Boat Squadron (SBS), and Airborne and Marine Commandos. A self-contained force available for missions in any theatre of operations. Has extensive experience in Africa.

**Genric Ltd**. (UK): Has set up unit outside Basra providing armed site security and armoured vehicle hire.

**Sandline International**. Owned by a holding company, Adson Holdings, closely linked to Heritage Oil & Gas and Diamondworks, and directed by a group of former UK and U.S. military officers. Even though the company operates out of offices in London and Washington D.C., it is registered in the Bahamas. Sandline places great emphasis on having only legitimate governments and international organizations among its customers. Its main activities have been in Papua New Guinea and Sierra Leone.

**Secopex** is the first French PMC. Created in April 2003 by former members of elite forces of the French army, it responds to the increasing demand of security matters requiring specific knowledge and experience in military matters. Composed of some 365 experts coming from elite units of DoD, Interior, and other government security agencies, it can provide a complete selection of assistance activities linked to safety, security, training, logistics, organization, and operations. Collaborating with an international network of specialists, it has recently opened an office for North Africa in Algiers.

## Pros and Cons

### *Pros*

- Contracting out to private companies, agencies, or other intermediate types of administration has a place in efficient government—and there are functions that PMFs perform better than governments. According to U.S. Secretary of Defense Donald Rumsfeld, using contractors saves money and frees up the military to concentrate on its core mission.
- In some circumstances, PMFs are better placed for rapid deployment and may be able to provide training, resources, and security services more efficiently and effectively than states are able to. Such PMFs have the potential to make a legitimate and valuable contribution to international security.
- PMFs can bring stability to conflicts in the developing world. Stabilizing "failed states" is important for reducing the threat of international terrorism and organized crime, and the provision of security is a prerequisite for such stabilization. Despite the prevailing distaste for mercenaries, the record of some military provider firms speaks to

their potential for resolving conflicts and establishing peace and order in countries that would otherwise be ignored by the world's leading powers.

- Today's world is a far cry from the 1960s and 1970s, when PMF activity usually meant mercenaries of the rather unsavoury kind involved in postcolonial and neocolonial conflicts. Today's military provider firms are fundamentally different from mercenaries—the critical factor being their modern corporate business form. They are hierarchically organized into incorporated and registered businesses that trade and compete openly on the international market, link to outside financial holdings, recruit more proficiently than their predecessors, and provide a wider range of military services to a greater variety and number of clients. Many of those currently providing military and security services to international institutions, multinational corporations, and national governments do so competently, efficiently, and legitimately.
- PMFs already provide extensive support to intergovernmental organizations such as the UN, NATO, and the EU, as well as NGOs, international humanitarian organizations, and multinational companies. The services they provide include security guarding; technical, maintenance, and logistic support; and demining.
- Regulation of PMFs may help to distinguish between the reputable and disreputable private sector operators, to encourage and support the former while eliminating the latter. The penalties applicable to PMFs that breach regulations must be sufficient to deter companies from embarking upon operations which might lead to human rights violations.
- Most of the people involved in PMF activities are former highly trained professional and vetted soldiers who understand that their chances of continuing in work are pretty slim if they behave in an unacceptable way.
- Contracting out ensures that the government does not have to undergo the political risk associated with sending soldiers into situations that are little understood or supported domestically. Moreover, casualties of PMF employees would not cause the same political problems that the deaths of a country's nationals do.

### *Cons*

- If a national government has any role at all in guaranteeing the country's security, it must recruit and maintain the country's armed forces. To delegate this function is to abdicate an essential responsibility of government that raises immense questions of sovereignty.

Buying private military providers and mercenaries is tantamount to privatizing national security. Doubts would exist about the legitimacy both of the force and of the government that purchased it.

- In the 1960s and 1970s, PMFs gained a reputation for brutality and exploitation, through their involvement in the decolonization process. The enduring image of those who work for them is that of "dogs of war" that are often perceived to be operating outside of the law. Moreover, there are concerns about the transparency, probity, and attitude toward human rights of PMFs, especially military provider firms. Commercial incentive to refrain from human rights abuses and to uphold international humanitarian law is unlikely to apply where PMFs are confident that they will not be found out.
- A 1999 Report of the UN Commission on Human Rights concludes that mercenaries base their comparative advantage and greater efficiency on the fact that they do not regard themselves as being bound to respect human rights or the rules of international humanitarian law. Greater disdain for human dignity and greater cruelty are considered efficient instruments for winning the fight. The participation of mercenaries in armed conflicts and in any other situation in which their services are unlawful may jeopardize the self-determination of peoples and always hampers the enjoyment of the human rights of those on whom their presence is inflicted.
- Mercenary forces have long been stigmatized as profiteering opportunists devoid of any allegiance to the cause for which they fight. Their use, whether for national or international security, is considered too drastic a step, since their main obligation is to their employer, not to their country. Since PMFs are profit-driven organizations, there is the risk that anyone with enough money could hire a PMF to fight for his side.
- There will always be concern over PSCs' and PMCs' relationship with oil and mining companies operating in some of the more lawless parts of the developing world, and over their often-perceived role as covert proxies for Western governments. The stigma attached to PMCs means that their use is a public relations disaster waiting to happen. Moreover, there are the risks that PMC involvement can prolong a war and of states losing control of their military policy to militaries outside the state system, responsible only to their client, managers, and stockholders.
- Use of PMFs introduces a host of problems, stemming above all from the fact that PMFs are not as accountable as military personnel. Checks and balances that apply to national armed forces can seldom be applied with equivalent strength to PMF employees. Operating outside the bounds of military command and justice, PMF employees are under no obligation to put themselves at risk. And PMFs may have no compunction about suspending a contract if the situation be-

comes too risky, in either financial or physical terms. Because they are typically based elsewhere, and in the absence of applicable international laws to enforce compliance, PMFs face no real risk of punishment if they or their employees defect from their contractual obligations. Moreover, technical issues, like contract problems, may lead to a PMF operation ending without regard to a military rationale.

- The use of contractors also hides the true costs of war. Their dead are not added to the official body counts. Their duties and profits are hidden by close-mouthed executives who do not give details to legislators and apply strict rules of confidentiality to their work and client relationships. And as their coffers and roles swell, companies are funnelling earnings into political campaigns and gaining influence over military policy, even getting paid to recommend themselves for lucrative contracts.
- Information about PMFs' activities abroad is hard to obtain and very often unreliable. There is a paucity of information about the nature of the services that PMFs offer. The U.S. government classifies contractual details as proprietary commercial information, exempting these details from release under the Freedom of Information Act.

## What to Make of all This?

The beginning of this century of globalization is witnessing the gradual erosion of the Weberian monopoly over the forms of violence. With the growth of PMFs, the state's role in defence and security has become deprivileged, just as it has in other international arenas, such as trade and finance. While PMFs are definitely here to stay, their existence and growth have created new opportunities and challenges. States, international institutions, NGOs, corporations, and even individuals can now lease military capabilities of almost any level from the global market. This change will affect international relations in a number of critical ways, ranging from the introduction of market dynamics and disruptions into security relations to the policy impact of alternative military agents. It may also necessitate far-reaching reassessments in both policy making and theory building.

In terms of policy, just as the militaries had to develop a system for working with NGOs during recent peacekeeping and humanitarian operations, so too they will have to consider how to deal with the PMFs they will increasingly encounter in the battle space. At the decision-making level, governments and international organizations must develop standard contracting policies, establish vetting and monitoring systems attuned to PMFs, and assure accountability and legislative

oversight. A policy that defers to the market will not curb the threats to peace.

Outdated assumptions about the exclusive role of the state in the domain of defence and security will have to be reexamined. A broadening of civil-military theory to allow for the influence of third parties is an example of how this can be done without threatening the core of the theory. And consideration of the effects of a broadening military outsourcing market could make theories of deterrence, preemption, and prevention, arms races, and conflict formation more reflective of the real world. Similarly, corporate branding and marketing might well become more relevant in future conflicts, hence meriting research from security and defence perspectives.

Thus, since the rise of PMFs raises possibilities and dilemmas not only compelling in an academic sense but which are also driven by real-world relevance, it seems paramount that our understanding of PMFs, mercenaries, PMCs, and PSCs as new players in international security is further enlarged and developed.

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# A Lawful Fight Against Terrorism?

PER BROSTRÖM AND DIANA AMNÉUS

> *Revenge is a kind of wild justice; which the more man's nature runs to, the more ought law to weed it out. For as for the first wrong, it doth but offend the law; but the revenge of that wrong putteth the law out of office.*
>
> —Francis Bacon, Essays:
> Of Revenge (1597)

## Combatants or Criminals?

In the fight against terrorism, states exercise their monopoly of force. The challenge since 11 September 2001 has been to follow the fundamental democratic principle that "public power shall be exercised under the law." Below, we describe some of the problems in international law that the current fight against terrorism has created, and we also reflect on some of its causes and effects. If not otherwise specified in the essay, we refer to international terrorism.

The UN Charter contains a general but very clear ban on the use of force. Article 2(3) says that states shall "settle their international disputes by peaceful means" and Article 2(4) prohibits states from using "threat or use of force against another state." Only if a state is subject to an "armed attack" may it, according to Article 51, use force in self-defence, but even then it must follow the decisions of the Security Council regarding further measures. Retaliation as a matter of revenge for terror attacks is furthermore considered prohibited according to international law. Even when a state retaliates to redress an injury suffered in peacetime and calls this "public reprisal," its retaliation considered prohibited according to the general ban on the use of force as stated in the UN Charter.

In 1986, American military personnel visiting a discotheque in Germany were the subject of a terrorist attack, after which the United States responded by bombing various targets in Libya. President Reagan remarked that "Operation El Dorado Canyon," as the military operation was called, was conducted in self-defence against the terrorism financed by the Libyan state. He argued that the operation was in com-

plete accordance with Article 51 of the UN Charter. However this view was not shared by the world community, which expressed strong criticism of the United States' expansive interpretation of Article 51. Criticism was also forthcoming when the United States, in "Operation Infinite Reach," retaliated for the August 1998 terrorist attacks against the American embassies in Kenya and Tanzania. On this occasion, some eighty cruise missiles were used against various alleged terrorist training camps in Afghanistan and against a suspected chemical weapons factory in Sudan. It is clear that the world community did not consider terror attacks of that kind as an armed attack on a state. However the Security Council believed that the situation in Afghanistan constituted a "threat to peace and security," and demands were made whereby the de facto Taliban regime in Afghanistan was to extradite leading members of the Al Qaeda terrorist organisation for trial. Despite repeated appeals and the later introduction of sanctions, Afghanistan did not obey the Security Council resolutions. If force has to be used in the fight against international terrorism, it is the obligation of each state to act on its own territory and under the rule of law. Only if a state neglects its obligations does it becomes an issue for the Security Council to handle.

The massive terrorist attacks of 11 September 2001, directed against targets in the United States of America, prepared the world community to rank the act as an armed attack in the sense expressed by the UN Charter. The use of force as self-defence against large-scale terrorism seemed now acceptable. The Security Council's view was confirmed immediately by NATO, which for the first time in its history stated that force originating from outside had been used on one of its member states. The European Union stated that the terrorist attacks were not only an attack against the United States but also against humanity itself, but avoided to use the language "armed attack" as laid down in article 51 of the UN Charter. They also announced that "it would make every possible effort to ensure that those responsible for these acts of savagery are brought to justice and punished." The forty-five-member Parliamentary Assembly of the Council of Europe called for the backing of the United Nations Security Council and described the attacks as "crimes, rather than acts of war." It continued by saying that any action taken by the United States or others should aim at bringing the organisers and sponsors to justice, instead of inflicting "a hasty revenge." And it finished by saying that "long-term prevention of terrorism must include a proper understanding of its social, economic, political, and religious roots." The fifty-seven-member Islamic Conference Organisation, in a statement on 10 October 2001, expressed neither support nor condemnation of the air strikes in Afghanistan in response to the 9/11 attacks. In the conference's final statement, it stressed "the necessity of tracking down the perpetrators of these acts in light of the results of investigations and bringing them to justice." Amre Moussa, the Secretary

General of the League of Arab States, made clear at the conference that he would prefer a global antiterrorism campaign to be placed under the authority of the United Nations.

The persistent non-compliance of Afghanistan with earlier Security Council resolutions and the fact that they had supported and harboured Al Qaeda now offered the United States a territory to direct its military resources at in order to counter the existing threat. Not only members of the Al Qaeda terrorist network but also members of the Afghani Armed Forces became legitimate military targets according to the "Laws of Armed Conflict." According to international law, every captured person on the battlefield should be viewed as a combatant until a competent court of law had decided on his or her status. Nor could anyone be subject to torture or humiliating treatment, and people suspected of committing criminal acts had to be assured of a fair trial in a court of law. Protected persons must not be subject to the effects of war unnecessarily, and in this regard the customary law principles of distinction and proportionality had to be observed. We now know that very little of this was respected. Persons suspected of being members of Al Qaeda or Taliban forces were subjected to torture or humiliating treatment in the hunt for intelligence. In opposition to the Geneva Conventions, several hundred people were also transported to the American base in Guantánamo Bay in Cuba—a vacuum of international law. In numerous instances, supposedly legitimate targets were bombed indiscriminately, resulting in unacceptable injury to civilians and damage to civilian property. For a long time the United States had sought legalisation – a *jus ad bellum* – of its actions against international terrorism, but when it finally received international support, it ignored its duty during the armed conflict in Afghanistan to observe *jus in bello* – that is, the "Laws of Armed Conflict."

On 12 September 2001, the day after the attacks, the UN Security Council, in Resolution 1368, implored the UN member states to accelerate their work to combat terrorism. On 28 September 2001, it went a step further, passing a binding resolution (1373) making it the duty of the member states to join forces to arrest and bring to justice the people suspected of collaborating with terrorism. The UN Security Council had now opened two "tracks" with quite different mandates to use force: "military" and "law enforcement." The crucial difference between the two is that when force is used on a military mandate, the opponent is perceived as a legitimate target to eliminate, whereas force based on a law enforcement mandate is only excusable when a person suspected of a crime refuses arrest or when there is a clear danger to somebody's life or property. In addition, no one, not even a suspect, shall arbitrarily be deprived of his life. Everyone shall also have the right to challenge any accusation in a fair trial.

Since December 2001, the particularly weak Afghan interim regime has "governed" the country with the support of the previous occupying power at the same time as a security force with a UN mandate, the ISAF (International Security Assistance Force), has been operating in the capital of Kabul. American forces operating outside Kabul are not formally responsible for the maintenance of law and order. Nor are they, in terms of international law, at war with the state of Afghanistan. However, the new regime is still not able to provide the required security, which is why the American forces can be seen as having been "invited" to work in close relation with Afghan security forces. The legal mandate on which they operate originates from the legitimate regime in Afghanistan and the force they use must therefore occur under national Afghan law and international law. World society, through the UN, expects no less than Afghanistan developing into a state under the rule of law. Therefore, after the extended mandate, the legal basis for the use of force outside Kabul can only be based on the requirements of law enforcement measures – that is, that in the first place, suspected terrorists should be arrested and then be brought before a competent court of law. However, the United States has previously stated that as long as the threat to American interests remains, it will continue to view terrorists as enemies that can be fought with deadly force. Therefore it is a great concern that the military "track" was not clearly terminated in conjunction with the extended mandate given to the ISAF in October 2003. The current situation creates highly uncertain situations regarding how suspected terrorists in Afghanistan should be dealt with. On numerous occasions, there have been reports that personnel from "Operation Enduring Freedom" have bombed civilian residences, resulting in many civilian deaths and injuries. The ISAF, whose duties include supporting the Afghan interim government in the maintenance of law and order, is also expected to follow the "Code of Conduct for Law Enforcement Officials," which has been adopted by the UN. The hunt for remaining members of the Taliban and Al Qaeda appears to continue with the same methods as during the armed conflict. The interim president Hamid Karzai has appealed to the United States to increase their efforts to avoid civilian casualties as a result of their operations. The relevant question is obvious: Why do the remaining forces of "Operation Enduring Freedom" feel that they are not required to follow international law, particularly in the area of law enforcement? The principle that "public power shall be exercised under the law" is part of every democratic society. The observance of that principle is a prerequisite if we want to hold people accountable for violating law enforcement regulations. It shouldn't matter if the rules are related to an agreement between the former occupying powers and the new state, a Security Council resolution, or national law; divergences are simply not acceptable, as they encourage impunity and corruption. Unfortunately the trend ap-

pears to be moving in the wrong direction, since the aforementioned behaviour is clearly evident in Iraq. The weak new interim government lacks control of the security situation and so is forced, in conflict with its formal responsibility, to accept clear breaches of the principles of law enforcement and international law.

Just as in Afghanistan, a method currently used in Iraq is to shoot missiles at buildings presumably containing wanted enemies of the interim regime and the American security forces. The result is, as has been frequently reported, that innocent civilians are also injured or killed. Not even during armed conflicts can these methods generally be viewed as being in accordance with the principles of distinction and proportionality, and even less so in the case of a state no longer engaged in an armed conflict. It is worth reflecting that in developed countries like the United States or Great Britain, these methods of hunting down terrorists would hardly be used and would certainly not be accepted by the people. If the rules of international law are indeed universal, do they not also apply for the populations of countries with security problems? Without making a distinction between national and international terrorism, a similar kind of behaviour is also evident in the conflict in Chechnya. The best way to avoid being labelled a rogue nation is to make sure that the "rule of law principle" is followed.

## Reclaiming the Rule of Law

If there is a collapse of the rule of law in the struggle against terrorism, have not the terrorists succeeded in their work, regardless of their aims? If the state, by way of its actions, aids in erasing the distinction between legitimate and illegitimate targets, does it not become difficult to criticise the terrorists' choice of targets from a moral point of view?

The fear of fresh attacks in new countries have gradually led to measures where human rights have been sacrificed in the war on terrorism. National security has been made a priority over individual human security. A utilitarian approach has been taken, where efficiency has gained the upper hand at the expense of human rights. The openness and protection of the democratic society have been reduced. Critics have gone so far that in some cases they speak of a disassembly of the state governed by the rule of law. Professor Ian Cameron at Uppsala University maintains that the primary objective of the rule of law is not to be efficient but to find a satisfactory level of efficiency – if total efficiency is reached, there is no longer rule of law. In the long term, the struggle against terrorism must be based on a cooperation that maintains the principle of rule of law with regard to law and order. One problem in this struggle is that there is still no universally accepted definition of ter-

rorism, even if work is underway to develop an overarching convention. One of the difficulties has been to formulate a definition that includes international terrorists but excludes freedom fighters, but "one person's terrorist is another person's freedom fighter." The conflicts in Chechnya and the Middle East are two examples where opinions vary greatly.

For several decades, international law has included various conventions and binding Security Council resolutions for combating terrorism. Twelve international conventions treat several different forms of terrorism, such as hijacking, bombing, hostage taking, and the financing of terrorism. One principle shared by all these conventions is that people suspected of terrorist crimes must either be extradited for trial in another country or be tried in one of the country's own courts of law. There is also the possibility of trying suspected terrorists in the International Criminal Court in The Hague, if the act of terrorism can be seen as constituting a crime against humanity, genocide, or a war crime. To constitute a crime against humanity, the attack must be considered extensive or systematic and directed at civilians.

International cooperation in the fight against terrorism took on a new expression in January 2002, when the UNSC approved a binding resolution (1390) regarding so-called smart or directed sanctions against terrorists. All states were urged to freeze the funds belonging to Usama bin Laden, other members of Al Qaeda, and the people or groups who cooperate with them, in accordance with a particular sanctions list. In response to the UN resolution, the European Union decided to impose these and other measures on the persons and organisations in the list. In practice, the list constitutes a blacklisting of people and consequently this amounts to punishment without any previous legal decision and without the opportunity to actually scrutinise the decision. The accusations of terrorism against individuals cannot be assessed, since the charges and the proof are confidential. The entire procedure is contrary to the rule of law principle that people are assumed innocent until a competent court of law in a final decision has decided otherwise. It has proven very difficult and complicated to appeal the decision by the UN Security Council Sanctions Committee, even though in 2002 the committee approved guidelines detailing how people could be removed from the list. The method of freezing funds does not only affect the individual whose funds are frozen, but also his or her family and other associates; nor can the state help the accused, for example, by way of social assistance, without breaching the sanction. Through this procedure, three Swedish nationals of Somali background had their funds frozen by the EU. The legality of the decision has been questioned, and the cases have been brought before the First Instance of the EU Court of Justice, but have not yet been resolved.

These and a number of other examples have led to a questioning of the forms under which the "war on terrorism" is being conducted. In

response to the increasingly tough measures, the Council of Europe approved in July 2002 guidelines on "human rights and the war on terrorism." These lay down, for example, that the member states may not decide to introduce illegal measures and that they must, under all circumstances, observe the ban on torture. Furthermore, they demand that a person accused of terrorist activities must not receive the death penalty, and, if a death penalty has been issued it should not be carried out.

So how has the protection of the individual been affected since 11 September 2001? In many places, police and security services have been given an increased authority in the fight on terrorism. In some instances this has resulted in an increased risk of discrimination, injustice, and abuse of power. This can take many forms: arbitrary arrests, the legal detention period being exceeded, interrogation methods that include abuse, the lack of a right to due process, extradition without the chance of appeal, stricter rules and discrimination based on race and ethnicity for immigrants and asylum seekers, unlawful surveillance and bugging, as well as other attacks on personal liberties. There have been reports from the United States that immigrants have disappeared, that people have been imprisoned without trial and without any time limit, that torture has used against purported terrorists, and of cases of death in custody. The UNHCR has expressed concern about the restrictive laws and the administrative routines that were introduced after 11 September 2001 and it warns that rules protecting refugees might be eroded. According to the UNHCR, it must be possible to appeal a decision to extradite and the individual must be afforded the right to present evidence that refutes claims of terrorism. Sweden has been criticised by the UN Committee Against Torture and by Human Rights Watch for having extradited two Egyptians accused of terrorism, who probably were subject to torture following their transportation to Egypt by an American force.

Human rights are not simply a matter of the state avoiding violations. There is also a duty to take positive measures to fulfil them. The principle of the rule of law requires that it should be possible to try terrorists for their crimes without contravening other rights such as the right to due process, an independent and impartial court of law, the right to life, freedom and personal security, and the right to property. There are also accepted minimum rules that apply during arrests, and the state does not have the right to subject individuals to arbitrary or unlawful encroachments into their private or their family life, homeland, or correspondence. Even states that have not ratified the United Nations' Conventions on Human Rights have this responsibility, because the rules are considered to have gained status of international customary law.

## Causes and Effects

Terrorism must be condemned unequivocally, and no underlying reasons can legitimise it. Colonialism, racism, and the occupation of another state's territory have previously been cited as such reasons. In 1985, the UN General Assembly approved a resolution that condemns all acts, methods, and forms of terrorism, wherever they are executed and whoever executes them, and urges the states to help eliminate the causes of terrorism. In 1994, the General Assembly approved a declaration on the elimination of international terrorism, where it was stated even more clearly that there are no circumstances whatsoever that justify terrorism.

The large-scale international terrorism we now witness is, according to many, the result of accelerating globalisation. It forces us to find new forms of legitimate political power capable of controlling global developments, within reasonable limits. One side of the fight against terrorism, which has not received as much attention, is the long-term measures aimed at the underlying causes. Military measures are short-term and only affect the symptoms. Nor can humanitarian work alone bring about the long-term, stable societies that are necessary for achieving global human security. The structures of international justice and the struggle against poverty need to be strengthened as well. Increased international financial, political, and social cooperation which, similar to the Marshall Plan after World War II, promote democracy, economic development, good governance, human rights, and a strong civil society – all these things can lead to a social transformation that reduces marginalisation and the exclusion of groups and peoples. At the same time, one must not neglect the importance of the role of ideology and religion in what has come to be called "The Clash of Civilizations."

In a seminar on human security and terrorism held in Japan in December 2001, it was argued that military security is a costly illusion, which is why more resources must be directed to finding a peaceful solution to the underlying causes of human insecurity, fundamentalism, and terrorism. By the adoption of a Human Security Agenda, and through so-called "soft power," terrorism can be countered "not by force but by the force of ideas." Is this a realistic, possible path? How does one achieve long-term peace with terrorists? The prohibition of force and the principle of peaceful solution of conflicts in the UN Charter urge states to solve their international conflicts through negotiation, mediation, conciliation, and arbitration. Are these the paths that should also be followed in the fight against terrorism? Is it possible to negotiate peace with terrorists and is it possible to reach consensus on a political agenda? Does terrorism have legitimate political aims? Over the years, terrorism has been used by various actors – including states – as an effective tool to affect or alter the course of events when there have been

no political tools to achieve this or because they did not want to use them. But terrorism lacks all forms of constructive and acceptable political aims, and that for that reason there is no actual policy to negotiate. Terror and destruction do not open the door to solutions. Those responsible must be put to trial, regardless of the underlying reason for the crime. However, there are those who advocate a political communication when it comes to the West's approach to other cultures, in order to put an end to the global structural violence. It is argued that through multicultural and interreligious dialogue it is possible to pave the way for measures that create trust. Jürgen Habermas explains in the book *Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida* that conflicts arise out of distortions in communication, through misperceptions, misunderstandings, dishonesty, and deception:

> The spiral of violence begins as a spiral of distorted communication that leads through the spiral of uncontrolled reciprocal mistrust to the breakdown of communication.

He argues further that the West must change its policy if it wishes to be perceived as "a shaping power with a civilizing impact," which in practice means taming global capitalism and creating a more just world order. In this long-term project, people must increase their understanding of one another and expand their horizons through a dialogue where different perspectives merge.

> In the course of mutual perspective-taking there can develop a common horizon of background assumptions in which both sides accomplish an interpretation that is not ethnocentrically adopted or concerted but rather intersubjectively shared.

But should and can terrorists be tolerated and treated as equal partners in a discussion? What is the point of creating communication if it is still not possible to reach consensus? Is this even possible, and is it desirable? Habermas' ideas concern "communication without consensus," which can according to him lead to a fusion of horizons, mutual perspective-taking, and intersubjective understanding. It might seem particularly farfetched and absurd to adopt such a position in relation to international terrorism. At the very least, one can say that there is very little political will to move in that direction.

The final report of the 9/11 Commission in the United States presents a broad, integrated plan to prevent the continued growth of Islamic terrorism. The suggested strategy for countering terrorism is aimed at attacking terrorists and their organisations, preventing the continued development of Islamic terrorism and protecting the homeland from and being prepared for further attacks. The Commission maintains that military action must be complemented by long-term measures if the war on

terrorism, in particular Islamic terrorism, is to be won. They refer to measures such as diplomacy, intelligence services, secret actions, legal action, economic policy, foreign aid, and homeland defence. The United States should in this project adopt a moral leadership in the world, offering a vision of a better future than that of death and violence. As a stage in this work, the American ideal and values are to be communicated and defended in the Muslim world. Can this plan be seen as expressing Habermas' ideas of communication? A global PR campaign where American values are communicated to the rest of the world seems more based on demands for assimilation to one's own way of reasoning and of interpreting the world than on an open approach and an understanding of new perspectives. Perhaps it is correct to say there is nothing to be understood in terrorism, that there is no deeper message but only a perverted belief in death, violence, and destruction. But the question is whether or not the American model can form the basis of a global moral leadership. International terrorism does actually make it quite clear that the world is not confident that the Pax Americana will succeed, especially in the Muslim world. This is a signal that should probably be considered more, and instead of rearming the defence forces on every level – including the moral level – perhaps one needs to be open to the possibility of changing or developing one's own ideals. At the same time, it is equally important that the Muslim world also opens up to modernity, human rights, and democracy.

## Conclusions

Is there a way to fight terrorism by the letter of a paragraph? The answer is no, and all too well we instead see the means and methods of terror, reflected in relevant covenants on international terrorism. But where are the means and methods available for the state in fulfilment of its responsibility to protect its people against unlawful acts? The terrorist attacks of 9/11 were directed against the territory of a state and were of great magnitude. That seems to have given acceptance for a new interpretation of Article 51 of the UN Charter. This, however, did not change the applicability of international humanitarian law and human rights. The legal status of a person engaged in unlawful acts is either as a combatant committing crimes or as a civilian committing crimes. It is the international legal obligation of every state to ensure the rights of both. No order or decree can change that. The rule of law is the watermark for a democratic regime and consequently those without a rule of law are considered false and not trustworthy. A lawful fight against terrorism is therefore the real challenge for the international community after 9/11. It might help in trying to understand diverging opinions

among nations and peoples in their struggle for democracy. In the advertisement for a system believed to be superior, a humble attitude usually prevails. After all, setting good examples are often more powerful than persuasion by brutal force.

> *Look at that destruction, that massive, senseless, cruel loss of human life, then I ask you to look in your hearts and see there is no room for neutrality on the issue of terrorism. You're either with civilisation or with the terrorists.*
>
> —Rudolph Giuliani, Mayor of New York, addressing the United Nations General Assembly, 1 October 2001

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# Conclusions

AMBASSADOR DR. THEODOR H. WINKLER

The end of the Cold War has brought about a profound change in international security and consequently in the missions assigned to the armed forces and the other components of the security sector. This transformation was further accelerated by the hideous terrorist attack of 9/11. This book, which builds on papers originally written for the Security Sector Track of the Annual Conference of the PfP Consortium of Defence Academies and Security Studies Institutes in Bucharest in June 2004, tries to assess what the new task of combating terrorism implies for the various elements of the security sector, and how it interrelates with other transformations the security sector is undergoing.

The challenge faced by armed forces and the security sector in general is characterised by the following key factors:

First, traditional interstate conflict remains a possibility in certain parts of the world (on the Korean peninsula or between India and Pakistan to cite but two examples). Moreover, the United States, the world's only surviving superpower, has with its shift toward a strategy of preemption and the campaigns against Afghanistan and Iraq demonstrated its will to continue to use force against what it considers rogue states or countries posing a threat to its national security. Nevertheless, traditional interstate conflict has today clearly become the exception. In most parts of the world, the enemy from within has replaced the enemy from without. Civil war and internal strife have become the most common form of conflict in all too many parts of the world. As a result, two trends must be distinguished. On the one hand, the heavy armoured formations of the Cold War era have quickly become obsolete; on the other hand, the need to be able to participate in international peace support operations (PSO) has added a complex and demanding new task to most armed forces. The range of missions stretches here from peacekeeping to peace enforcement, stabilization, and securitization. Each one of them requires highly specialized training, new structures and skills, and new equipment. All of them demand from the armed forces the ability to cooperate closely with civilian authorities in a highly complex postconflict situation.

Second, globalization has not been restricted to the economy, but has also lead to a further strengthening of organized international crime and the emergence of strategic terrorism with a global reach. This real-

ity is further accentuated by the growing attractiveness of methods of asymmetric warfare as a result of the overwhelming military superiority of the United States in "traditional" conflicts. These new threats cannot be coped with by armed forces alone, but put the entire security sector (armed forces, police forces, border guards, intelligence and state security agencies, paramilitary forces, and specialized law enforcement agencies) to the test. The need for cooperation between these different components is evident, from the fusion of intelligence to a clear division of labour and coordinated joint action. The security sector must be understood as a set of communicating vessels. None of the components of the security sector has been prepared for this, least of all the armed forces (as the early days of the U.S. occupation of Iraq have amply demonstrated). It took NATO much time to develop armed forces capable of joint and combined operations. This is no longer good enough. Today, the ability to conduct integrated operations—that is, operations together with all other components of the security sector—must be added to the set of necessary skills.

Third, the collapse of the armour-heavy Soviet threat, the Revolution in Military Affairs (RMA), and the transition of the U.S. (and very few other) armed forces toward network-centric warfare have combined to render the structure and equipment of most armed forces if not obsolete then outdated and outclassed. In times of strained government finances, it will be simply impossible to engage at the same time in the necessary transformation of the armed forces and to equip other law enforcement agencies with all the necessary tools to face the new terrorist and organized crime challenges. As a result, traditional procurement patterns will have to give way to integrated approaches also in this area – particularly in the areas of information warfare, intelligence, communications, UAV, sensors, and optronics.

The chapters in this book have highlighted that none of the armed forces of the world – not even those of the United States – can escape these trends. The new task of combating terrorism, which has been added to an already all too heavy burden of different mission requirements, will have profound repercussions.

The challenge can take different forms. The United States, sinking ever deeper into the Iraqi quagmire, is facing the prospect of either having to reintroduce the draft or to abandon its ability to fight simultaneously more than one conflict. Iraq absorbs today nine out of ten regular U.S. Army divisions and puts such a drain on the National Guard that many fear for its future. A similar threat of imperial overstretch is faced by the British armed forces. For new NATO members like Poland (first enlargement wave) or Romania (second wave), the problems are even more fundamental. These countries have to undergo in parallel four complex reorganisations: (1) To complete the transition from Warsaw Pact–type armed forces to NATO compatible structures (from ministe-

rial structures all the way down to equipment); (2) the creation of rapid reaction components for PSO; (3) to catch up with RMA and the age of network-centric warfare; and (4) to move from defence to security sector reform. Most of them have hardly embarked on this difficult road – and all of them are desperately looking for expertise on how to square this circle. Even neutral Switzerland is confronted by new tasks: More than half of the Army's service days have, in 2003, been consumed by subsidiary missions in favour of civilian authorities for essentially anti-terror missions (guarding diplomatic missions and the UN, reinforcing the border guards, and protecting the G-8 meeting in Evian and the World Economic Forum in Davos). Many highly trained units (armour, artillery, and engineers) had to be committed to essentially guard duties in cooperation with the police – while at the same time the need for sophisticated new equipment (for example, all-weather-capable aircraft to guard the skies, modern information warfare tools) is more acutely felt. The idea has, at one point, been floated in Switzerland whether the new situation does not require transforming the Defence Department into a "Security Department" by subordinating to the same Minister not only the armed forces but also border guards and possibly some additional components of the security sector.

Yet the impact of the new task of combating terrorism is felt no less by the other components of the security sector – as the chapters on police and gendarmerie forces and on border guards and intelligence agencies have stressed.

No less significantly, private military companies and private security companies mushroom in this new climate. PMC/PSC form today the largest single component of the Israeli economy and show a financial turnover larger than the far from modest Israeli defence budget. In California, there are six private security agents for every policeman. Even in peaceful Switzerland their number has, over the last decade, doubled from 5,000 to over 10,000. It is indicative – and frightening – that the United States cannot even state how many employees of PMCs and PSCs are today operating in Iraq. The best estimate ranges anywhere between 15,000 and 25,000.

This leads to another – and perhaps the most significant – problem. Civilian and parliamentary oversight over the increasingly complex security sector of a globalized world gets increasingly difficult. At the governmental level, civilian control over the security sector lies in the hand of several ministers. Parliaments usually have no committee in charge of the entire sector. PSOs run by international organisations suffer, very often, under a dual democratic deficit – parliamentary control being in these cases much more difficult for home parliaments and nonexistent at the international level.

Parliamentary control can, moreover, easily be outfoxed through the use of PMCs and PSCs in an ever more bewildering number of roles.

There is still no international convention asking for the most rudimentary regulations in this area: An agreement which security and state functions can and which cannot be outsourced to private contractors, an obligation for PMC/PSCs to register, requirements for compulsory training standards (including, for instance, the Geneva Conventions) for PMC/PSCs used in more demanding roles, minimal standards for rules of operation and engagement for PMC/PSCs, and the obligation for governments to check, through rigorous inspections, whether these training and other professional standards are being respected by the contractors.

The problems addressed in this book are all to real. They will not go away, but grow in importance. We cannot afford to ignore them.

The PfP Consortium of Defence Academies and Security Studies Institutes can in this context play a useful, if not significant, role. There is a clear need for those who work in the various components of the security sector to define the strategy for the future, and for those who are called upon to translate that strategy into concrete training programmes, to meet one another and exchange information in a productive forum. There is indeed no single forum that brings together in the Euro-Atlantic world those who are in charge of the various security sector elements and those in charge of the key training institutions of that security sector. There are venues for each component (for example, the NATO Defence College's "Conference of Commandants" for the heads of Military Academies), but there is no venue where the directors of military academies can meet with their counterparts from the worlds of police, border guards, gendarmerie, or other security sector agencies. The situation is, in this respect, grim with respect to NATO; it is worse for the European Union (which lacks its equivalent of a PfP programme) – and disastrous with respect to the OSCE and the UN.

One of the great benefits offered by the Consortium was to first bring together and then network people who would otherwise not meet. It therefore seems highly recommendable that the Consortium's Annual Conference should become the international meeting point of the heads and training institutions of the entire security sector. If the goal is to progress from joint or combined operations toward integrated operations, then the philosophy, the operational concepts and culture, and the strengths and limitations of each security sector component cannot be learned painstakingly (and at a high price) on the ground, but must be integrated into the training curricula of the various security sector components from the very beginning. Similarly, it will be crucial to regularly compare notes on the threat, the resulting adaptation of counter-threat strategies, and the implications for training, procurement, and interagency cooperation. Finally, the Consortium is one of the few venues which, after the Istanbul Summit, can broaden its circle of participants

to include the Mediterranean and Middle Eastern worlds – a prerequisite if any progress is to be made in the future.

The Geneva Centre for the Democratic Control of Armed Forces (DCAF), which is heading the Consortium's Security Sector track, will work to make this vision come true.

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## Geneva Centre for the Democratic Control of Armed Forces (DCAF)

Established in October 2000 on the initiative of the Swiss government, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) encourages and supports States and non-State governed institutions in their efforts to strengthen democratic and civilian control of armed and security forces, and promotes security sector reform conforming to democratic standards.

The Centre collects information and undertakes research in order to identify problems, to gather experience from lessons learned, and to propose best practices in the field of democratic governance of the security sector. The Centre provides its expertise and support, through practical work programmes on the ground, to all interested parties, in particular governments, parliaments, military authorities, international organisations, non-governmental organisations, and academic circles.

Detailed information on DCAF can be found at: **www.dcaf.ch**

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