



International Peace Academy

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# Responding to Terrorism: What Role for the United Nations?

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## Introduction

The attacks on the World Trade Center and the Pentagon on 11 September 2001 have focused attention on the issue of international terrorism as an urgent matter for the United Nations. The Security Council responded promptly on 12 September 2001, with an unequivocal condemnation of the terrorist attacks in UNSC Resolution 1368, and on 28 September 2001, with the adoption of UNSC Resolution 1373, a landmark resolution which obligated all member states, under Chapter VII of the United Nations Charter, to take specific actions to combat terrorism.

UNSC Resolution 1373 created for the first time uniform obligations for all 191 member states in responding to terrorism, going beyond the twelve international treaties that bind only those that accede to them. It specifically requires all member states to deny all forms of financial support for terrorist groups; to suppress the provision of safe haven, sustenance, or support for terrorists; and to share with other governments information about any groups practicing or planning terrorist attacks. It bars active and passive assistance to governments. The resolution established the Counter-Terrorism Committee, chaired by UK Ambassador Sir Jeremy Greenstock, to assist member states in developing the legal, political, and operational capacity to carry out their responsibilities under this resolution. At the same time, the Secretary-General established a Policy Working Group under the chairmanship of Under Secretary-General Sir Kieran Prendergast, of the UN Department of Political Affairs, to review existing United Nations programs and to develop new proposals. The recommendations of the Policy Working Group were presented to the Security Council and the General Assembly on 10 September 2002, in conjunction with the memorial commemoration of the World Trade Center attacks.

In this context, the International Peace Academy (IPA), supported by the MacArthur Foundation and the Government of the Kingdom of the Netherlands, sought to explore ways in which it could assist the United Nations Secretariat and the Security Council, and more broadly, the United Nations community, to respond to the complex challenges of international terrorism. During 2002, the International Peace

Academy therefore undertook two initiatives as part of its "The United Nations and International Terrorism" project, directed by Ambassador John Hirsch. The first entailed active participation in the Policy Working Group referred to above, the objective of which was to develop recommendations for the Secretary-General to design a more integrated and effective United Nations response, bringing together the diffuse elements of the Secretariat into a more focused approach. IPA organized two workshops bringing outside experts together with the members of the Policy Working Group in developing the major themes of the report.

The second initiative was the organization of the Conference on "Responding to Terrorism: What Role for the United Nations?" which was held at the offices of Chadbourne & Parke LLP in New York City on 25–26 October 2002. It was our particular interest to ensure the active participation of speakers from the developing world in sharing their perspectives, often overlooked in the Western policy dialogue on terrorism, with officials and diplomats based in New York. Representative voices from Sri Lanka, Colombia, Tanzania, and Iran, as well as prominent researchers in the field of terrorism from Europe and the United States, interacted with senior officials from the UN Secretariat, Permanent Representatives, and leading academics and NGOs.

The conference focused on several key issues, particularly: a) the overlooked phenomenon of terrorism in "the [global] South"; b) the manipulation and misuse of religion; c) an exploration of the root causes of terrorism, and what connection there is, if any, between underdevelopment, poverty, and terrorism; d) the need to uphold human rights standards in the fight against terrorism; and e) the importance of strengthening the regulatory framework to prevent illegal manipulation of the international financial system to fund and support terrorist networks. IPA commissioned papers for this conference, six of which, together with the Concept Paper and Conference Report prepared by our consultant, William G. O'Neill, form the basis of this report.

### Challenges to the United Nations

The Conference identified a number of key challenges to the United Nations in recognition of its unique position as a multilateral institution with near-universal



David M. Malone, President, International Peace Academy and Sir Kieran Prendergast, UN Department of Political Affairs

participation, and the high regard in which Secretary-General Kofi Annan, recipient of the 2002 Nobel Peace Prize, is held. The Conference participants, especially those from outside the UN system, urged the United Nations to play a far stronger role than it has assumed thus far in mobilizing governments and NGOs to deal cooperatively with the continuing threat of international terrorism. In particular, they urged the UN to adopt a holistic approach that integrates responsiveness to the perceived and actual grievances of peoples in Africa, Asia, and Latin America with the developed world's post-9/11 security agenda.

We believe it is particularly important to present the views of representatives from the developing world in an unvarnished way. They are critical of the United Nations system, and particularly of the role of the major powers in shaping the approach of the Security Council to the terrorism challenge. We believe that their views, however controversial, reflect a broad segment of public opinion in the developing world, and thus merit the attention of the readers of this report.

Abridged versions of six of the papers presented at the Conference are included in this report. Notwithstanding their diversity of approach and language, they emphasize several overarching themes which recurred throughout the conference: the global dimensions of terrorism; the urgency of adopting an integrated multilateral response; the endorsement of fundamental reform of the United Nations system; and the need to bridge the divide between the beneficiaries of the broader trends of globalization, and the vast

majority of people, who continue to live in conditions of exclusion and marginalization. Three of these papers (by Martha Crenshaw, Rohan Gunaratna, and Farhang Rajae) focus primarily on the Muslim world's complex relationship with the West, while the other three papers (by Francisco Gutiérrez, Mwesiga Baregu, and Hans-Peter Gasser) address broader structural and legal considerations in the contemporary world.

Martha Crenshaw, whose paper reviews the origins of modern terrorism in the late 1960s and early 1970s, contends that international terrorism since that time is closely linked to specific civil conflicts, particularly in the Middle East, and characterizes Al Qaeda as an amalgamation of autonomous groups with local grievances who are bound together by appeals to Islamic history and religion and global anti-Americanism. She notes that though the use of force may be successful in the short-term as a counter-terrorism strategy, it is unlikely that a transnational conspiracy can be destroyed through armed combat. She advocates instead that the UN encourage multilateral cooperation in law enforcement and intelligence while using "nation-building" to promote strong liberal states that will practice political tolerance.

Rohan Gunaratna points out the sustained criticism in the Muslim world of the West's political and economic domination. The overwhelming military strength of the United States in combating terrorism—e.g., against the Taliban and Al Qaeda in Afghanistan—will actually increase support for Islamist groups and thus can only be regarded as a temporary stopgap. As an alternative to this military strategy, the United Nations should address the profound ideological divide between the global North and South at the political level, while at the same time facilitating enhanced intelligence cooperation between North and South through a host of technical measures and personnel exchanges. In particular, the United Nations can set global norms against international terrorism and deal with key factors that spawn terrorism, including poor governance, rampant corruption, and systematic human rights abuses in particular countries.

Farhang Rajae argues that the roots of terrorism lie in the politics of exclusion in many Islamic countries and the emergence in the Muslim world of a triad of dispossession, empowerment, and an ideology that

justifies violence. Osama Bin Laden has given Muslims a sense of empowerment, inclusion, and legitimization, the impact of which is enhanced by the forces of globalization. The United Nations must, therefore, seek the deconstruction of this triad, and replace it with a global politics of greater inclusion through the peaceful settlement of disputes and a sympathetic understanding of injustices, especially in the Israel-Palestine crisis (e.g., through the establishment of a Truth and Reconciliation Commission modeled on the South African experience). An objective UN "Muslim Human Development Report" could promote a candid dialogue about the successes and shortcomings of the Moslem world, which would serve as a counterbalance to Islamist extremist formulations and help Islamic governments and civil society to address the urgent need for democratic reforms.

Mwesiga Baregu argues that terrorism has to be understood at two levels: a structural level, embedded in international systems of inequality, injustice, marginalization and exclusion, and a direct level in which individuals or groups undertake violent actions against those perceived as responsible for the wrongs they have suffered. From this perspective, direct terrorism is a function of major structural causes. Among the ways to redress such inequities, an important starting point would be the restructuring of the UN and the reform of all its institutions to give an effective political voice to all nations, not only the powerful nations of the West. The General Assembly and ECOSOC must be revitalized; the Security Council needs to become truly representative by providing permanent membership to major countries in the developing world; the International Criminal Court should be nurtured and respected; and civil society groups must be given a participatory role in major international forums (e.g., annual meetings of the WTO, the IMF, and the World Bank).

Francisco Gutiérrez contends that three fundamental changes in international relations—deepening economic inequality between countries, the absence of global accountability in multilateral bodies, and the intensification of geopolitical and national conflicts—have fueled contemporary terrorism. Paradoxically, while globalization has promoted democracy at the national level, it has closed off dialogue at the international

level. In this context, semi-repressive regimes provide terrorist organizations with the motive and means to function. Ideas, not just military might, count. The United Nations can play an important role in providing political space for voices favoring reason and fairness to ultimately prevail. The international community needs to promote greater global accountability through enhanced international adjudication and mediation of conflicts in "hot zones"; the "radical democratization" of global institutions, starting with the United Nations; and the development of internationally agreed-upon definitions of terrorism to prevent the application of double standards by the rich and powerful.

Hans-Peter Gasser emphasizes the importance of ensuring that all those who are involved in the fight against international terrorism are aware of their duty to respect international humanitarian law. Increased security measures, if applied disproportionately, can amount to violations of a government's commitment to respect international human rights and humanitarian law obligations. Fundamental and inalienable human rights, including the right to life and the prohibition against torture, must be respected under all circumstances. While domestic criminal jurisdiction will always play the major role in prosecuting war criminals and terrorists, the International Criminal Court can make a limited but significant contribution to the enforcement of criminal law at the international level, including legal action against crimes of a terrorist nature.

Clearly, the UN's role in the fight against terrorism is a long-term proposition. On 20 January 2003, the Security Council adopted a Declaration under UNSC Resolution 1456 (2003) reaffirming the severity of the global terrorist threat and again calling on all States to take urgent action to prevent and suppress all active and passive support to terrorism. Convening a special session on 7 March 2003 under the aegis of the Counter Terrorism Committee, bringing together regional organizations to help them further develop their counter-terrorism capabilities, is another step in this direction. It is IPA's hope that this report will be of benefit to the United Nations and to all those who view the international organization as central to the development of creative new ways to address the continuing challenge of international terrorism.

## Executive Summary

This executive summary presents the major conclusions of IPA's 25-26 October 2002 Conference on "Responding to Terrorism: What Role for the United Nations?":

The United Nations should assert its moral authority to send the unequivocal message that terrorism is never acceptable, even for the worthiest of causes.

The United Nations should enhance its work in sustainable development, poverty reduction, improved governance and strengthening of the rule of law. An explicit appeal to governments to rule fairly and to represent all segments of their population equitably can help diminish the attraction of extremist views and, ultimately, of terrorism.

Despite the General Assembly's inability, to date, to define terrorism, the need for such a definition remains. Action in the absence of an agreed-upon definition exposes the United Nations to the charge of double standards, thus undermining the very legitimacy and universality that are among its most precious assets.

The United Nations should reassess its relationship with religions, including the sponsorship of discussions about the role of religion in international affairs. The Department of Public Information should undertake a public relations campaign promoting tolerance and understanding among all cultures and religions.

The fight against terrorism provides further opportunity for the United Nations to redefine the boundaries between state sovereignty and issues that are legitimately the concern of the international community. The HIV/AIDS pandemic, the illegal arms trade, and trafficking in humans have already led to a more intrusive UN role in monitoring state behavior. Similarly, the state's role in education, particularly with regard to whether the curriculum promotes tolerance and respect for other cultures, can no longer be regarded as a purely domestic concern.

In sum, terrorism challenges the fundamental principles of the United Nations. Can the United Nations forge effective policies, beyond the national interests of its most powerful member states, to deal with international terrorism? The fight against terrorism provides opportunities and challenges for creative change within the entire UN system.



Conference panelists and speakers



## Concept Paper

# Beyond the Slogans: How Can the UN Respond to Terrorism?

*William G. O'Neill*

### Introduction

Fighting terrorism has bedeviled military strategists, police experts, intelligence analysts and political leaders for several centuries now. New allies in the struggle include financial analysts, bankers, arms control experts, educators, communications specialists, development planners and religious leaders. Recently, the United Nations has entered the fray, struggling with all the complexities inherent in an organization of sovereign states with shifting and sometimes competing agendas concerning international peace and security.

This paper seeks to highlight some of the challenges facing the United Nations in fighting terrorism. The difficulties have only intensified since the attacks on the United States on September 11, 2001. The attacks have also generated a new spirit of cooperation to combat terrorism, giving the United Nations an opportunity to forge creative policies and act with greater vigour. Leaders are questioning old reflexes and alliances; some states that had excused terrorism in the past are on the defensive. The UN has the chance to break through some of the political barriers that have constricted the debate on terrorism and the range of possible action. Put simply, "political correctness" is yielding to an honest debate.

Yet there is no magic formula that will eliminate terrorism. Groups have made the conscious choice to use terrorism for centuries and some will continue to do so. One paradox of terrorism in the 21st century is that smaller and smaller groups with limited public support can kill greater numbers of people than ever before. Terrorism is not a problem that can be "solved" but rather is a threat that changes according to new circumstances.<sup>1</sup> The UN has an important but limited

role; the challenge is to identify what the UN can do on its own or to support a broad-based strategy to limit terrorism. The UN is also well placed to insure that the debate on terrorism includes the voices and perspectives of the global south and does not just focus on recent terrorist attacks in the U.S. and Europe. After all, terrorism has claimed more victims in Africa, Asia and the Middle East than in the developed countries.

### The Definition Problem

The UN has struggled over the years to define terrorism. It has been extremely difficult to secure agreement on what is and what is not terrorism. The UN and others have operated on the basis of US Supreme Court Justice Potter Stewart's observation on pornography: "I know it when I see it." While this approach may allow states to respond to specific acts, it hampers the effort to build a broad consensus on how to anticipate and limit terrorism.

Terrorism is hard to define. One reason is that the issue is not merely about words. Defining terror also means taking a position on whether there are limits on the use of violence, relations between the "weak" and the "strong," ethics in international relations, how a population can legitimately resist living under occupation and increasingly, sovereignty. In attempting to define terrorism and thus outlaw it, some states have insisted on addressing the causes of terrorism. Other states have seen this as an attempt to justify terrorism since it could be seen as recognizing terrorism as a response to real grievances. Thus the definition issue and the "root causes" of terrorism debate are connected, further complicating both. Recent talk of "pre-emptive strikes" across borders against suspected terrorists only reinforces the need for conceptual clarity.

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<sup>1</sup> Brian Jenkins in *Countering the New Terrorism*, ed. by Ian Lesser et al. (Rand Corp. 1999) at xiii.

Professor Adam Roberts of Oxford University proposes the following definition:

"the use of violence, often against people not directly involved in a conflict, by groups operating clandestinely, which generally claim to have high political or religious purposes, and believe that creating a climate of terror will assist attainment of their objectives. Terrorism of this kind almost always appears to be non-governmental, but in particular cases movements engaging in terrorism may have a degree of clandestine support from governments."<sup>2</sup>

This is a useful working definition and like all such attempts is subject to debate. Yet several elements of this definition illustrate challenges and opportunities for the UN. This definition includes the possible involvement of state actors, which poses a dilemma for the United Nations. States make up the membership of the UN, so crafting effective anti-terrorist initiatives will force the UN to criticize or take even stronger action against some of its own members, never an easy thing to do.

A second element of the definition crucial to UN action is the political nature of the violence. Terrorism is not common crime or random violence that harms civilians; it is premeditated and has a political or religious purpose: regime change, ending an occupation, promoting a world view based on a specific interpretation of theology, resisting influence from external political, cultural or religious sources. While terrorist groups may engage in drug trafficking, organized crime, money laundering or smuggling, they are fundamentally different from organizations whose *raison d'être* is to engage in these activities; it is important for the UN to maintain this distinction in its anti-terrorism initiatives.

It is also helpful to focus on acts, not the terrorists' claimed goals, to help reach conceptual clarity. This distinction echoes international law which differentiates between *jus in bello* (laws on how to conduct war) and *jus ad bellum* (laws justifying going to war). While there may be justifiable reasons for resorting to violence under international law, certain types of violence, like terrorism, are prohibited regardless of the worthiness of the cause.<sup>3</sup>

As Middle East expert Shibley Telhami has noted: "Terrorism is an instrument, not a movement. It is an immoral means employed by groups, some of which have just causes, some of which don't."<sup>4</sup> He notes that to reduce terrorism it must be both de-legitimized and the conditions that allow it to thrive minimized. The UN can contribute to both aspects as will be shown later.

Lastly, what makes terrorism different from other kinds of violence is the express intent to spread fear among the greatest number of people so that the terrorists' can achieve their goal. This explains the careful selection of symbolic targets or high-visibility individuals to reach the intended audience, which sometimes is the terrorists' own supporters or potential adherents.

Some of the reluctance to define terrorism stems from situations where a weak organization faces overwhelming state power and responds to systematic oppression or occupation by using terrorism. Even in these situations terrorism is a choice; there are examples where insurgent groups or civilian populations facing intense repression, occupation or even acts of state terror did not respond in kind (East Timor under Indonesian occupation, Haiti under the Duvaliers and subsequent military dictatorships, Kurds in Iraq after poison gas attacks by Saddam Hussein). Meanwhile, some states suffering terrorist attacks refused to respond in kind and carefully calibrated

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<sup>2</sup> Adam Roberts, "Defining Terrorism: Focusing on the Targets," International Institute for Strategic Studies, *Strategic Comments*, V. 7, Issue 9 (Nov. 2001).

<sup>3</sup> Some who refuse to define or to condemn terrorism assert that "George Washington was a terrorist" to justify their position. This ignores developments in international humanitarian law over the past two centuries and is a misreading of history. Washington's troops tried to limit their attacks to British military targets; they also nearly died in Valley Forge during a brutal winter when they tried to transform themselves into a disciplined regular army.

<sup>4</sup> Shibley Telhami, "Standing Alone with Our Views on Terrorism," *Los Angeles Times*, April 19, 2002

their tactics to avoid unnecessary civilian suffering (France, Italy, Great Britain). Terrorism is never inevitable.

Moreover, recent developments in international law and in the practice of the Security Council may lower resistance to reaching a definition. If a civilian population truly is at risk because of brutal state behavior, military occupation or other forms of violence, then the emerging norm of a "responsibility to protect" civilians from gross human rights violations, crimes against humanity, genocide and, if agreed, from terrorism, will be more morally acceptable than trying to justify the use of terrorism by a weak "at-risk" population.<sup>5</sup> The UN intervention in East Timor was based on the duty to protect the East Timorese from state-sponsored terrorism by the Indonesian military and its civilian militias. NATO based its intervention in Kosovo on similar grounds: protect Kosovo Albanian civilians from violence committed by Serbian state and non-state actors.

Even if the UN agrees on a working definition, it still faces the challenge of enlisting broad agreement to act against specific groups because of the political backing some member-states provide to terrorist organizations. The stalemate on reaching a definition has moral, political and operational consequences, weakens efforts to build a broad anti-terror coalition among UN member-states, and prevents an honest debate on what conditions breed terrorism.

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### Questions for Consideration

1. Given the widespread revulsion at the September 11 attacks and recent spate of suicide bombings, is it time to push for a "definition" of terrorism? And if so, what would be the most useful ways to proceed?
2. If agreement is not possible, how can the UN help disentangle the question of what is terrorism from a frank analysis of the conditions that contribute to acts that everyone can agree are unacceptable? Can there be moral and operational clarity without conceptual clarity?

3. Is it necessary or useful to distinguish between the type of terrorism practised by Al Qaeda from that used by groups in the global south like the Lord's Resistance Army (Uganda), *Sendero Luminoso* (Peru), the Revolutionary United Front (Sierra Leone) and various groups in Pakistan, Colombia, Indonesia, Sri Lanka, Algeria and the Philippines, and if so, how would this affect the UN's counter-terrorist policy and initiatives?

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### "Root Causes" or "Enabling Conditions" of Terrorism

A second controversial issue swirling in the terrorism debate has serious implications for the United Nations. Does terrorism have "root causes," and if it does, what are they?

The debate most often centers on the question of whether poverty and/or underdevelopment "cause" terrorism, or if terrorism is unrelated to economic factors. Is terrorism better explained as arising from evil individuals motivated by a perverse interpretation of a particular ideology or theology?

The proponents of looking for root causes of terrorism have three difficult tasks. First, they must make clear that understanding or explaining is not the same as justifying or excusing terrorism. Second, they must explain why some terrorist groups operate in wealthy, economically vibrant and well-governed democracies (France, Italy, Germany, US, Japan, Spain) and why so many poor countries do not experience terrorism. And third, even when terrorism plagues poor countries, why are so many of its leaders relatively wealthy and well educated ( Hamas, Hezbollah, Al Qaeda, *Sendero Luminoso*)?

Alan Krueger, a Princeton economist, asserts that terrorism and poverty are linked indirectly, if at all. He studied the backgrounds of 129 Hezbollah militants who were killed in the late 1980s and early 1990s. He found that most were well above the poverty line and had higher than average levels of

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<sup>5</sup> The International Commission on Intervention and State Sovereignty, *"The Responsibility to Protect"* (2001).

education.<sup>6</sup> The wealth and educational backgrounds of Osama bin Laden and the rest of the al Qaeda leadership reflect similar privilege. Other studies of terrorist groups in Europe and of Israeli settlers involved in terrorism also show that poverty and lack of education were not part of their backgrounds.

Yet those who reject any link between poverty and terrorism are wrong for several reasons. First, in positing an overly mechanistic cause-effect relationship they oversimplify what is a complex but real connection. Second, they restrict their analysis to a select group of terrorist organizations, primarily in Europe and in the Middle East whose leaders and many of whose followers are not poor and have received relatively decent educations. They ignore, however, terrorist organizations in Africa, Central and South Asia and Latin America who have very different economic and social profiles. The members of the Lord's Resistance Army in Uganda, the RUF in Sierra Leone, and the Abbu Sayyaf group in the Philippines come from extremely poor backgrounds and have little or no education. Similarly, the deeply impoverished Central Asian states have provided the recruits for the Taliban, Al Qaeda and homegrown groups like the Islamic Movement of Uzbekistan (IMU) and the *Hizb ut-Tahrir*.

The leaders of the Revolutionary Armed Forces of Colombia (FARC) are highly educated but the masses of their foot soldiers come from the impoverished countryside and rural slums. The Shining Path in Peru (*Sendero Luminoso*), the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka and the Maoists in Nepal share a similar profile: educated and relatively privileged people at the leadership level who exploit real grinding poverty and discrimination (racial in Peru, religious and ethnic in Sri Lanka, religious and caste-based in Nepal) to find ready recruits among the legions of the poor without prospects for a decent life.

This is typical: modern terrorist organizations require management and technological skills found in the upper and middle classes yet they also need foot-soldiers who overwhelmingly hail from the poor and down-trodden. Focusing on well-off terrorist organizations in wealthy European countries and on Islamic organizations from relatively wealthy Middle East and Gulf states skews the sample and distorts reality. Moreover, in the five years that preceded the September 11 attacks, the number of terrorist incidents and victims in the Middle East actually declined; the region yielded its top ranking in this sorry statistical category. Meanwhile, the numbers of terrorist incidents and victims increased in Africa, Asia and Latin America.<sup>7</sup>

Ahmed Rashid, a prominent Pakistani journalist and Central Asian expert counters Krueger's position with a compelling insight: "Historically, socio-economic aid has proved to be the critical factor in counterinsurgency. A well-fed, well-housed and fully employed population would not provide recruits for the IMU [Uzbekistan]- or any other terrorist organization."<sup>8</sup>

Second, poverty and underdevelopment create grievances that terrorist leaders exploit for their own ends. The grievances provide a ready pool of recruits, funds and other forms of active and passive support. They can rely on a population that will hide them, provide food, shelter and money in addition to their sons and daughters. For example, Riaz Basra, the leader of a Sunni extremist group in Pakistan, *Lashkar-I-Janfvi*, relied on poverty and lack of opportunity to keep his ranks filled with those ready to kill Shiites and pursue training in terrorist tactics in Afghanistan. A local lawyer explained "Poor men like Riaz Basra are recruited from religious schools and turned into terrorists, and the result is panic for all of us."<sup>9</sup> Basra and his cohorts represent a side of terrorism not nearly as well publicized or as studied as the Osama bin Ladens, but

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<sup>6</sup> Sebastian Mallaby, "Does Poverty Fuel Terror," *The Washington Post*, May 20, 2002 at A-21. See Alan Krueger, "Economic Scene," *The New York Times*, Dec. 13, 2001 at C-2 where Krueger notes that terror often breeds "in a culture of education and middle class comfort." He notes that poverty does make it easier to recruit insurgents in "civil wars," but fails to recognize that this same dynamic enables terrorists to recruit followers and that insurgents and their government opponents often commit terrorist acts in "civil wars."

<sup>7</sup> Shibley Telhami, "Put Middle Eastern Terrorism in Global Perspective," *The Baltimore Sun*, Feb. 17, 2002

<sup>8</sup> Ahmed Rashid, *Jihad* (New Haven: Yale Univ. Press 2002), p. 236

<sup>9</sup> Howard French, "For Militant, No Glorified End, but Death in the Dust," *The New York Times*, May 19, 2002.

they are the norm in much of the world. Basra's victims were predominantly local Shiites, including 25 mourners massacred in a Lahore cemetery in 1998; these acts rarely make the front pages of the international press.

Third, poverty and underdevelopment often coincide with limited or non-existent governance. "Black holes" like Afghanistan, Sudan, Pakistan, Liberia, Sierra Leone, Congo, Georgia, Somalia, Uzbekistan, Kyrgyzstan (especially the Fergana Valley which runs across three of the Central Asian former Soviet republics), Yemen, Somalia, Algeria and Colombia provide ideal conditions for local or trans-national terrorists to flourish. These hosts are often "phantom states" that have limited or no control over what happens in large parts of their territories. They exercise limited sovereignty. Their police forces are often corrupt, brutal and incompetent. Local extremist groups flourish by exploiting the discontent fed by corruption, poverty and authoritarian rulers to enlist local recruits and also plug into international terrorist organizations. Their justice systems cannot or will not enforce the law, their borders are porous and their banking systems incapable of the most basic financial oversight. Smugglers control the border exchanges, while weapons, drugs, illicit diamonds or other contraband flow easily, providing the free movement of recruits, weapons and funds that allow the terrorist networks to operate unfettered.

Fourth, the lack of any future economic prospects for a huge and growing population of young men in the Middle East, Africa and much of Asia presents an enormous challenge. Many lucky enough to go to school are not adequately prepared to work in a modern economy. Even those with technical degrees face a hostile job market. An anthropologist at a university in Egypt recently noted "The economy puts a great deal of pressure on the younger generation...Kids who are 22 don't have even the same opportunities that their older brothers and sisters did- and their expectations are even higher."<sup>10</sup> Naguib

Mahfouz, Egypt's Nobel Prize winning novelist who was stabbed and almost killed by Islamic extremists because of his writing notes: "the young men of today don't have our hopes, or our opportunities. They also don't have our dreams."<sup>11</sup> Hopelessness, humiliation and rage provide the potential shock troops for terrorist masterminds, making recruiting easier. Instant global communications can accelerate this process.

Terrorist expert Jessica Stern has interviewed terrorists from Christian, Muslim, Jewish and Hindu groups and found that religion is often used to articulate political and economic grievances. She has concluded that terrorist leaders win adherents when they can show the potential recruits that they have little to live for in this world.<sup>12</sup> The leaders' job is made easier when their recruits require little convincing based on their own assessments of their status and opportunities. It is among the huge demographic bulge of young men between the ages of 14-30 where terrorist leaders find their foot soldiers.

Poverty of resources, combined with poverty of prospects, choices and respect, help enable terrorism to thrive. All this is not to say that poverty, underdevelopment and poor governance always cause terrorism. The relationship is not a mechanistic one. But to say that poverty has nothing to do with terrorism goes too far in the other direction and is equally simplistic and false. You are left with the conclusion that "terrorists cause terror," a not particularly helpful insight for crafting policies to diminish the terrorists' ability to attract recruits and financial support. While psychological studies of terrorists are necessary, they are not sufficient to fight terrorism. Nor is relying purely on military or intelligence initiatives. There will always be some people who for whatever complex set of reasons will use violence to pursue their goals even if viable non-violent alternatives exist. Yet failing to include development aid, education, governance and public information in the mix of anti-terrorist tools is shortsighted. One terrorist expert has compared fighting terrorism with purely military or police tactics

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<sup>10</sup> Tim Golden, "Young Egyptians Hearing the Call of 'Martyrdom,'" *The New York Times*, April 26, 2002 at A-1.

<sup>11</sup> Mary Anne Weaver, *A Portrait of Egypt* (New York: Farrar, Strauss & Giroux 2002), p. 168.

<sup>12</sup> Jessica Stern, "Get to the Roots of Terrorism," *International Herald Tribune*, April 24, 2002.

to a narrow approach to combating urban crime: "[T]he international equivalents of inner-city regeneration are neglected at the expense of more equipment for the riot squad."<sup>13</sup> The challenge is to understand the nuances and the complexities of the various causes and enabling conditions that help explain the attraction of some to terrorism.<sup>14</sup>

The southern Philippine island of Mindanao provides a good case study of the intricate relationship between economic and social conditions and terrorism. Muslim insurgent groups, who frequently used terrorist tactics, once flourished in the area around General Santos City. They easily found recruits among the poor Muslim youths who had no economic future. Yet in the late 1980s, the U.S. and Japan started to invest heavily in the fishing industry, exploiting the large schools of tuna just offshore. Roads, container facilities and large fishing boats, combined with low tariffs for Philippine tuna to enter the US and Japanese markets, led to quick and relatively equitable economic development. Support for the insurgent/terrorists groups dwindled rapidly as the six big tuna canneries and 30,000 fishermen soon earned decent salaries. Except for the Abu Sayyaf terror group, the rest of the former Muslim militants laid down their arms, signed an armistice with the government and now work in the tuna industry.<sup>15</sup> Curiously, in its effort to create more well-paying jobs in Colombia to counter terrorism and drug-trafficking, the U.S. is now considering eliminating steep import tariffs on canned tuna from Colombia and Ecuador while keeping tariffs in place for the Philippines, a move that would devastate the Philippine tuna industry, throw thousands out of work in the Muslim south and possibly fuel a resurgence of terrorism there.

The UN should fight poverty, poor governance and underdevelopment regardless of any connection these have with terrorism. It is the right thing to do and is

central to the UN's mandate and to the work of the World Bank, the IMF and the other international financial institutions. Yet an important by-product to these efforts could be to decrease the amount of oxygen available to terrorist leaders to ignite and sustain their campaigns.

Can poverty eradication and development programs help drive a wedge between the terrorist leaders bent on violence and the communities whose grievances and humiliation they seek to exploit? Attacking the poverty that breeds despair, alienation and grievances will help limit the size of the next generation of terrorist foot soldiers. Instead of celebrating terrorist acts in the streets, terrorist groups could find themselves just as isolated and despised among what used to be their pools of support as the IRA, ETA, Red Brigades, Baader-Meinhof, November 17 (Greece) and Japanese Red Army do now. Instead of T-shirts emblazoned with terrorist leaders' faces, there will be street protests like the ones in Omagh and Bilbao condemning them.

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#### Questions for Consideration

1. While it is clear that poverty alone does not "cause" terrorism, how do terrorist leaders exploit poverty, inequality, economic grievances (real and perceived), and bleak economic futures for a huge demographic bulge in certain parts of the world's population, to gain adherents to their cause?
2. How can the UN best help promote analysis and discussion of the complex constellation of conditions that make it easier for terrorists to find support?
3. How can the UN and international financial institutions insure that enough money will be spent on improved governance, enhanced financial tracking systems and capacity-building efforts in the weak states that harbor terrorists?

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<sup>13</sup> Martin Woolacott, "September 11 Smokescreen," *The Guardian Weekly*, April 14-20, 2002, quoting Dan Plesch, *Sheriff and Outlaws in the Global Village* (London: Menard Press) (2002).

<sup>14</sup> Palestinian mental health experts note that in treating adolescents who considered becoming suicide bombers the young people most often expressed rage at and frustration with the on-going occupation. In a significant development, growing numbers of parents were trying to stop their children and support for suicide bombing has fallen. See, Alfonso Chardy, "Parents deter some bombers," *The Philadelphia Inquirer*, May 25, 2002, at A-1.

<sup>15</sup> Keith Bradsher, "Drugs, Terror and Tuna: How Goals Clash," *The Washington Post*, May 16, 2002.

4. Can and should anti-terrorism efforts be linked with broader campaigns against corruption, organized crime and illegal arms trafficking?

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## The Role of Religion, Education and Public Information in Promoting and Combating Terrorism

Terrorist leaders seek support from people who feel humiliated, threatened, aggrieved and without hope. In some cases, various religious or cultural groups have distorted the teachings of their religions or cultural heritages to inculcate hatred, intolerance and fear of the "other" among the very young. They have sometimes taught that their particular group is "exceptional" and has been chosen to rule over their land to the complete exclusion of all others.

Many analysts point to the *madrasas* of Pakistan and Afghanistan as prime examples of this phenomenon. Young children, almost exclusively boys, learn an especially narrow and extreme form of Islam taught by the Deobandis. This teaching, which originated in the equally harsh view of Islam propagated in Saudi Arabia by the Wahabbi sect, seeks to convince its charges that Islam must triumph over all other religions and "jihad" is justified to reach this goal.<sup>16</sup> These *madrasas* ignore the rich vein of Muslim learning in the sciences, mathematics, philosophy and literature. They offer no instruction in practical subjects so their graduates have no useful real-world job skills upon graduation.

This phenomenon is by no means limited to Islam. In varying degrees, many of the world's major religions (Buddhism, Christianity, Hinduism, Judaism) also have their versions of *madrasas* where intolerance of others and the native superiority of the chosen are drilled into young minds. For example, the Sewa Dhan School in Mandoli, India is just one of several schools promoting

Hindu nationalism. The boys follow a rigorous curriculum emphasizing the central role Hinduism has played and continues to play in Indian history. They are urged to buy only Indian-made products and to avoid foreign goods.<sup>17</sup> Teachers maintain that India's indigenous people are really "Hindus" and they reserve special scorn for Muslims and for Hindu converts to Christianity. The message of this school is unadulterated, extreme Hindu nationalism.

Part of the terrorists' appeal comes from their positioning themselves as "defenders" of traditional ways against the onslaught of the "West" and its material, secular culture. The globalization of trade, travel and instant communications gives this argument some basis in fact. One expert has noted: "Reactions to cultural assimilation can also take the form of global fears of cultural imperialism...The net result of this trend may be to increase the exposure of institutions engaged in integrative activities of all sorts (U.S. entertainment and communications firms, the European Union)...to terrorist action."<sup>18</sup>

The UN has traditionally viewed educational issues, national curricula and religion in general as highly sensitive areas best to avoid. The UN believed that what a country decides to teach its children and the place of religious education in perpetuating cultural values was a domestic matter and any UN involvement would be controversial. The UN needs to reconsider its role in these questions.

In Security Council Resolution 1373 (2001), the Council unequivocally states that it is "*deeply concerned* by the increase, in various regions of the world, of acts of terrorism motivated by intolerance or extremism." (Italics in the original).

The UN should develop a public information strategy promoting tolerance and mutual respect across religious and cultural traditions. Moreover, the UN should make it clear that tolerance does not represent the triumph of the secular over the religious and thus

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<sup>16</sup> See Ahmed Rashid, *The Taliban* (New Haven: Yale Univ. Press 2000) for a description of the Deobandi *madrasas* and their role in creating and sustaining the Afghan Taliban.

<sup>17</sup> Somini Sengupta, "Hindu Right Goes to School to Build a Nation," *The New York Times*, May 13, 2002, p. A-1.

<sup>18</sup> Ian Lasser, "Implications for Strategy," in Lasser et al, *Countering the New Terrorism*, (Rand Corp. 1999) p.97.

is not a threat to those who deeply hold their religious beliefs. This will be a challenge for a UN that has traditionally tried to remain "agnostic" on religious matters; such a position in the current context would be counter-productive.

Any UN public information strategy should operate on several levels. First, the Secretary-General should have a prominent role. He occupies an unparalleled pulpit for preaching the virtues of respect, tolerance and understanding. He can reach many core audiences, but greater creativity would allow him to reach even more. It should become an automatic part of his agenda when visiting states that he meet with local, grassroots NGOs who work on human rights, education, youth and related issues. He should try to insure that he gets out of the capital, however briefly, to meet with local officials, NGO religious and community leaders in the countryside.

Second, UN headquarters should use more strategically the information, contacts and insights of the on-going UN presences in key states where the terrorism/intolerance nexus is strong. Agencies like UNICEF, UNDP, WFP, UNFPA and others often know the most important local religious leaders, journalists, community organizers and others who can mobilize and disseminate the UN's message on "no to intolerance." They know the moderates who exist in every society who can be supported in their efforts to prevail over the extremists' message. Yet the UN often fails to exploit its own agencies' local contacts and expertise.

Third, these same agencies plus UNESCO could pursue more aggressively opportunities to advise and shape school curricula. This is bound to generate some controversy; can the UN balance respect for cultural differences and non-interference with domestic affairs with the need to condemn school lessons that include incitement to racial, religious or ethnic hatred? Will the UN criticize, for example, Saudi textbooks and others used in the Middle East or anywhere else that propagate unacceptable portraits of other religions and cultures?<sup>19</sup> How can the various UN actors like UNICEF

and the Office of the High Commissioner for Human Rights, who have developed culturally specific curricula that emphasize human dignity, respect for all people and tolerance, convince national authorities to adapt their schooling to incorporate these values?

Some in the UN family literally laugh when UNESCO is mentioned as having a role to play. They may be right but it is no longer a laughing matter. If UNESCO doesn't work, then the UN should be asking how to make it work; its mandate and potential role is too important and cannot be left to others. If UNESCO is beyond saving, then can another agency take up the job? UNICEF with its respected "rights-based programming" that promotes respect for human rights and human dignity regardless of culture or tradition might be an alternative.

Fourth and last, the UN, whether the Secretary-General or heads of agencies or both, should adopt a "war-room" rapid-reaction capacity to counter the most outrageous claims made by terrorists. The response must be quick and compelling. The poison should not be allowed to fester. Again, aggressive, pro-active messages should not be deferred to concerns of political correctness. Those who oppose terrorists and their message in their home countries often rely on the UN to create the political space for them to operate and they in the end will be the most effective campaigners against terrorism. Local, respected leaders should deliver the message. Most often, local tradition, values and culture are consistent with tolerance, respect and abhorrence of violence against civilians. Local voices espousing these views may get drowned out unless they have the UN's support.

Any UN public information strategy should underscore the gifts to the world that diverse cultures and religions bring. This is not only true but could also help allay fears of assimilation and "cultural imperialism" that make some believe that their faith or way of life is under assault. Addressing this fear would remove another potential grievance and make the terrorists' search for support that much harder.

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<sup>19</sup> Mohamed Charfi, "Reaching the Next Muslim Generation," *The New York Times*, March 12, 2002, p. A-27



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### Questions for Consideration

1. How should the UN encourage change in school curricula to promote respect for diversity, tolerance and respect?
2. What is the most effective information strategy for the UN to reach populations who might otherwise support or sympathize with terrorists?
3. Just how enmeshed should the UN become involved in issues of religious faith as it relates to terrorism?
4. How can the UN best support local leaders who espouse tolerance and moderation without undermining them or making them appear to be under the control of "outsiders?"

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## Terrorism and International Human Rights and Humanitarian Law

### Human Rights Law

Terrorism has highlighted the tensions between respecting international human rights and civil liberties and protecting national security. In the United States, Canada and much of Europe, debate has raged on balancing individual liberties and using more intrusive and assertive security measures to identify, arrest and prosecute suspected terrorists. The United Nations, as the main repository and guardian of international human rights treaties and standards, should have a major voice in this debate. Human rights violations also enter into the mix of conditions that help fuel terrorism. The UN High Commissioner for Human Rights' capacity to analyze human rights abuses and assess whether conditions may be ripe for terrorists to exploit a given situation must be enhanced.

Human rights law allows some rights to be suspended in times of national emergencies that "threaten the life of the nation." This provision is vague and some states

have used and abused it to crack down on opponents. Yet certain rights, like the right to life, the complete ban on torture, the prohibition of slavery and the guarantee of freedom of conscience and belief can never be suspended, even in time of war or a real national emergency.

So it was shocking to hear serious commentators in the United States discuss the possibility of using torture to extract information from suspected terrorists after the September 11 attacks. As an alternative, some in the US government threatened to send detainees to jurisdictions where torture might be used. The US anti-terror campaign faced other serious charges for its human rights practices. Amnesty International, in its annual world-wide report issued in May 2002, cited the US for its prolonged pre-trial detention of suspected al Qaeda members in Guantanamo Bay, Cuba and its refusal to classify them once the US rejected recognizing them as prisoners of war with the full protections guaranteed under the Third Geneva Convention of 1949.

Moreover, Amnesty noted that the US continued to hold an unknown number of detainees on suspicion of having links to Al Qaeda in US jails for months. Many of these detainees either have been charged with trivial immigration law violations or have not been charged at all. They have had little or no access to lawyers, family or representatives from their home-country consular officials. And now the US is introducing measures that will require thousands of Muslim and Middle Eastern visa holders to register with the government and be fingerprinted.

Similar measures have raised human rights concerns in other established democracies. For example, in the United Kingdom, the Anti-Terrorism, Crime and Security Act of 2001 allows the Secretary of State to order indefinite administrative detention, without charge or trial and without recourse to judicial review, of any non-UK national deemed a "suspected international terrorist and national security risk" on the basis of secret evidence. Amnesty International noted that across Europe "[T]he attacks of 11 September were used by many governments to take measures, in the name of strengthening national security, which resulted in

human rights violations and further restrictions on the rights to freedom of expression, association and fair trial, as well as the rights of asylum-seekers."<sup>20</sup>

Yet even liberal, pro-civil liberties groups have realized that some recalibration of the delicate balance between rights and security is needed given the increased threat of massive death and destruction by terrorists. The question is just how far can states act in the name of security. For example, many human rights advocates have consistently denounced the police use of racial, ethnic or religious profiling in fighting crime. Now, few people would criticize certain types of profiling at airports, other places of mass transit or where people seek access to sensitive areas like bridges, tunnels, power stations and skyscrapers. Increased surveillance in public areas, of Internet use and of certain groups has occurred with few protests. Is this right? Is there an acceptable form of racial or ethnic profiling and if yes, what is its legal basis in countries that pride themselves on the rule of law?

While in North America and Europe the debate continues on the trade-offs between security and civil liberties, non-democratic states that have not protected human rights are exploiting the fight against terrorism to justify their repression and even to crack down further on political opponents or minority groups. The UN's watchdog role is crucial to prevent a further erosion of liberty in states with bad human rights records and weak judiciaries. A recent Security Council Resolution provides a clear window for the UN system as a whole to observe exactly how states balance security concerns with obligations to guarantee human rights.

Following the September 11 attacks the UN Security Council passed Resolution 1373 which was precedent-setting in that it required all member-states to report to the Security Council the specific steps it was taking to combat terror, including plans to control funding and recruiting by terrorist groups operating in their territories. It was the latest in a number of resolutions demonstrating the Security Council's growing interest

in what used to be considered "domestic matters," another sign of the shifting border between internal matters and issues of legitimate concern to the international community.

The Security Council received reports from, among others, North Korea, Burma (Myanmar) and other states notorious for their lack of respect for human rights. Several states have used the current frenzy to root out terrorists as a pretext to crack down further on ethnic, racial or religious minorities or political opposition groups deemed to be "terrorists" by the state. President Mugabe, for example, called some journalists working in Zimbabwe "terrorists" to justify his draconian restrictions on press freedoms and his expulsion of the entire international press corps prior to elections in April 2002. In Macedonia, the authorities for several weeks refused to allow the International Committee of the Red Cross (ICRC) or the Organization for Security and Cooperation in Europe (OSCE) access to Albanian detainees on the grounds that they were "terrorists" and cited the US refusal to allow the ICRC access to detainees in Guantanamo as a precedent. The president of Kazakhstan has cracked down on journalists and human rights NGOs, all in the name of fighting terrorism.

In its annual report for 2001, Amnesty International further noted that human rights are being sacrificed for security reasons in internal conflicts in Nepal, Sri Lanka and India. "Human rights were traded away in almost all parts of the world," according to Amnesty Secretary-General Irene Khan.

Cutting back on human rights is not only wrong but also counter-productive. Experts on Central Asia note that the repressive policies of the regimes in Uzbekistan, Tajikistan and Kyrgyzstan have only served to fuel the growth of Islamic extremists.<sup>21</sup> The rise of the Islamic Movement of Uzbekistan is "directly linked to President Karimov's refusal to allow Muslims to practice their religion and his extreme attitude to all religious expression and dissent."<sup>22</sup> Some states are keen to establish a link between their political opposi-

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<sup>20</sup> Amnesty International Annual Report 2002, available at [www.amnesty.org/web/ar2002/nsf/regEUR/regEUR?OpenDocument](http://www.amnesty.org/web/ar2002/nsf/regEUR/regEUR?OpenDocument).

<sup>21</sup> Ahmed Rashid, *Jihad* (New Haven: Yale Univ. Press 2002), p. 85.

<sup>22</sup> *Ibid.*

tion and the global war against terrorism, "justifying" increasingly harsh measures against even non-violent opposition groups who are labeled as terrorists. The authorities link all Islamic activism in Uzbekistan with Al Qaeda and Osama Bin Laden, pre-empting any serious criticism of its human rights record. This policy has the danger of becoming a self-fulfilling prophecy in several parts of the world, especially Central and South Asia and the Middle East, where terrorist leaders use the regime's human rights violations as a recruiting tool.

Sir Jeremy Greenstock, who chairs the Security Council's Counter-Terrorism Committee (CTC), has said that this committee would review and assess the reports submitted by member-states to show how they are fighting terrorism, but insisted that the CTC "is not a tribunal for judging states. It will not trespass into the competence of other parts of the UN system."

This puts the onus on the rest of the UN system, especially the Secretary-General, the High Commissioner for Human Rights and even the full Security Council itself to take a strong, clear and consistent stand that the fight against terrorism cannot be at the expense of basic rights and freedoms. Fortunately, the Secretary-General and former High Commissioner Mary Robinson have spoken strongly on this issue. For example, Mr. Annan told the Security Council, "I believe that in the long term, we shall find that human rights, along with democracy and social justice, are one of the best prophylactics against terrorism."<sup>23</sup> The Secretary-General understands that terrorist leaders will not hesitate to exploit any infringement of human rights to fuel grievances and attract support for their cause.

Over the past few years the Security Council has shown that it will address issues relating to human rights, something that it had consistently refused to do before. For example, Ms. Robinson addressed the Council in July on the human rights situation in the Democratic Republic of the Congo, the first time she had ever appeared before the Council to discuss a specific country situation. Given this evolution, how will the

Security Council react if it concludes that certain anti-terrorism measures are being used to infringe essential freedoms like the right to life, absolute prohibitions on torture, the right to a fair trial, the presumption of innocence, and freedoms of expression and assembly?

Another issue for UN senior leadership to consider is the question of the universality of human rights. While the Universal Declaration of Human Rights has been accepted by the vast majority of UN member-states, some still resist recognizing that "Universal" means what it says, and assert that the standards are "Western" or "European."

The resistance comes largely from the Middle East and parts of Asia, precisely the areas where terrorist networks also are very active. Several leaders in Asia maintain there is an "Asian" conception that values "order" and community values over the individual; many Asian human rights NGOs contest this and note that this position is nothing more than a pretext to justify limiting rights and preserving power. Certain African states used to promote the "cultural relativism" argument to justify their refusal to admit the universality of human rights, but they have abandoned this position in most cases, even for issues like female genital mutilation. How can the UN best develop strategies, including public information campaigns that address the challenge of showing respect for local cultures and traditional practices while insisting that every human being, by virtue of being human, enjoys basic rights?

For example, Saudi Arabia has ratified few human rights treaties but it recently submitted a report to the Committee Against Torture, which oversees compliance with the Convention Against Torture and Inhuman or Degrading Treatment or Punishment. When the Committee criticized the Saudis for amputations, stoning and other forms of punishments that the Saudi government bases on its interpretation of the *Shari'a*, the Saudis denounced the Committee and declared that it had no jurisdiction over religious matters and these punishments had been applied for 1400 years.<sup>24</sup> What is the best response for the UN to the Saudi argument?

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<sup>23</sup> Thalif Deen, "Terrorism and the rule of law," *West Africa*, Jan. 28-Feb. 3, 2002, p.19

<sup>24</sup> Elizabeth Olson, "Fair Penalties or Torture? U.N. at Odds with Saudis," *The New York Times*, May 19, 2002, p. A-5

Can the UN enlist other Islamic states in an effort to show how they have reconciled their interpretations of Islamic law with their human rights treaty obligations? What is the best way to engage the Saudis in a process that will lead to change without fuelling a belief, already exploited by terrorists, that Islam or Saudi culture is under threat?

Similarly, the position of women and their right to equality frequently runs up against so-called "cultural traditions." The challenge for the UN is to promote cultural diversity and reassure people that human rights and traditional cultures are compatible. To do this the UN should work closely with religious leaders, legal scholars and cultural ambassadors from all religious traditions to show areas of common agreement like respect for life and human dignity found in every culture and religion.

The UN needs to do a better job explaining that promoting human rights is not a critique of religion. Human rights standards are "secular" but in the sense that they are neutral vis-à-vis religions, not that they are anti-religious.<sup>25</sup> The UN has traditionally been uncomfortable dealing with religion. Yet it should not hesitate to promote human rights as a way to guarantee respect for all the world's religious traditions. As the Lawyers Committee for Human Rights astutely points out:

Human society, in its great diversity, is in need of shared common standards to regulate inter-communal, and indeed intra-communal, relations and avoid endless conflicts. Human rights standards go some way toward fulfilling this function...Human rights are a valuable check on religious extremism and theocratic political movements, as they are on other forms of intolerance and tyranny.<sup>26</sup>

Who within the UN system is best placed to design a

more creative view of human rights as a primary element in supporting tolerance and respect across religious and cultural divides? How can the UN lessen the appeal of terrorists who wield the weapon of cultural and religious grievances to promote their own extreme world-views?

### International Humanitarian Law or the Laws of Armed Conflict

Terrorism also engages several issues under international humanitarian law (IHL). While the International Committee of the Red Cross is the statutory guardian and definitive interpreter of the laws of armed conflict, the UN should also promote greater clarity and stricter adherence to IHL in dealing with terrorism.

IHL uses the term "terror" in Protocol I to the Conventions (1977), "Protection of Victims of International Armed Conflict." "The civilian population as such, as well as individual civilians, shall not be the subject of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited." (Article 51). Protocol II to the Conventions (1977), Article 13(2), "Protection of Civilians in Non-International Armed Conflicts," has an identical provision.<sup>27</sup> Thus IHL, in addition to the general prohibition on attacking civilians, outlaws all attacks on civilians whose primary purpose is to spread terror in an armed conflict. There is no exception for people under occupation or for states responding to attacks on its civilians. Moreover, Protocol I expressly includes in its definition of situations covered by its rules "armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination..."<sup>28</sup>

IHL distinguishes between combatant and non-combatant. Any intentional, avoidable violence

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<sup>25</sup> Lawyers Committee for Human Rights, *Islam and Equality: Debating the Future of Women's and Minority Rights in the Middle East and North Africa* (New York: 1999), p. ii.

<sup>26</sup> *Ibid.* at iii.

<sup>27</sup> Protocol II, in article 4(2)(d) also expressly prohibits "acts of terrorism" against "[A]ll persons who do not take a direct part or who have ceased to take part in hostilities."

<sup>28</sup> Protocol I, art. 1(4).

against non-combatants (including wounded combatants or others now "*hors de combat*") is prohibited. Yet various complications arise in terrorism scenarios. First, what is to be done when there are mixed populations of combatants and non-combatants? What happens when combatants use non-combatants as human shields or when otherwise protected places like churches, hospitals and schools contain combatants, some wounded and sick, others still able to fight? What about settlers in occupied territories- if they are armed and guarding civilians, are they combatants? What if they are reservists in an army? On-duty or off-duty? What about regular army officers off-duty in occupied territory?

The third area of difficulty concerns prisoners. Are captured members of a terrorist organization entitled to Prisoner of War Status under the Third Geneva Convention of 1949? That Convention defines POWs carefully and also says that when in doubt, POW status should be recognized until demonstrated otherwise. Groups like Al Qaeda present legal and definitional problems for IHL. Al Qaeda is organized and was involved in helping the Taliban fight the Northern Alliance for control of Afghanistan. It also supported insurgent groups in Uzbekistan, Tajikistan and Krygyzstan like the IMU which itself has committed terrorist acts. Could Al Qaeda be deemed a party to armed conflicts, both international and internal? It is organized, hierarchical and helped control territory. Yet its members do not usually wear uniforms or other distinguishing markings nor do they observe the laws of war. So under IHL definitions, captured Al Qaeda may not meet the definition of POW. But what are they then? Common criminals? Alleged perpetrators of crimes against humanity according to Robinson? Do they enjoy any protections under IHL?

Finally, will the new International Criminal Court assert jurisdiction over terrorist acts? And does it make any difference legally when the President of the United States continues to say that there is "a war on terrorism?" Are the parties in this conflict subject to and beneficiaries of the protections of the laws of war?

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### Questions for Consideration

1. Will the new balance of security and freedom come at too high a price and undermine the very nature of democracy and the rule of law? If we go too far in restricting liberties, haven't the terrorists essentially won part of their battle? How can the UN best influence this debate?
2. How can the UN promote cultural diversity and respect for traditional cultures while at the same time insisting that human rights are universal? If there is a conflict between local culture and human rights, how can the UN argue that the latter must prevail?

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### Conclusion

The UN's goal for all of its counter-terrorism activities should be to make terrorism as unappealing as possible to the greatest number of people. The UN has programs in a variety of areas: development, poverty reduction, education, public information, international law, good governance, anti-corruption, countering arms-trafficking and promoting cross-cultural understanding. These are the best tools for this work but need greater focus, coordination and dynamism.

In addition to the necessary military, police and intelligence work done by states, the UN should lead in forging a political and legal consensus that terrorism is unacceptable in all circumstances and that there is never justification in attacking civilians. In crafting counter-terrorism initiatives that seek to support basic UN principles like tolerance, respect for cultural diversity and the equality of all people, the UN should defer to local leaders and community representatives because they are best placed to convey these messages and convince their audiences. The more the UN can do to remove real grievances, the more limited will be the terrorists' capacity to operate. While no one can guarantee a world without terrorists, the UN can help to keep them isolated, weak and despised.

## Conference Report

*William G. O'Neill*

### Executive Summary

The International Peace Academy held a conference on "*Responding to Terrorism: What Role for the United Nations?*" on 25-26 October, 2002 in New York. In addition to the focus on possible UN initiatives, the conference specifically sought the insights and recommendations of experts from Latin America, Africa and Asia, parts of the world that have suffered greatly from terrorism but whose views and prescriptions are often overlooked or omitted from the debate.

The presentations made by the various panelists provoked lively exchanges. Participants offered incisive comments on the nature of modern terrorism, the links between religion and terrorism and the economic, social and cultural components of the appeal of terrorism to those who feel the system, both local and international, is rigged against them. The conference also considered how international laws on armed conflict and human rights could help combat terrorism; at the same time many affirmed that this struggle could not be at the expense of fundamental rights and freedoms. This would only help the terrorists who frequently take advantage of rights violations to heighten their appeal. The role of international banking and financial channels was seen as essential to choking off funds to terrorists but again had to be handled with care to avoid stifling legitimate investments, trade and charities which would only fuel resentments and grievances.

The conference identified several challenges where the UN needs to direct its resources and energies to fight terrorism.

First, the UN should exert its moral authority and send an unequivocal message that terrorism is never acceptable, even for the worthiest of causes. The Secretary-General should take a lead role in propagating this message.

Second, the UN's failure to define terrorism has hurt the organization and the fight against terror. This lack of a definition is much more than a battle over semantics and has real consequences. The lack of agreement on what constitutes "terrorism" exposes the UN to charges that it uses double-standards which undermines the very legitimacy and universality that are among the UN's most precious assets. Several participants concluded that the General Assembly should forge a definition as an urgent priority.

Third, the Department of Public Information should design a campaign promoting tolerance and understanding among all cultures and religions. The well-intentioned "dialogue among civilizations" has had little discernible impact and a more concerted, focused and publicized effort is needed, one that reaches grass-roots societies beyond the narrow elites in the capitals. Again, the Secretary-General occupies a unique position to lead and sustain such an initiative and his role should be carefully planned.

Fourth, the UN should enhance its work in sustainable development, poverty reduction, improved governance and strengthening the rule of law. These are valuable programs in their own right but their role in reducing the appeal of terrorists and in addressing the lack of opportunities and grievances that terrorists exploit to gain recruits, financing and support needs to be recognized. An even more explicit appeal to governments to rule fairly, to represent all parts of the population and to give people hope in a future will diminish the attraction of extremist views and thus of terrorists.

Fifth, the UN needs to reassess its relationship with religions. The UN needs to become more comfortable dealing with religious issues and sponsoring and engaging in discussions about the role of religion in international affairs. Secularism does not have to mean being anti-religious, so that while the UN should remain a secular organization, it should not be seen as indifferent to religion.

Sixth, the fight against terrorism provides an opportunity to reconsider the boundaries of sovereignty, between the "essentially domestic matters" and those that are legitimately the concern of the UN. This boundary has shifted quite a bit since the UN's founding; issues like human rights and the environment have led the way. Now questions like the HIV/AIDS pandemic, the illegal arms trade and trafficking in humans require concerted efforts by the UN and the international community, including "intrusions" into how a state is addressing these questions within its borders. The state's role in education, whether the curriculum promotes tolerance and respect for other cultures and religions is a sensitive issue but one that is no longer purely in the domain of the state but is of concern to the entire world. Terrorism raises such new questions that in turn alter long-held assumptions about the relations among the UN, its agencies, its member states and the principle of sovereignty as enshrined in the Charter. The Security Council's Counter-Terrorism Committee could be a crucial instrument to improve domestic capacity in the areas of governance, rule of law and respect for human rights while at the same time affirming these issues as legitimate concerns for the UN.

Seventh and last, terrorism challenges the fundamental principles of the United Nations. Will the UN rise to the challenge? Part of the answer depends on whether the UN can forge effective policies as a system, beyond the sum of its member-states parts and the national interests of its most powerful members. The fight against terrorism presents opportunities and the challenges for creative change within the entire UN system. It was the participants' hope that the UN would embrace both.

## Modern Terrorism: An Overview

Despite its international reach, terrorism usually springs from local civil conflicts that reflect specific grievances. Terrorism is not a cultural phenomenon, rather it is a political one. Terrorists have exploited globalization to act internationally when this suits their goals; otherwise, the focus remains local. What has changed recently is terrorism's ability to spread ideologies quickly across borders thus "globalizing" what are still



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most often essentially local political conflicts. A strategic choice is made about whether to use the tactic of terror locally or to "go international." The speed at which terrorist organizations can act internationally, spread their ideologies and garner financial support from far-flung *diasporas* has dramatically accelerated; this is the most fundamental change in terrorism compared to the 1970s. Even the most anti-modernist puritanical movements have embraced modern technology, jet travel, global trading, finance and instant communications networks to conduct their campaigns. Another trend is the increasing professionalization of terrorists. The last few years have seen fewer attacks but their lethality has increased.

The more than 200 terrorist groups located in the Global South are using the Global North to raise money, establish cells and conduct training exercises. These groups often use the protections of liberal democracies to shield their activities. They move and hold their money in the modern banking sector, while exploiting "charities" and other legitimate fund-raising channels to hide their activities. The Global North faces a demanding challenge of balancing its traditional respect for civil liberties with the duty to protect its residents from harm.

Since September 11, 2001, counter-terrorism has seen a huge change; information sharing has increased. States are cracking down on the international financial networks used by terrorists. Fund-raising among

*diaspora* communities is much more tightly monitored. Extradition of terrorist suspects is swifter. Joint-training in counter-terrorism and initiatives to harmonize disparate judicial systems also have mushroomed. Technical lessons learned from fighting organized crime have proved useful in the struggle against terrorism. Several conference participants noted, however, that it took the attacks of September 11 in the United States to bring home to much of the Global North the previously "obscure conflicts" of the south. These could no longer be ignored or consigned as of "marginal interest" to what passed as *realpolitik* before September 11.

There is no single "big answer" on how to respond to terrorism. Every response has drawbacks. For example, the use of force may be appropriate in certain cases but it is also problematic since its use can create new resentments, grievances and even the next generation of terrorists. Some states will exploit the legitimate desire to fight terrorism to crack down on legitimate opposition, ethnic minorities or others who are seen as "problems."

Participants noted that terrorism is a method of the weak and is the ultimate form of asymmetric warfare. People who have prospects, hope and choices do not usually become terrorists. Human insecurity, broadly understood, provides the enabling conditions for terrorism to flourish. Yet terrorism remains rare, only a small number of people are actively engaged in it and terrorism has rarely succeeded. More research is needed to understand why terrorism has not been tried in places that would seem to provide all the ingredients for it to flourish. Participants observed that change has frequently occurred without resorting to terrorism.

The vexing definition problem arose several times during the conference. Participants agreed that some consensus on the definition of terrorism is necessary to provide moral clarity, eliminate the chance that double-standards would be applied and create conditions for real unity in the fight against terrorism. The UN has a key role to play here; at the least the UN should take the lead in condemning the deliberate killing of civilians. It was suggested that the Secretary-General has tremendous moral authority and could

shape the public discourse on the illegitimacy of terrorism as a tactic, regardless of the legitimacy of the cause.

The UN should also address the absence of the rule of law and effective governance in states, often enabling terrorists to flourish. States that lack legitimacy and control over the economy and other traditional levers of power provide the space and oxygen for terrorist groups to flourish. Thus state sponsorship of terrorism can be either active and involve acts of commission, or passive and involve acts of omission. In either case, the UN faces a dilemma: member states enjoy legitimacy in the UN system even though they may be hosting, tolerating and/or supporting terrorists. States also resent what they deem as interference in their internal affairs; they don't welcome outsiders opining on human rights, governance, rule of law and corruption within their borders. The UN has lowered the barriers of sovereignty in all these areas over the past few years but the fight against terrorism will require a further realignment of the fluid border between internal matters and those of universal concern. Many at the conference saw the need for increasing involvement, even intrusion, into how states behave.

While there is no simple causality between poverty and terrorism, the UN and the international financial institutions must address chronic poverty and underdevelopment not only because this is the right thing to do but it will also limit terrorists' ability to seek support from those who remain mired in hopeless poverty. Participants recognized that these are very long-term responses but that made it even more important to start and maintain focused and rigorous programs that yield real, tangible, visible results.

By focusing on the rule of law, upholding human rights, working for greater freedom and supporting social and economic progress, the UN would be fulfilling the fundamental principles found in its own Charter while simultaneously occupying its proper place in the struggle against terrorism. Public diplomacy, with the UN in the lead, is also crucial in the effort to make terrorism absolutely unacceptable. A coherent and consistent public information campaign forged by the Department of Public



Information with the Secretary-General as lead advocate exploits one of the UN's greatest strengths: its embodiment of universal moral authority. The experts' consensus at the meeting was that the UN had not been fulfilling all its potential in the anti-terrorism struggle but now there was an opportunity to have an impact.

## Religion and Terrorism

While conference participants agreed that the act of terrorism is a crime, the phenomenon itself is much larger, encompassing politics, ideology and religion. One formulation offered at the conference was that terrorism is essentially political and expresses the "outward manifestation of the convinced rage of the empowered dispossessed." This includes three separate elements: a feeling of injustice, a group that has the capacity to do something about this injustice and the conviction that what they do is meaningful. The key challenge is to convince such groups that terrorism is an illegitimate response to injustice.

This leads to the question of why terrorism is so prevalent (though not exclusive) among Muslims today. One analyst proposed that the "West" through the lens of 800 years of history dating from the Crusades, is seen by many as the source of everything wrong in the Moslem world. The West as Satan filled with spies, military invaders, economic exploiters and cultural corrupters fuels this vision of a cataclysmic struggle to preserve an entire way of life and belief system that is under assault.

On the ideological level, some scholars maintain that Osama Bin Laden and other extremists have stripped Islam from its ethical and moral moorings. Meanwhile, globalization has empowered the enraged to act on their hatred, whatever their religion.

The way to oppose the appeal of terrorism in the Muslim world is to offer an alternative vision: promote justice and accountable government to address injustice, use globalization as a positive force and encourage a real dialogue among civilizations so that the true values and beliefs of Islam will emerge. Resolution of the Arab-Israel conflict is necessary but

not sufficient in this regard. The recent Arab Human Development Report, written by Arabs, had a huge impact in the Arab world in this regard, showing how weak governance and the failure to allow women full participation in the economic sphere had left the Arab world far behind most regions of the world in every important measure. This could have the further effect of informing various *diaspora* populations of the real causes of underdevelopment and poverty in the region and thus lessen their support for terrorists. Here again participants emphasized the importance of a carefully crafted UN public information campaign.

Other major world religions have also had terrorists acting in their name. Sikhs in the Punjab wondered how their religion could have anything to do with the string of killings in the 1970s. Christian, Jewish, Hindu and Buddhist extremists have also killed civilians in the name of God. Religion has been used to justify killing and provides powerful images of a cosmic struggle. Terrorists then use religion to ennoble a local struggle.

The UN and others opposing terrorism should avoid the trap of responding to terrorism as though it were a war because this plays into the hands of the terrorists. They want to explain and ground their struggle as an all-consuming war that justifies any means necessary, including terrorism. Rather than encourage this approach that uses the language and images of war and battles, the UN should focus on an approach that emphasizes values embedded in all the world's great religions. The UN should be at the forefront of promoting tolerance and respect for diversity among all religious faiths. The UN has not always done this; one recent example is the treatment of the Dalai Lama who was not admitted into several UN meetings dealing with human rights.

The UN has typically avoided discussing religion and has always treated the subject with great caution. The "dialogue among civilizations" was an attempt to foster greater discussion and understanding, but its impact has been limited. UNESCO's role in the area of religion has also been restricted. Is this another area, like human rights, governance, the environment, the rule of law and related areas traditionally viewed as

"internal state behavior" where the UN will have to have a greater voice and promote more assertive policies?

Secular leaders and institutions cannot provide all the answers. Religious leaders should come forward and reclaim their religion's messages. Up until now, bin Laden appears to have won the battle of who speaks for the Muslim world, so others who have the vision and understanding of true Islam must contest his pre-eminence. How can the UN best support Islamic leaders and the spokespersons of other religions so that the extremists in each do not dominate the debate?

The new world after September 11 requires new thinking and acting at the UN, especially when it comes to religion. Some participants, while recognizing the political hurdles to be overcome, appealed for the UN to redefine itself to become more than the mere sum of its member states. Just as various religions have experienced "rebirths" or an "*aggiornamento*", perhaps it is time for the UN, which like all organizations finds change difficult, to adapt itself to this new, fast-changing world.

## Terrorism: The Debate Over "Root Causes"

Participants examined a controversial issue: what causes terrorism. Terrorism's causes are complex and it is a mistake to look for a simplistic link between poverty or underdevelopment and terrorism; examples abound of poor states that do not experience terrorism and rich states that do. One fruitful analytical path is examining the relationship between income inequality and terrorism. Researchers have shown that the link between war and income inequality is very strong. If income inequality is too steep, people at the bottom feel little loyalty to the political system and the attraction of violence, including terrorism, can be strong. Terrorism is thus often linked to a sense of injustice and impotence rather than sheer poverty. It can be a form of vengeance by those who feel left out, ignored and scorned. The absence of hope can drive people to terrorism, or at least to support those that commit it.

The new international global system with its growing institutions, trade and technological capacities, can exacerbate real and perceived inequities, creating greater inequalities between and within states. Terrorists can exploit these gaps, using modern communications and jet travel to preach their ideologies, raise funds, recruit and hide. While there may be a growth in democratic institutions at the national level, in many parts of the world the deepening asymmetries at the international level fuel resentments. Many in the Global South feel shut out of the new international system and see it as a repressive regime where they have no voice. This is very dangerous.

More research is needed on what conditions allow terrorism to grow, yet one key element that seems to inhibit terrorism is allowing people full participation in the economic and political systems of their states or in the new globalized international system. People with a voice, who believe their views count, are less likely to engage in or support terrorism.

The "war on terrorism", in addition to playing into the terrorists' hands as described above, could also undermine the efforts to achieve greater accountability and better governance in areas where terrorists flourish. Some fear that Africa, for example, will receive less and less international assistance, and of this shrinking pool more will be directed to security forces. Less aid will be directed to democratization efforts, including judicial institutions, local government, health care and education. The support for repressive regimes in Africa to fight terrorism will probably grow. The result will be stable but weak states, not a good scenario for combating terrorism or the conditions that enable it to flourish.

The definitional question came up in the discussion of "root causes". It is a substantive question that affects one's response to terrorism and the strategies designed to prevent it. The lack of a definition inhibits research and analysis. For example, attacks on civilians are usually part of most definitions of terrorism. Yet modern warfare now has 10 times as many civilian casualties as combatants. It is important to differentiate between war that includes many civilian casualties and terrorism which may occur outside a conflict or be used by parties to a conflict at various times.

Finally, participants noted that the discussion on "root causes" of terrorism is not a justification for it but rather allows a deeper understanding of the phenomenon that should lead to more effective responses and preventive measures. For example, while the situation in Palestine is an enormous grievance, using terrorism as a tactic in response is not legitimate. Terrorists hijack a just cause and then exploit real grievances, including economic inequities and misrule. A harsh state response, including the use of force or draconian legislation that curtails civil liberties and authorizes media crackdowns and racial/ethnic profiling, can strengthen the terrorists' appeal and provide them additional grievances to exploit.

Two broad recommendations emerged from the discussion on the root causes of terrorism. UN development programs should be designed to promote a broader definition of human security, emphasizing the right to development. Development projects should address three deficiencies that terrorists often exploit: gaps in freedom, knowledge and women's equality. UN educational and cultural programs should promote scientific research, critical thinking and logic. This may tread on sensitive questions like school curricula but this is perhaps another area where the UN may need to adopt fresh thinking and new initiatives and not be bashful about inserting itself into the debate. Several people wondered how the UN could best counter the appeal of the culture of the "Koran and the Kalashnikov." While ideologies and vested interests clash, cultures do not and often share more values than is realized. UN programs should address more strategically citizen participation, government accountability and transparency; the greater the stake that citizens have in their societies the less likely they will support terrorism.

## International Law and Terrorism

A central theme discussed during the conference was how to protect human rights and respect for the rule of law while at the same time combating terrorists who care little about either.

International humanitarian law (IHL) or the laws of armed conflict have an important but limited role in the fight against terrorism. IHL does not define

terrorism but it prohibits all acts of terror and establishes that these are international crimes requiring prosecution. IHL has been widely ratified, especially the four Geneva Conventions of 1949. Protocol I of 1977, which provides extensive protections for civilians in international armed conflicts, has been ratified by 160 states but has not been ratified by the U.S., Israel, Pakistan, India, North Korea, Iran and Iraq among others. Protocol II specifies protections of civilians in non-international armed conflicts and has fewer ratifications. The application of these laws, however, is limited to situations of armed conflict. Acts of terror that are not part of an overall armed conflict as defined in the Geneva Conventions and Protocols are not covered by IHL. This is a major limiting factor in the usefulness of IHL in the fight against terror.

The Third Geneva Convention covers prisoners of war; if terrorists participate in an international armed conflict and are captured, they may benefit from the protections of the Convention. In unclear cases, IHL establishes a quick and flexible procedure, much like an administrative hearing, to establish the detainee's status. Regrettably, the US has not created such a process for the detainees in Guantanamo Bay, Cuba. Even if a detainee is granted POW status, this does not mean impunity attaches. On the contrary, if terrorists have committed a grave breach of the Conventions or a war crime then prosecution is mandatory even if they are a POW. If the detainee is not a POW, then standards of treatment and conditions and fair trial guarantees found in international human rights law still apply. In no case is torture or cruel, inhuman or degrading treatment or punishment ever allowed.

Some commentators have suggested that IHL created in 1949 and 1977 is ill-suited for modern terrorism. Harvard University has conducted a research project to study whether and how IHL may need to be amended to address problems arising out of modern conflicts, including terrorism. Should there be a new category of "illegal combatant" recognized under international law? Who would decide and based on what criteria? Whatever changes may emerge, it will be crucial to maintain the non-political character of IHL. The current "war on terrorism" has damaged the Third Geneva Convention. The focus should be on better implementation of existing law.

Concerning human rights law, Security Council Resolution (SCR) 1373 has important implications. First, it relies on Chapter VII enforcement powers, something the Security Council has been reluctant to employ when it comes to human rights. The resolution requires asset freezes and local prosecutions of terrorists. It also calls for states not to grant refugee status to those who are deemed terrorists. This is consistent with international refugee law, in particular the Convention on Refugees (1951) which excludes from refugee status anyone who has committed a war crime or crime against humanity. The High Commissioner for Human Rights has declared that terrorism is a crime against humanity.

Nevertheless, the Office of the High Commissioner for Human Rights has expressed its concerns about the application of SCR 1373 to the Counter-Terrorism Committee (CTC) charged with overseeing the resolution's implementation. The CTC is a new tool and offers great potential to hold states accountable for their behavior and could prove to be an important innovation in enhancing the capacity of states to uphold the rule of law even when struggling against those who have no respect for rights. Some states have enacted restrictive laws in the name of fighting terrorism. The Secretary-General, however, has stated that there should be no trade-off between respect for human rights and combating terrorism. The CTC has no human rights mandate, nor does its staff have significant expertise on human rights. Other parts of the UN system, especially the human rights treaty bodies and special rapporteurs could work closely with the CTC to exchange information on specific rights issues and how member-states could fight terrorism while at the same time maximize human rights protection.

Since human rights violations feed terrorism, some participants felt that the UN had to adopt a more proactive approach and not be overly defensive or try to evade the issue. Yet the political environment is very difficult for human rights advocacy as many states cloak unpopular or dissident groups in the terrorist mantle.

The UN's human rights work should also try to delegitimize violence by emphasizing economic, social and cultural rights. The targets declared recently at major conferences on development in Johannesburg

and Monterrey, and campaigns geared to reach the Millennium Development Goals would infuse hope, lessen resentment and thus drain the potential pool of terrorist support. Promoting tolerance and attacking xenophobia are also important tasks for the High Commissioner for Human Rights.

## Financing Terrorism

One of SRC 1373's goals is to deny terrorists access to funds. The CTC seeks to make an elaborate series of sanctions work, gather financial intelligence on terrorist networks while limiting harm to those not involved in terrorism. Yet there is a persistent gap in understanding between the Security Council and the practicalities of international finance and banking, between what the Security Council wants and what the bankers can do.

The key component to cutting off funding is cooperation among all states; if just a few abuse the rules or do not cooperate, the resolution will not be effective. The recent report by the Council on Foreign Relations supports this conclusion, noting that cooperation must be a priority and it deplores any efforts by the U.S. to "go it alone."

The Security Council needs to remind member-states that their cooperation is required not only because Security Council resolutions are binding, but also because their obligations under the UN Charter require unified action in fighting terrorism. The CTC mechanisms, if successful, could also be used in the fight against organized crime, the illegal arms trade and trafficking in humans.

All banking transactions leave a trail; transactions can be traced. The banking system can identify parties after a terrorist attack and may even help before such an attack. Terrorists are not fools and like to earn interest and high returns on their money like everyone else. The bulk of terrorist financing does at one time or another go through the highly regulated international banking system. While the World Bank, IMF and regional banks have done little so far in this area, the OECD has recently shown greater interest and its Financial Action Task Force (FATF) has issued eight

recommendations on dealing with terrorist financing. Some states in the south have reacted negatively to the FATF and see it as an effort to impose solutions from the north. Yet the peer review process among states, as the experience with the Anti-Bribery Convention (1997) shows, is an important innovation that mitigates any North-South divide and has been effective. The Security Council could use the OECD and the FATF as informal think tanks or idea generators. The CTC could then ask all member states to vet and assess these ideas. This would sharpen the policy-making process while simultaneously engaging states outside the OECD orbit. This peer review system could enhance the CTC's expertise should this system spread beyond the substantive confines of SCR 1373.

While increased resources, attention and skill have evolved quickly in the effort to stifle funding to terrorist organizations, some efforts have harmed real charities and the "*Havala*" banking system common not only in the Middle East but in many parts of the world. This "collateral damage" can alienate people whose support the UN needs and generate greater resentments. Counter-terrorism efforts must be harmonized, otherwise one may undermine the other. Rather than paralyzing the whole informal banking system, the UN and others should study how these informal systems work. In Afghanistan and Somalia, for example, these are the only banking and financial mechanisms that work.

One participant noted that as the monitoring of international financial transactions has improved, terrorists have started using "clean" money transactions much as organized crime syndicates launder their money. This underscores the need for law enforcement organizations to have on staff experts in international banking and finance. The UN also needs greater financial expertise which it has traditionally lacked; this is perhaps another area where the UN may need to reinvent itself. The UN must understand banking and finance much better and overcome its traditional aversion to money matters. It must engage more profoundly with the business world and extend a genuine invitation to bankers and financial experts to help make policy. The UN's efforts to deny funds to terrorists should also encourage more thinking on

identifying the extent of Article 41 powers under the Charter.

## The Fight against Terror: Final Observations

The UN's goal in the campaign against terrorism is to deter and prevent future terrorist acts. The CTC works through governments whose obligations under SCR 1373 are to take effective preventive measures. This requires capacity-building in many member states to improve their ability to monitor terrorists, deny funds, control their borders and strengthen law enforcement, all while respecting the UN's own international human rights standards. The CTC seeks to enhance the member states' performance in combating terror through advice, capacity-building and constructive monitoring, but the CTC is not a tribunal judging or condemning state performance.

The CTC can be seen as a hub for collective responses to this global challenge but not as an actor itself. Another metaphor describes the CTC as a "fitness trainer", exhorting and advising member states on how to fight terrorism. It should be a catalyst for coherent and effective international action, legitimizing and impartial, establishing norms and insuring that terrorism is de-legitimized.

Yet to succeed in all these efforts, the UN must face the reality of prevailing perceptions, especially in the Middle East, that the "secular" West dominates the world. And there is anger and resentment, both at this "cultural invasion" and at governments who have failed to deliver basic services and have failed to protect Islam. Authoritarian states, including those in the Middle East, have alienated their own populations, stifled all opposition so that the only outlet is through religious extremism, and turned prisons into breeding grounds for terrorists.

Meanwhile, the challenge to respect human rights is real; there is a fine line, as many see it, between respecting human rights and fighting terrorists whose very acts violate human rights and who, if they came to power, would not hesitate to violate rights further. It

was noted that terrorists are patient and persistent; the Muslim Brotherhood in Egypt has been around since 1928. How can the UN best help the modernization of the Arab world? How to empower women, create a true dialogue among cultures and grapple with enormous social and economic problems? The Arab-Israeli conflict exacerbates all these problems and its resolution is seen by some as essential to reducing terrorism. Yet solving the conflict alone will not end terrorism.

One systemic hurdle for the UN is that while the UN must respect state sovereignty and borders, terrorists do not. A global, not state-centered, response is needed and the UN does not have one yet. A policy based on the UN's greatest strength, its legitimacy as the sole global institution, will help bridge gaps between different parts of the world and would be instrumental in assuring the world's 1.2 billion Muslims that there is no war against them. To do this, the UN must be unified and consistent, especially in enforcing all Security Council resolutions (concerning the Middle East, poverty reduction, Millenium Development Goals etc.). Here the US must realize that it is in its own best interest to have a strong, not a weak, UN.

Terrorism is not an easy subject for the UN, forcing it to ask hard questions of itself and to re-examine some cherished assumptions. Combating terrorism may require the UN to change what it does, how it does it and its priorities. This is never easy. To avoid double-standards and charges of partiality which undermine the UN's legitimacy, the UN must produce a workable and universally accepted definition of terrorism; much more than mere semantics is at stake. The failure of the General Assembly to define terrorism has weakened the

entire UN's credibility. Likewise, the CTC's reluctance to take a more active stance on human rights issues may hamper its effectiveness and credibility. The Office of the High Commissioner for Human Rights should identify creative and mutually supportive initiatives that would allow the CTC to draw on the UN system's extensive human rights expertise in ways that would support member states efforts to reconcile human rights with anti-terrorism. The HCHR should be exploiting this ferment in the system to energize the various human rights mechanisms so that they offer, and not wait to be asked, constructive ideas and innovative insights to member states through the CTC.

The notion of state sovereignty, always evolving, must undergo further evolution in the fight against terrorism. Just how much the UN and individual states may "interfere" in domestic matters should be up for review. For example, the US assistance program to the Colombian armed forces has numerous human rights requirements that traditionally would be considered highly intrusive. Yet this approach has benefited the Colombian army and the population; the army has been forced to improve its behavior. Democratic and rights-respecting armies are more effective.

The fight against terrorism forces the UN to examine its character and self-image. Can the UN become more than just a collection of 191 member states and embody a truly global consensus that submerges narrow national interests to the greater goals found in the Charter, including to "reaffirm faith in fundamental human rights, in the dignity and worth of the human person" and "to practice tolerance and live together in peace?" To contain, if not defeat terrorism, it may have to.

## The Global Phenomenon of Terrorism

*Martha Crenshaw*<sup>1</sup>

International terrorism in the 21st century is the result of a spillover of civil conflict rather than a clash of cultures or a generic reaction to modernization or globalization.<sup>2</sup> Campaigns of terrorism involving a multinational mix of targets, perpetrators, and sites have roots in local grievances. Attacks on foreign targets are most often part of an effort to destabilize local governments rather than alter the international power structure. In particular, the United States became a favored target because domestic oppositions in regimes supported by American military and economic power saw no prospect of success at home if the scope of the conflict were not widened. The factors associated with globalization (such as closer integration and mobility of peoples, erosion of borders and barriers to communication and commerce, interdependence among nations, and density of transactions) are a permissive rather than a direct cause. In addition, belief systems based on ideology and religion make it easier to justify the displacement of terrorism from the local to the international scene and facilitate the coordination of different national groups.

This argument runs counter to some common assumptions: that terrorism is a cultural rather than a political phenomenon, that its modern version is entirely "new," and that it can be understood in the abstract without knowledge of its historical context. For example, the "new" terrorist actors of the post-Cold War world are said to be decentralized, in contrast to traditional organizations that were centralized and hierarchical. However, a review of history shows that the groups practicing terrorism were often fragmented. The language of today's terrorists that attacks global imperialism in universalistic terms has parallels in the revolutionary rhetoric of the 1970s. Earlier national groups also cooperated across borders.

This view of terrorism is not deterministic. Not all civil conflict produces terrorism, and not all terrorism spills over or is exported. High levels of deprivation and acute grievances do not necessarily lead to violence, and violence may take forms other than terrorism. Indices of globalization do not correlate directly with terrorism against the United States. The least "globalized" populations are probably not the most prone to terrorism.

Thus no analysis is complete without looking at the specific strategies of the actors, state and non-state, who use or support terrorism. Understanding terrorism requires tracing the evolution of conceptions of struggle as both organizational goals and external circumstances change. Terrorism results from deliberate decisions made by organized actors with political ambitions.

### The "New" Terrorism

The end of the Cold War fundamentally changed international politics. A bipolar balance of power gave way to a system based on American primacy. How much did terrorism change? The idea of a new religious terrorism took hold well before the end of the Cold War. The Iranian revolution and the emergence of Hezbollah in Lebanon were decisive events in both the development of the phenomenon and the West's awareness of change. After the first World Trade Center bombing in 1993, the importance of transnational actors became increasingly clear. And terrorism from foreign interests came to American territory, as opposed to American targets abroad. This paper argues that these changes represent an evolution of the phenomenon of terrorism, not a qualitative shift. Al Qaeda is part of this pattern rather than an exception.

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<sup>2</sup> An earlier version of this analysis is presented in "Why America? The Globalization of Civil War," *Current History*, 100 (December 2001), pp. 425-32.



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Like Hezbollah, its goals may be framed in terms of religious discourse, but its purpose is political.

The establishment of Hezbollah and the development of its strategy of attacking the United States, France, Israel, and other outside targets reflected the power struggle within Lebanon, opposition to the Israeli invasion, and Iran's quest for regional power more than religious fanaticism. The campaign of terrorism began with the Israeli invasion and siege of Beirut in 1982, in the aftermath of a civil war that had begun in the mid-1970s and that had provoked Syrian as well as Israeli intervention. Domestic conflict was exacerbated by the presence of the PLO, which formed a "state within a state" in the Lebanese power vacuum. Palestinian terrorism against Israeli and American targets in the 1970s may also have provided inspiration for the groups that became Hezbollah.

The United States and its partners in the Multinational Force intervened in Lebanon first to oversee the withdrawal of the PLO at Israel's insistence and then to try to restore domestic order and broker a peace treaty that would remove both Syrian and Israeli forces. It was probably inevitable that what the Western powers intended as a peacekeeping mission would be perceived by the Shi'ite community in Lebanon as an attempt to support an unrepresentative Maronite Christian regime allied with Israel. That the new clerical regime in Iran should support the Shi'ite opposition, in light of its regional ambitions and antipathy for the United States,

was not surprising. Thus, in order to gain power within Lebanon, Hezbollah had to compel an American withdrawal. After two attacks on the American embassy and the devastating bombing of the Marine Barracks in 1983, the Reagan administration did decide to withdraw. Persistent conflict within Lebanon combined with American support for Israel continued to make US interests vulnerable, as the 1985 hijacking of a TWA airliner to Beirut demonstrated. The kidnappings of Western educators, journalists, and officials were part of a similar political strategy on Hezbollah's part. Eventually the regional realignment that followed the Iraqi invasion of Kuwait and the Gulf War brought this decade of terrorism to an end. It was not religion that changed, but politics. In turn, the aftermath of that conflict yielded a new American military presence in Saudi Arabia, which acted as a magnet for further terrorism.

The entity known as Al Qaeda represents a merger or amalgamation of autonomous groups with local grievances who were initially encouraged to join forces through fighting the Soviet Union in Afghanistan. The organization has variously been described as a franchise or venture capital operation, a decentralized network. No doctrinal antipathy to Western values prevented the original founders of Al Qaeda from cooperating with the United States to accomplish a common purpose. The perceived success of the moudjahidin in driving the Soviet Union out created an incentive to carry the campaign forward to expel other foreign military forces from Muslim lands. The purpose of the "new" terrorism is to compel an American withdrawal from the Middle East as well as from other "imperialist" outposts in order to facilitate the overthrow of local regimes in Saudi Arabia, Egypt, Algeria, Indonesia, and elsewhere. Whether regime replacement is intended as the first step in a move to establish regional "caliphates" is uncertain. It may be the case, as it was with earlier revolutionary groups, that Al Qaeda's idea of exactly what happens after its enemies are overthrown is vague. For such groups, the future is often left to take care of itself.

From this perspective, Al Qaeda's appeals to Islamic religion and history and to global anti-Americanism are ways of binding together diverse national groups who might otherwise find it hard to identify a common



ground. Radical belief systems act as common denominators as well as justifications for violence. Since factionalism tends to be endemic in underground organizations, the leadership must stress unifying themes in order to contain centrifugal tendencies. Universal beliefs are available in a global environment, and they are easily transmitted via modern communications systems.

Operationally, such a transnational conspiracy is able to take advantage of the ease with which national borders can be crossed, the presence of diaspora communities within which to recruit and obtain logistical support, the availability of cheap and convenient communications technologies, and globalized private financial networks. Although Al Qaeda profited significantly from the socialization and experience gained by militants in Afghanistan and may have been dependent on this physical space for both sanctuary and training, it may no longer require a central territorial base. The global environment may now permit the formation of transnational conspiracies without territorial bases. This change in opportunity structure does not mean, however, that the purposes of such conspiracies are necessarily global.

The question most often raised about this interpretation of Al Qaeda concerns the destructiveness of the September 11 attacks. The idea of a "new" terrorism assumes that contemporary religious terrorists have unlimited goals and thus are willing to use unlimited means. Since there is no reasonable balance between their aspirations and their abilities, they cannot be strategic but are instead interested in destruction as an end in itself. If Al Qaeda was acting strategically, trying to weaken its adversaries and expand its support base in different Muslim countries, why did it apparently fail to foresee the negative consequences of its actions? Critics of an approach that defines Al Qaeda as a strategic actor point to the loss of access to Afghanistan, the debilitating attrition of cadres, and the crackdowns everywhere its presence was detected. Critics assert further that Al Qaeda's leaders could not possibly believe that the United States would withdraw its troops from Saudi Arabia as a result of terrorism. This question may be unanswerable as long as Al Qaeda's internal deliberations remain hidden.

However, it is worth pointing out that rational actors may miscalculate. Moreover, the evidence that Al Qaeda survived the war in Afghanistan and still poses a deadly threat is incontrovertible. Al Qaeda's leaders might reasonably interpret the lessons of history in Lebanon and Somalia as favoring a strategy of compulsion. In fact, Bin Ladin takes some credit for the US withdrawal from Somalia. In fact, an augmented American military presence around the world may be welcome if it inspires local oppositions. Even a war in Iraq might work to Al Qaeda's advantage if it generates rage and despair in the Muslim world.

## Policy Implications

The most general conclusion is that if the problem is civil conflict, then its prevention, management, containment, and resolution are critical tasks. Strong nations cannot assume that disorder in weak states does not affect their security or that non-states do not pose serious threats. The international community, particularly the United Nations, is obliged to be concerned. Since the resources of even the most powerful organizations and states are limited, a preventive counterterrorist strategy might best identify conflicts that seem likely to become internationalized and make dealing with them a priority. Once a civil conflict has spilled over into the international domain, the task of formulating and implementing an effective response becomes harder. Both terrorism itself and international efforts to contain it may make the originating conflict less amenable to resolution. Moreover, the organizations using terrorism are independent entities. The resolution of the conflicts that inspired such organizations may not convince them to abandon terrorism. Indeed group dynamics probably favor continuation rather than abandonment of the strategy of terrorism. It will thus be necessary to defeat or dissuade them directly. Effective policies must reduce the immediate danger of terrorism without fostering conditions that will instigate more terrorism in the future. This task, however, is complex and difficult.

An evaluation of the consequences of the policies employed so far reveals a number of paradoxes. Consider the American use of military force to defeat Al Qaeda and the Taliban. This response appeared

successful in the short term. However, it is not clear that a transnational conspiracy can be destroyed through armed combat, although it can be weakened. The group may regenerate in other locations or reconstitute itself in the same milieu if political instability returns. In addition, the victor assumes responsibility for the fate of the nation that has been liberated from or deprived of the government that lost the war. Engaging in post-war reconstruction then puts the victor in the position of foreign occupier. Furthermore, it is hard to go to war against an adversary without recognizing its status as a combatant. The use of force may also generate sympathy for the cause of the defeated, who are now victims. Civilian casualties are inevitable, and even limited numbers may be sufficient to create and sustain the image of an oppressor.

A second strategy practiced by the United States is to provide military assistance to states combating insurgencies or revolts linked to Al Qaeda. Some of the local regimes in question (the Philippines, for example) need material and technical support and training for weak and inefficient security forces. However, this strategy also carries risks. One is that the American presence will stimulate further terrorism. If one assumes that the United States is targeted because it is perceived as a barrier to revolutionary change at home, then assisting the local government will increase American exposure. Another risk is that the local regime will use the threat of terrorism to justify repressive measures against all opposition, in turn generating more terrorism and even mobilizing the mass support that underground conspiracies seek. If Al Qaeda does have a coordinated international strategy, provoking US intervention may be part of it.

The Bush Administration has argued for an expansive conception of the "war on terrorism" that would include a preemptive strike against Iraq, which has also been justified by Iraq's refusal to disarm. The danger in such an escalation in the use of military force is that a war in Iraq, especially if not approved by the Security Council, will split apart the international coalition of states that supported the US war in Afghanistan and assisted in apprehending suspects, cutting off financial resources, and tracing signals of impending terrorist

attacks. A largely unilateral war against Iraq would undermine the effectiveness of multilateral law enforcement and intelligence operations. In the short run, war against Iraq might also provoke clashes between governments and oppositions in Arab and Muslim states, with an even more serious risk of instability within a post-Saddam Hussein Iraq. In addition, the long-term foreign presence required to maintain order in an occupied Iraq could be either an excuse for terrorism or a cause of it—or both.

Considering these drawbacks to the use of force, non-coercive approaches to preventing terrorism would seem promising alternatives. For example, if the problem is civil conflict, then third-party mediation to resolve conflicts through negotiation is a sensible option. This task often includes peacekeeping operations to guarantee settlements. In general, the Bush Administration is not predisposed to take on the third-party role and rejects the concept of humanitarian intervention. One might object to this reluctance as well as to the unilateral character of the new national security strategy of the United States announced in September, 2002, but it is also the case that American mediation or participation in peacekeeping missions can increase its vulnerability to terrorism. A similar vulnerability characterizes other third parties, even international organizations such as the UN. "Spoilers" in peace processes frequently resort to terrorism, as the Palestinian-Israeli conflict shows so tragically. Any third party will be at risk.

"Nation-building" as a long-term answer to terrorism assumes that civil conflict is not as likely to emerge in prosperous democracies with strong states as in weak, poor, and authoritarian regimes. Yet indigenous terrorism can occur in democratic states (Germany, Italy, and France, for example), and it can take root in societies or communities that are not impoverished (in the Punjab or the Basque region of Spain, for example). Although political development and economic growth are not a panacea for terrorism and should not be promoted as such, encouraging liberalism and tolerance as well as government efficiency will work against terrorism. The policies that have proved most effective against terrorism are in the area of law enforcement and intelligence. They require states with

strong institutions that also respect human rights. Too often the strengthening of the state apparatus, especially security bureaucracies, has meant intolerance of dissent. And even if increases in state strength are not accompanied by repressiveness, radical oppositions may still emerge and be forced to move outside the state's borders in order to survive.

## Conclusion

The distinction between "international" terrorism and "domestic" terrorism is artificial and has been so for some time. Local conflicts are fluid. They spill over into the global arena when it is physically easy for them to do so, when universalistic belief systems—including religions as well as secular ideologies—justify expansive conceptions of struggle, and when foreign actors appear to be impediments to domestic change. The tendency of terrorists to adopt transnational strategies to achieve local objectives is not new. Revolutionary and nation-

alist organizations in Latin America, the Middle East, and Europe in the 1960s and 1970s also tried to expand the scope of local conflicts. The threat that the world now confronts is the result of an evolutionary process that began many years ago. Terrorist capabilities have changed more than terrorist motivations.

Controlling terrorism requires a multilateral and multifaceted approach. It also requires careful coordination of short- and long-term policy responses. Unilateralism will not suffice because states are deeply interdependent, especially needing each other's cooperation in the area of law enforcement and intelligence. A central task of the UN is to legitimize a robust multilateral response to terrorism. It is also important to recognize that policies toward terrorism must be context-specific, not generic. That is, to be effective in the long-term the response must be sensitive to the nature of the civil conflict that generated terrorism.

## Terrorism in the South Before and After 9/11: An Overlooked Phenomenon

*Rohan Gunaratna*<sup>1</sup>

### Introduction

The Western response to terrorism suffers from a serious duality. Until terrorism affected the United States of America in the most brutal way at the dawn of the millennium, Western governments were indifferent to the conflicts in Asia, the Middle East, Africa, and Latin America. For instance, after winning the Cold War, the West turned a blind eye to the killing, disease, and starvation far away in Afghanistan. The West did not perceive these conflicts as a serious threat to their interests. Until the attacks of September 11, 2001, terrorists from the global South largely targeted governments and societies in the South. With the increased porosity of borders at the end of the Cold War, terrorist mobility has increased, and the conflicts of international neglect are returning to haunt the West with a vengeance.

The new environment facilitated the ability of terrorist groups to establish forward bases of operations in the heart of Europe and conduct long-range operations into the US. For instance, Al Qaeda built a state-of-the-art network from pre-modern Afghanistan to post-modern United States to transport men, money, and instructions. Post-Cold War terrorist groups—largely located in the South—developed support networks in the liberal democracies. As the infrastructure of terrorist propaganda, recruitment, fundraising, and procurement based in the West targeted countries of the global South, the countries of the global North did little or nothing.<sup>2</sup>

As modern terrorists became aware of how governments monitor them, they evaded surveillance and reconnaissance by host security and intelligence services, procured what they wanted, and struck enemy targets at home. By the mid-1990s, foreign terrorist groups with support infrastructures in North America, Western Europe, and Australasia were raising more money than what they hitherto had received from state sponsors.<sup>3</sup> Until a nation is touched by terrorism, it will not respond decisively, and only when terrorism becomes a key national security issue will nations respond in a sustained manner. The tragedy of 9/11 has narrowed the duality of the Western response to terrorism. Today, the North is committed to working with the South in developing a shared response to terrorism.

### Appreciation of the Situation

The international security environment has changed dramatically during the past decade. Instead of resisting globalization, even the most puritanical terrorist groups are harnessing its forces to advance their aims and objectives. Unlike the terrorist groups of the Cold War period, contemporary terrorist groups are rapidly moving across the technological spectrum:

- Ramzi Ahmed Yousef used a laptop computer in 1993;
- Aum Shinrikyo tested anthrax on twenty-nine

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<sup>2</sup> When pressured, Western intelligence services reported, "We are monitoring them." Other services reported: "We do not want to disturb them so that they will not move to another country where we cannot monitor them." Western governments spoke of "incompatibility of criminal justice and prisons systems" and inability to extradite terrorists who had either instigated or perpetrated terrorism.

<sup>3</sup> Western states began to target foreign terrorist infrastructures in earnest only after 9/11. Within four months of 9/11, Western governments froze US\$150 million of foreign terrorist funds on their soil. Until then, the bulk of the revenue raised by terrorist groups went to fund terrorist operations in the South and there was no sustained effort by the West to prevent the flow of funds.

sheep in a farm in Australia and used sarin nerve gas in Tokyo in 1994 and 1995;

- in 1996, Osama Bin Laden used a satellite phone purchased from Deer Park, New York, to communicate with his members and supporters;
- the Tamil Tigers used the Internet to attack the information infrastructure of Sri Lankan diplomatic targets worldwide in 1997;
- 9/11 suicide terrorists who were trained as pilots hijacked passenger aircraft to strike America's most outstanding landmarks; and
- in 2002, Al Qaeda member Jose Perdilla planned to detonate a radiological dispersal device in Washington, D.C.

With the end of the East-West confrontation, terrorist groups had access to unprecedented opportunities. Although terrorist thinking and behavior were transformed, state actors were reluctant to change and meet the post-Cold War realities. Until 9/11, for instance, Western security and intelligence agencies were reluctant to cooperate with their counterparts in the global South. Only when political violence affected the West were the perpetrators designated 'terrorists'. For instance, the Bali tragedy, in which 400 Westerners were killed, maimed, or otherwise injured, prompted the United Nations to designate Jemmah Islamiya (JI), Al Qaeda's Southeast Asian network, as a terrorist group. JI killed Southeast Asian politicians and diplomats, attacked holy places, robbed banks, and bombed public places from 1998 on, but the West looked the other way. Several terrorist leaders were granted asylum in the West even as their followers killed and injured children in the countries of the South. The most prominent include Jose Sison in the Netherlands, and both Anton Balasingham and Abu Qatada in Great Britain. When asked for extradition or rendition, doubts about human rights violations, lack of evidence, and incompatibility of criminal justice and prisons systems were cited by Western governments. Until 9/11 most Western governments and the Western media designated European groups as terrorists—PIRA and ETA, for example—but groups in the South were

identified as radicals, rebels, militants, extremists, or separatists.<sup>4</sup>

It is tragic, but countries must be touched by terrorism for their governments to act against the terrorists. Until and unless a government perceives a direct and immediate threat from a terrorist group, it will not target that group. It was 9/11 and the deaths of approximately 3000 Americans and nationals of sixty other countries that has brought a dramatic change in the Western response to terrorism. The West has come to realize that in this age, irrespective of where it occurs, terrorism is bad and should not be neglected. Like a disease, terrorism is contagious. Terrorist tactics, techniques, and technologies are spreading, either through emulation or transfer. As a result, the West is gradually realizing that terrorism, irrespective of country and location, must be sent out of fashion. As such, the post-9/11 US response has been to step up aid to countries that suffer from terrorism, regardless of whether the perpetrators are Islamists or not. Some argue that the US is today extending assistance to government forces engaged in fighting ethno-nationalist and left-wing terrorists because the US does not want to appear to be going after the Islamists exclusively. This is unlikely, but only time will show the world the true intentions of the US. The US withdrew after the Soviets were defeated in Afghanistan; this time, too, will the US isolate itself after the Al Qaeda and Taliban threats disappear?

## Suggestions for Strategies

In the Muslim world, whether it is in Asia or in the Middle East, there is sustained criticism that the West is dominating global politics and economics. The reality is that the West has the staying power. The population of the West declined from 25% of the world population at the beginning of the last century to 15% at the beginning of the 21st century. Nonetheless, the West controls the world's most powerful armies and resources. None of the Asian or Middle Eastern countries have the resources to mount a sustained fight

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<sup>4</sup> In New Delhi, a senior British diplomat seated next to Paul Wilkinson, Britain's leading terrorism expert, told him, "There is no terrorism in India, only insurrections." Similarly, at a UN forum, a professor from the University of Maryland said that most of the campaigns in the South are separatist campaigns and not terrorist campaigns.

against terrorism. In the foreseeable future, therefore, the West—especially the United States, whose armies are ten years ahead of their European counterparts—will dominate the fight against terrorism. Nonetheless, the predominantly military approach of the United States will increase support for Islamist groups. The military response will only be a temporary stopgap. There is a clear need to look for more strategic and long-term solutions.

1. Today, it is clear that the way forward is for the North to work with the South. After 9/11, the West has overcome its traditional reluctance to share counter-terrorist intelligence with the rest of the world. As a result of cooperation outside the Australia - Canada - United Kingdom - US - New Zealand system, especially with Middle Eastern and Asian countries, the United States and its Western allies have made great strides in the fight against terrorism. The United Nations should facilitate this cooperation, bringing governments across the divide to work together and coordinate their efforts by:
  - a. establishing common databases,
  - b. exchanging personnel
  - c. conducting joint training and operations,
  - d. sharing experience and expertise, and facilitating transfer technologies, and
  - e. harmonizing judicial systems
2. Especially since terrorism is only 5% military and 95% ideological, the West cannot fight and win the fight against terrorism alone. As the Islamist milieu is robust, groups like Al Qaeda and the Taliban are replenishing their human losses (kills, captures, desertions) and material wastage (weapon destruction and munitions expenditure) without difficulty. To reduce support and restrain recruitment for such groups, it is of paramount importance for the United States to join hands with Muslim countries in its fight against radical Islam. Because the

terrorist infrastructure is enmeshed in the political, socio-economic and religious fabric of Muslim countries, the cooperation of domestic governments is crucial in accurately targeting the terrorists and their supporters. In the ideological fight, the United Nations can play a pivotal role. In addition to norm-setting and the formulation of ethics, the UN can play a central role in identifying prophylactic measures to reduce future support for terrorism.

3. Empirical research shows that it is not poverty or lack of education that triggers terrorism. Osama Bin Laden, the Emir General of Al Qaeda, comes from the richest non-royal Saudi family. Dr. Ayman Al-Zawahiri, Al Qaeda's principal strategist, deputy leader, and designated successor, is a surgeon who comes from one of the most educated families in Egypt. However, although socio-economic and political marginalization is not the cause of terrorism, it does make people vulnerable to terrorists' ideological and physical penetration. That is why there are only a handful of terrorist groups in the wealthy global North and a few hundred terrorist groups in the global South. In conditions of poor governance, rampant corruption, and human rights abuses, terrorism flourishes. Therefore, instead of blaming the West, which is both an economic and political success, it is of paramount importance for the rest of the world to improve standards of governance to prevent the spawning and sustenance of terrorist groups. With long years of expertise and experience, the United Nations can play a pivotal role in capacity-building.
4. The UN should monitor all conflicts, and after giving warning, identify those actors perpetrating terrorism. To gain greater credibility in the South, the United Nations should consider producing an annual report similar to the United States's "Global Patterns of Terrorism" report.

## The Challenges of the Rage of Empowered Dispossessed: The Case of the Muslim World

*Farhang Rajaei*<sup>1</sup>

The tragedy of September 11, 2001, in New York City and Washington, D.C. was a wake-up call. First and foremost, it drove home, particularly for Americans, the fact that the world is quite definitely an interlinked web. A small group from distant places could impact the economy and politics of the United States because globalization has indiscriminately empowered everyone. Second, it aggrandized and crystallized the unfortunate dominance of a particularistic, exclusionary, militant, and violence-oriented *modus operandi* among Muslims. My contention here is that the tragedy did not begin with the perpetrators planning their attack. Rather, its roots lie in the politics of exclusion and the emergence of a triad of dispossession, empowerment, and an ideology that justifies violence. In what follows, I will first explore the coming together of this triad among Muslims, and then try to deduce some definition for this kind of terrorism, with the hope that it can be generalized to other cases. Finally, I will formulate some strategies for responding to the challenges this kind of terrorism poses and for the possibility of the politics of inclusion by encouraging a different triad, one of justice, care, and concern for the truth.

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Islam's historical track record of toleration and peaceful growth as a civilization notwithstanding, Muslims today display a high degree of violence and terrorism. In Pakistan groups such as *Sepah-e-Sahaba* (Soldiers of the Companion of the Prophet) and *Sepah-e-Muhammad* (Soldiers of Muhammad) terrorize people. In Egypt militant Muslims have killed tourists and members of *Gama-e-Islami* have made the life of ordinary Muslims uncomfortable. In the Philippines, the Abu Sayf group claims to be 'liberating' its people, yet members act as ruthless kidnappers who have no

hesitation about killing fellow Muslims. In Algeria, *al-Takfir wa al-Hijra* (Excommunication and Self-Exile) has been very active in its intensely violent civil war and has directly engaged in many of the killings. In Lebanon, Iran, and among Palestinians, Hizbollah has been overtly and covertly responsible for violence and terror. Members of the Armed Islamic Group (GIA), who follow the Salafist Preaching supported by various Saudi Arabian groups and institutions, perpetrate acts of violence when they see fit. And of course there is the *al-Qa'eda* that has become a global terror network. There are also somewhat legitimate utilizations of force prevalent among Muslims, notably quests for self-determination in such places as Palestine, Kashmir, and Chechnya. In short, terrorism and violence, the horror they provoke, and the consequences they breed, are more common among Muslims than among other people. A legitimate question to be raised is why the Muslim world no longer produces prominent people such as the second teacher, Al-Farabi (870-950), the philosopher and founder of our modern medicine, Avicenna (981-1037), or the great mystic, Rumi (1207-1273)? What has happened that a Muslim whose divine book says "whoever kills a soul... it is as though he kills all men and whoever keeps it alive, it is as though he keeps alive all men" (*The Qur'an* 5: 32), could commit acts of terror?

In his first broadcast after the 9/11 tragedy, Osama Bin Laden referred to "more than eighty years" of dispossession. He said: "What America is tasting now is something insignificant compared to what we have tasted for scores of years. Our nation (the Islamic world) has been tasting this humiliation and this degradation for more than eighty years. Its sons are killed, its blood is shed, its sanctuaries are attacked, and no one hears and no one heeds."<sup>2</sup> Why is he invoking the number

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<sup>2</sup> Cited in *The Ottawa Citizen*, October 8, 2001, p. A4.

"more than eighty years"? He seems to be referring to the time when the modern West penetrated the Muslim world in the form of imperialism and colonialism. Muslims' encounter with outsiders is not new, but with the destructive force of modernism, it is a novel story. When Muslims confronted the challenge of modernity, they first saw it as progress, science, and civilization. But soon what they experienced was subjugation and disruption. In a way, modernity had become the weapon of power and domination, here conveyed as modernism. The Muslims, at least the militant ones, have reacted in kind by making Islam the weapon of power and terrorism, here conveyed as Islamism. Thus two brands of intolerance face one another, modernism and Islamism.

Though the Western penetration of the Muslim world has been disruptive and devastating, the coming of modernity has changed the Muslim world for the better as well. On the eve of the coming of modernity, Muslims were at the center of civilization with dynamic and powerful empires, such as those of the Ottomans, the Safavids, the Mughals, and the Uzbeks. Today, there are more than fifty Muslim countries where the average Muslim receives a modern education, training, and some form of political awareness, yet as a whole the Muslim world lags behind the dynamism of the "civilization production" of the West. In almost all Muslim countries, the tension between modernism and traditionalism has turned them into societies that are neither modern nor traditional. This condition permeates all aspects of life, politics, economics, culture, and even religion. The "revolt of the masses" and the revolution of rising expectations have changed the world in which an average Muslim lives, yet it does not give him much of a choice. What one observes at work in the Muslim world is a condition that allows neither legitimate self-expression nor any political organization for dissension. Added to this is what is imposed by the world of capitalism and imperialism, i.e., the mixed blessing of globalization, with its negative impact on personal identity plus its empowerment. Issues such as the fate of the Palestinians, Iraqis, and the Chechnyans reinforce the experiences of despair and anger.

Those who have attempted to make sense of their lives have been frustrated by the onslaught of modernism, imperialism, and colonialism. In the Muslim world, with few exceptions, contemporary countries are not the result of the natural historical evolution of space or peoples. The result has been much conflict. For example, Britain disrupted the modernity process in two of the oldest countries of the region, Egypt and Iran, by occupying the former and by creating in the latter a "modernist monarchy" to protect its own oil interests. Ever since Britain shifted its navy from using coal to using oil in 1912, almost everything the West has done in the region, aside from the Israel-Palestine problem, has a direct relation to oil. And later, America, "the inheritor of colonialism," as one of the most influential books on American foreign policy in Iran in the 1960s has termed the United States, played the same role.<sup>3</sup> How would a person, entangled in this web of "the great game," "oil politics," "strategic configuration," and "the market for the business world" make sense of his life? The political scientist Fouad Ajami correctly observes, "Islam didn't produce Mohamed Atta (the presumed main leader of the September 11 terrorists). He was born of his country's struggle to reconcile modernity with tradition."<sup>4</sup> The world of modernity has truly, to invoke Marx's observation, "melted all solid into air," but even in the world of tradition not everything is settled. It seems that the protagonists of Islamism have mastered this twist. They find their recruits among the people who live in an apparently modern context but are dominated in practice by traditionalism and who would be easily provoked by the symbols of modernism.

Those of Muhammad Atta's generation feel they are subjugated people who were prevented from developing their potentials. This injustice has to be redressed through revenge, and their lifestyle—middle-class, modern education and access to the instruments of globalization—provides the means of doing so. Herein lies the dilemma. What are the options available to people who want to be active and yet cannot affect their own lives? Two options stand out—joining radical activists, or emigrating to places that can provide a better life. However, not everybody can emigrate. Bin

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<sup>3</sup> Bahar, Mehdi. *Miraskhaare Estemaar* (The Inheritor of Colonialism). Tehran: Amir Kabir, 1965.

<sup>4</sup> Ajami, Fouad. "Nowhere Man," *The New York Times*, October 7, 2001.



Laden becomes more attractive because he gives such people a feeling of inclusion and empowerment. For people who feel they cannot make a difference, people who are resigned to their fates, he tells them, "With a group of disciplined men and some rudimentary tools we are able to impact and even shake the world. Be confident it can be done." This is an empowering message. Certainly it scares most people in the region who do not want to live in Bin Laden's world, but it empowers enough people to have a significant impact. And globalization has made the possibilities for this kind of agent endless.

This empowerment is important, but types like Muhammad Atta needed some form of legitimization and justification in their minds, which was provided by a paradigm shift in Muslim thinking. This paradigm shift was a reclaiming of their world, or as one protagonist, Ali Shari'ati (1933-1977), the ideologue of the Islamic Revolution, termed it, a "return to the self," for him meaning a return to the Islamic self. People such as educator Seyyed Qutb (1906-1966) and engineer Muhammad Abd al-Salam Faraj (1954-1982) made sophisticated Islamic notions such as *jihad* the ideology of terror for the coming of the new, empowered generation, and the 1970s, a decade of paradox, gave it a big boost. The feeling of malaise continued but there were signs of hope, and occurrences that restored pride among Muslims as well. The 1973 war between Egypt and Israel was seen as a victory for the Muslims. The oil embargo and price hike drove home the point that the West was not invincible. Petro-dollars fueled the emergence of a new generation of educated Muslims with extreme potential. Most importantly, in 1979, the revolutionaries succeeded in Iran in destroying the monarchy and establishing an Islamic state where Islamic law, the *shari'a*, is put into practice. This example showed that one could introduce an Islamic alternative to the imposed framework of modernism.

The Soviet invasion of Afghanistan provided a good opportunity and a legitimate cause for such enthusiasm to manifest itself, and the Iranian revolution indirectly affected the content of this enthusiasm. Shi'ism and republicanism in Iran ran contrary to the existing Sunni oligarchies dominating the neighboring countries. To stop the expansion of this new revolutionary force, the

Gulf Cooperation Council was formed. Helped by most Arab regimes, Iraq launched a war against Iran. At the same time, an ideological war was launched for promoting the Saudi brand of Islam. The convergence of the interests of Pakistan and the United States in Afghanistan led to the flow of arms into the hands of Muslim fighters. Open support, through money and material to the fighters, strengthened religious groups in Pakistan. The religious *madrassas* (schools) functioned as training centers and were patrons of anti-Soviet Union activities in Pakistan. Later, these institutes played a significant role in propping up the Taliban, the ruling regime of Afghanistan in the 1990s.

The Saudi money proved well spent, if containment of Shi'ism supported by revolution in Iran was the ultimate aim. Many, including the West, refused to consider the long-term consequences. The fall of the Soviet Union enhanced the Sunni fundamentalists' cause in their ideological fight against the Shi'ites in Iran. Saudis were able to propagate their fundamentalist version of Islam in the former Soviet republics of Uzbekistan, Tajikistan, and Turkmenistan. In the short run, the whole project was beneficial to everyone. It benefited the United States, whose official policy of "containing Iran" proved ineffective, and it also helped recruit large numbers of unemployed people. But in the long run, this led to militarization of civil society in Pakistan and widened the gap between various groups since they competed with each other for material benefit.

As a result of these developments, Islamic movements have taken a very different form in the last two decades. The protagonists of the Islamic movements have come to see the world as satanic, dominated by the forces of imperialism and decadence. Therefore, the creed of Bin Laden and his followers—i.e., Islamism—must be understood as being to any other secular ideology, a movement based on power, struggle, and force. It is a reactive movement breeding revengeful followers with extreme positions. In this case, there is no tension between the end and the means, because in the minds of these Islamists, the end justifies the means. They also feel they can achieve their end goal—Islam as an ideology propagating an ethic of separation from and negation of the rest of the world. Bin Laden's followers have divorced themselves from the classical tradition of

Islam and have utilized it for their own ends. They are selective in emphasizing aspects of both their tradition and modernity. In a sense, they propose and advocate traditionalism and puritanical fundamentalism, combined. This new way of looking at Islam is turning the ambiguity of a world religion with nuances, uncertainty, and constant questioning, into the binary world of a modern ideology, with its typical features of "militantly revolutionary character."<sup>5</sup> In that sense, Islamist ideology is similar to other modern ideologies and shares with them their characteristics—and it is an ideology justifying violence.

## II

Is it possible to deduce a general definition for such violent acts? It is easy to dismiss terrorism as a criminal act, but its ambiguity defies such a categorization. On the one hand, terrorism is a serious violation of domestic and international laws, and on the other hand it has direct links to social, political, and historical grievances. To equate terrorism with cowardice misses the complex forces at work in the making of a terrorist. Possibly the question of what drives terrorists may help in defining it. As we saw, terrorism is caused by a failure of the politics of inclusion and recognition. Again, Bin Laden is a highly trained and successful businessman. He returned home to Saudi Arabia from Afghanistan a hero in 1989. When the Iraq-Kuwait crisis (1990-91) happened, he proposed that it should be handled locally. He offered to fight with his fellow fighters, but his offer was rejected. Alienated and excluded, he left for Sudan. When expelled from there, he moved back to Afghanistan. It is important to note that he felt excluded and alienated but not marginalized from the political scene or incapacitated.

Is Bin Laden's act a straightforward crime? Terrorism is contested as a criminal act, yet terrorism shares with it elements of unjustifiable harm and injury to others. More often than not, there are many innocent victims of terrorism. It is an inhumane act but while outlawed at the national and international level, it is not easily categorized as a criminal one. Nor is terrorism a recognized political act in the normal sense of the word,

utilizing fair play managed by set, agreed-upon rules. It has a link to some notion of the public good, often is carried out in support of some public cause, and is an expression of public protest where the politics of inclusion fails. Yet, it is not political because the legitimate use of violence has its own set of rules and regulations. It is political, however, in the following sense. First, it is not usually launched to advance a personal cause; rather, it is the weapon of a dispossessed group that feels it is excluded from public life and has no other means at its disposal. Second, it is usually not an individual act per se. There is an organization, which supports the act itself, as well as a community of sympathizers behind the act. The saying that "one man's terrorist is another's hero" carries with it important insights about understanding this phenomenon. Many people treat terrorists as heroes, and give them support and respect. In fact, it is this sense of belonging that enables terrorists to carry on. Third, it is a public act because a sub-culture of militancy sanctions such violent behavior. An imagined community of like-minded people extends its support and considers the act of terrorism a legitimate form of expression and means of advancing a particular cause.

Terrorism, therefore, is not an automatic reaction of the dispossessed, insofar as the simple matter of deprivation does not translate into terrorism. Injustice or dispossession may or may not lead to a violent reaction, but while not all dispossessed people commit acts of terror, all forms of terrorism have some link with perceived injustice, deprivation, and dispossession. It is dispossession combined with a feeling of empowerment that leads to acts of terrorism. For example, the Palestinians who are now equated with violence and terrorism became dispossessed in the first decades of the twentieth century and more specifically after World War II. Yet, the Palestinians resorted to terrorism as a way of making their case known in the late 1960s and early 1970s with a series of assassinations of Arab diplomats and hijacking of airplanes. Rage and a sense of injustice has to be complemented with some degree of empowerment, and for Palestinians it resulted from the changing global condition of liberation movements. In other words, only those dispossessed people who are empowered enough

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<sup>5</sup> Watkins, Frederick M. *The Age of Ideology: Political Thought, 1750 to the Present*. Englewood Cliffs: Prentice-Hall, 1964, p. 3.

can perpetrate acts of violence. Terrorism may be called "the rage of the empowered dispossessed."

There is still something missing. The act of terror should make sense for the person who commits it; it has to have some form of rationale, because terrorism is not an irrational act of compulsion. There has to be a justification for it, an "ideology of terror," so that the act can be seen to serve a worthy purpose and a valuable cause. In other words, terrorists act rationally and are aware of what they are doing, having convinced themselves that the end justifies the means. More often than not, terrorism is a conscious strategy adopted to pursue a set goal. Elaborate expositions as to the meaning and the reason for committing terror must be formulated and presented. In short, terrorism results when a triad of dispossession, empowerment, and ideological justification is at work, each angle reinforcing the other. The politics of exclusion produces such a triad and in turn fosters anew the politics of exclusion. The irony is that while the use of terror is not sanctioned either nationally or internationally, its perpetrators aim to gain recognition or to obtain privileges from the very same national and international institutions against which the act of terror is directed. Thus, one can define terrorism as follows: *the illegitimate utilization of force for some forms of public aim, either national or international in scope, committed by the convinced and empowered dispossessed.*

### III

How does one respond to this challenge? One easy way is to draw boundaries between "us" and "them" and seek the elimination of terrorist groups by force. But such "us" and "them" duality would further encourage extremism, here Islamism, all the more because Islamism is a cultural and religious response to the forces which have come to dominate modernity in our times. This would be detrimental to a civilized way of life because no civilization can afford to be exclusionary if it wants to survive and flourish. This is all the more imperative now that globalization and the information revolution reach the entire world, requiring an ever more inclusive way of life and production. The fact that a small empowered group can disrupt the civil life of the whole world, as the impact of September 11 on the interna-

tional economy shows, requires a serious look at globalization, particularly with regard to our responsibility for the future.

If the triad of dispossession, empowerment, and ideology is at the heart of the present rage, the most important practical measures are, first, to deconstruct it, and second, to encourage the working of another triad, namely justice, care, and concern for the truth. The latter would lead to the politics of inclusion. Such a strategy opens many windows. First, it should lead to a form of global politics that is more inclusive, through civil settlement of all disputes. Second, it may promote politics of care and the enhancement of sympathetic understanding rather than ideological construction. For example, a commission similar to the South African one on "Truth and Reconciliation" revealing the injustices in the Arab-Israeli crisis, on both sides, would go a long way towards disarming many extremists. Third, it would help break the triad that the Islamists are utilizing, and this dismantling would shake their legitimacy altogether.

A practical step in this endeavor that the United Nations can perform would be to press for an open and candid dialogue in the Islamic world, drawing on the conclusions of the 2002 "Arab Human Development Report." The report has created, in the words of an important advisor to the Egyptian government, "a shock." Since the report enjoys the legitimacy of impartiality, it may serve as a contemporary mirror for the princes. When I asked the Egyptian official why the response was shock, he responded by saying, "No one likes the truth." Exposing the truth about the lack of policies and practices of inclusion may lead to new ways that may enhance inclusion and minimize alienation in the Arab world. A "Muslim Human Development Report" could present an alternative way of understanding Islam to the one presented by the proponents of radical Islamism. Since such a report would deal with the broad question of Muslim identity in the shaken and secular world of globalization, it may counterbalance the Islamists' extremist formulations. Such a proper formulation would, at one level, help introduce Muslims to the intricacies and nuances of their own religion and culture and, at another level, help non-Muslims to appreciate Muslims and their contributions to the advancement of the human condition.

# Beyond September 11: Structural Causes and Behavioral Consequences of International Terrorism

*Mwesiga Baregu*<sup>1</sup>

## Introduction

This paper essentially argues that there are at least two levels at which terrorism can be analyzed, explained, predicted, and prevented or controlled. One level is the structural and the other is the direct. Structural terrorism is embedded in the system of inequality, injustice, marginalization, and exclusion. Like structural violence, this kind of terrorism is usually taken for granted as the normal state of affairs and in most cases it is the losers in this state of affairs who are blamed by the gainers for their condition. Direct terrorism, on the other hand, manifests itself as organized violence in which individuals or groups undertake violent actions intended to put right what they believe to be wrongs, usually perpetrated by the powerful against them or other affected losers who may attract their sympathy. Direct terrorism is difficult to ignore not only because of its usually dramatic nature and immediate impact, but more so because it is designed to make a political statement. This paper strongly argues that there exists a direct and, indeed, causal relationship between structural and direct terrorism. I contend that direct terrorism is a function of structural terrorism, hence the title of this paper.

Taking a look at the United States and specifically at the 9/11 events, this paper advances the hypothesis that the recent acts of terrorism against the US are a direct result of its deep-seated problems of foreign policy. Specifically it is argued that in its past and more recent history, the US has committed unjust acts against other countries and peoples, as in the trans-Atlantic slave trade, the Vietnam war, the coup in Chile and other countries, the terrorization of Cuba, the pauperization of the third world, etc., and has refused to admit its errors, let alone rectify its behavior. In other instances the US has failed to support or has blocked initiatives intended to promote international

justice and global welfare. Recent such instances in which the US has taken positions contrary to the majority of the international community include the Kyoto Agreement, 2001; the UN conference on Illicit Trade in Small Arms and Light Weapons, 2000; the Durban conference on racism, 2001; the International Criminal Court; the sanctions against Iraq; etc. The list of the aggrieved and of potential terrorists is thus very long. This has to be acknowledged and addressed.

I conclude the paper by arguing that in order to enhance its security and the collective security of the rest of the world, the US needs to summon the courage to 'contemplate what it has done to deserve the hate of the rest of the world' and that in order to enhance its security in the long term, it needs to legitimize its hegemony by leading by consensus, particularly through the UN. Finally, a number of areas in which the US can demonstrate leadership in reforming the UN system by consensus are suggested.

## Defining Terrorism

One of the most contentious questions in international politics before and after 9/11 is the question of the definition of terrorism. Perhaps one of the better-known aphorisms is that "one man's terrorist is another man's liberation fighter." It is not accidental that this aphorism emerged within the context of the liberation struggles in Southern Africa in which the settlers/colonial oppressors described freedom fighters as terrorists and created the impression that the liberation armies were rebels without a just cause. In Rhodesia this position gained considerable sympathy from the US and United Kingdom governments.

The question of definitions, therefore, is not merely one of semantics but one of substance. It is indeed a crucial question, particularly at this point in time when the US

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and the UK governments have jointly declared a global war against terrorism and insisted that all those who for some reason question or do not support the assumptions and methods of the anti-terror campaign will, in effect, be considered terrorists themselves and be treated accordingly. A clear and internationally consensual definition is even more urgent in the light of the fact that there is an assumption on the US's part that everyone knows or should know what terrorism is. This assumption is accompanied by a sense of impatience and intolerance not only with questions relating to definitions of the phenomenon, but also with issues of probing root causes of the phenomenon. These concerns are usually dismissed not only because they are considered anti-US, diversionary, and divisive internationally, but also unpatriotic and treasonous domestically in the US. Yet, to paraphrase Shakespeare, like beauty, terrorism will remain in the eyes of the beholder as long as there is no agreed definition of terrorism that draws a clear distinction between the phenomenon, which is based on criminal practices and attacks against civilian and innocent people, and legitimate struggles against injustice, oppression, subjugation, and occupation.

Unfortunately, in its quest to identify and combat terrorism in the shortest time and on a global scale, the United States has mistakenly chosen an 'America-centric' definition of what is otherwise a global phenomenon. Indeed the US response proves the theory of the Doppler effect, which postulates that a body looms larger if it is moving towards the observer and ever smaller if it is moving in the opposite direction. Thus locked into the first Doppler shift, the US is only able to experience terrorism when it is at the receiving end of it, and certainly not when it is at the giving end! This is partly because the September 11th events were something new to the US, since it was the first time since 1812 that the US mainland was attacked. In the past half-century particularly, the US resorted to force throughout much of the world. This was the first time the bombs were directed the other way. Some analysts such as Noam Chomsky have arrived at the optimistic conclusion that after 9/11 it is no longer possible for the US to hold its enemies to one standard and itself to another. Unfortunately that lesson cannot be taken for granted

on the part of the US and its closest allies. Indeed, in the light of recent developments, the opposite seems to be the case.

Robert Cooper, Director General for External Relations and Politico-Military Affairs at the General Secretariat of the Council of the European Union and one of Tony Blair's closest advisers, for example, writing in response to 9/11, counsels quite the opposite response, advocating a new kind of imperialism operating on the basis of double standards in which there prevails cooperative norms among the (post-modern) Western countries and adversarial ones with the pre-modern world, including reversion to the rougher methods of force, pre-emptive attack, deception, and whatever else is necessary.

At another level the US thinks of terrorism in the form of manifest or direct violence. It persistently refuses to accept any notion of structural violence or terrorism. As we pointed out earlier, structural terrorism is the kind of terrorism that does not necessarily hurt or kill through guns, nuclear bombs, or weapons of mass destruction, but through social structures that persistently reproduce alienation, grinding poverty, death, destruction, and enormous suffering. This may result from habitual bullying, low intensity warfare, political repression, human rights violations, economic exploitation, and social exclusion, and it occurs whenever the social, political, or economic order directly or indirectly causes such human suffering. It may also occur at a local or global level.

Addressing the Special Session of the UN, South African President Thabo Mbeki, for example, stated, *inter alia*, that the fundamental source of conflict in the world today is the socio-economic deprivation of billions of people across the globe co-existing with islands of enormous wealth and prosperity within and among countries. In the same vein, Nobel Peace Laureates at the same General Assembly, in a statement protesting the war in Afghanistan, also contended that the main battle that must be waged is the battle against the silent bomb of hunger, poverty, and social exclusion, a bomb that is produced by the structural injustice, both economic and political, that is suffered by the majority of the world's people.

Moreover, in its otherwise understandable concern for the immediate safety and security of its territory and citizens, the US has tended to take a 'splendid isolationist' yet aggressive go-it-alone stance in which the security of the United States has been its exclusive concern. Hence the refrain, "you are either with us or with the terrorists." In this approach, the US has also adopted an attitude undervaluing, if not completely disregarding, the security concerns of other countries, forgetting that in this day and age security is indivisible and no country can enhance its security without affecting that of others. What is logically implied by the US's single-minded and single-handed pursuit of its own security at any cost, therefore, is that if this goal can only be attained at the cost of making the rest of the world more insecure, so be it!

## Direct Versus Structural Terrorism

There are essentially two contending schools of thought. One school places emphasis on the direct forms of terrorism. This approach stresses behavioral factors and is more preoccupied with the occurrence of violence and how to put a stop to it, rather than with explaining why the violence occurs in the first place. Firefighting is the strategy that emerges from this approach and anything that seems to detract from this is seen as being obstructive. The other approach places emphasis on the structural essence of terrorism. This approach, which is no less concerned with manifest violence and putting a stop to it, seeks to transcend the firefighting in search for the causes of the fires.

It is not accidental that while the US and Britain take the first position, by and large, and are impatient with any definitions which seek to address root causes, the rest of the world, and in particular the poor and weak countries, on the other hand, stresses structural causes and would like to see a more comprehensive approach to the problem. Believing that it is Western civilization that is the target of the barbarians, the US and Britain, in particular, have lost a sense of proportion in terms of the fatalities that result from structural terrorism and occur in the majority of the world's societies. They have also lost a sense of history, in the sense that they seem to have no memory of similar occurrences

elsewhere in the world, even when those occurrences might have emanated from them.

Along with this loss of proportion and memory is a deliberate rejection of the search for causality, mainly because such a search, if combined with proportion and history, will inevitably lead to the West as the perpetrators of structural terrorism. It should be stressed that such a search for root causes is absolutely crucial in order to make amends and obtain the necessary commitment to uprooting the causes of terrorism.

## Africa and the 'War on Terrorism'

In the wake of 9/11, Africa has come up for mention in at least two senses. One is that Africa is likely to receive less development-oriented resources from the US as the latter becomes more preoccupied with its security interests. This suggests a shift back to a policy of benign neglect. The other sense suggests deeper engagement, on the other hand. In this view, because of Africa's weak states and fragile economies, it is likely to invite (intentionally or otherwise) all kinds of opportunistic anti-US (read: anti-West) terrorist groups. What, then, are the implications of these developments for US-Africa relations? I believe that:

1. In the area of governance, we are likely to witness intensified interference in the internal affairs of African countries, including direct efforts to monitor terrorism. The concept of Westphalian (juridical) sovereignty, particularly as it applies to African countries, will be blatantly abandoned in favor of realist (power) sovereignty. This process will be reinforced, in part, by the weakness or virtual non-existence of the state apparatus in some countries. 'Effective government' will replace good governance and democratization as a foreign policy goal.
2. African governments will have to demonstrate that their defense policies are designed and organized in such a way that they enhance American strategic interests and national security goals. Resources may be increased in this area but the defense forces of African countries will progres-

sively become dominated by US interests. This will likely be accompanied by the direct presence of American armed forces in African countries. The recent establishment of the Combined Joint Task Force Horn of Africa and the US base at Camp Lemonier in Djibouti, covering Ethiopia, Eritrea, Kenya, Somalia, Sudan, and Yemen, is a case in point. This process, however, is unlikely to be costless. As the US strives for global dominance in the context of the complex situation in the Middle East, there will be corresponding resistance, as we witnessed in Somalia in 1993 and more recently in the bombing of the Paradise Hotel and the near-miss missile strike at an El Al airliner in Mombasa, Kenya.

3. African countries will also have to cooperate fully with the United States in ensuring the protection of the US and its people, even if it means exposing their own countries and people to all manner of hazards. This could conceivably include renewed efforts in biological warfare research, which could entail increased use of Africans as guinea pigs in testing new anti-anthrax vaccines and other biological agents; opening up to American intelligence organizations and attuning African countries' intelligence data to feed into the US systems, as well as being subjected to surveillance and willingly cooperating in this. Such activities as terrorist tracking and monitoring drug trafficking to the US could come directly under the oversight of national branches of US security agencies including the CIA and FBI.
4. As for economic policy, the African countries will come under even closer direction by the US. All economic activity will be focused on feeding the US military-industrial complex. Thus we are likely to see increased activity in extractive rather than manufacturing industry and intensified control by multinational companies. This will run against the transformative goals of the vaunted New Partnership for Africa's Development (NEPAD). A clear indication of this trend already emerged at the Kananaskis G8 summit in July 2002, where Africa's plea for increased aid, trade, and investment was rejected.

It will thus be important to watch the extent to which African governments will be able to respond to American demands to snuff out terrorist elements in their midst. Since this is largely a function of state capacity and penetration of society, most African governments will be found wanting on this score. The situation is likely to be exacerbated by the deepening conditions of poverty and deprivation, which is bound to create pervasive discontent leading to 'terrorist' forms of political activism.

## The UN Quest for Consensus, Commitment and Consistency

The way forward in dealing with terrorism is extremely challenging and fraught with dangers, especially for the UN system. Rather than seeking acquiescence or mere compliance with the 'war on terrorism', the US must strive to obtain consensus through the UN, as well as the consent of all nations and peoples. This will not be easy but it is only by removing incentives for deviation that guarantees of consistency in policy and practice can be secured. Such assurances of consistency are a necessary condition for sustainable and pro-active commitment to the global eradication of terrorism. In brief, my submission is that consensus will generate commitment, which, in turn, will result in consistent behavior. Consensus is the key to dealing effectively with the structural causes that underlie direct or manifest terrorism.

The following are some ideas on a number of the structural norms, values, institutions and processes that need to be addressed:

1. Normatively and juridically, the international community must be redefined to include all nations, big and small, in the spirit of the UN charter. The narrow definition of the international community as, effectively, only the Western countries must yield to genuine internationalism. It must be realized by all members that unilateralism, global domination, and the erosion of the fundamental UN norm of sovereign equality are potential sources of future catastrophe.

2. The UN system must move away from an exclusive preoccupation with questions of peace and security, and seriously reconsider questions of economic and social development as the foundations of sustainable peace. The Economic and Social Council must be revitalized with a renewed mandate that reflects the end of the Cold War and works towards economic and social justice beyond the World Trade Organization approach, which has made the poor lose confidence and hope in the international system.
3. The General Assembly must regain some of its vitality as an arena of debate and consultation on the major questions of the day among all member states, rather than serving as a rubber stamp for the Security Council. Democracy at the international level must be deepened and be seen in practice.
4. The Security Council must be reconfigured and given a new mandate that reflects the post-Cold War international dynamic. Its permanent membership must be redefined to include the not so powerful but populous countries. The Security Council must not subordinate the General Assembly.
5. Civil society summits must secure more recognition and be gradually integrated with state summits, in contrast to the situations we have witnessed recently, where anti-globalization protests have been met with brutal force. The dominance of states and corporations must be tempered by civil society.
6. Strong, inclusive, and authoritative international regimes such as the International Criminal Court must be nurtured and respected in order to create a viable institutional framework for dealing with terrorism.
7. Consensus building and persuasion must be the main instruments of international relations rather than the threat or use of force. The use of force should be controlled and multilateral-UN, and only when absolutely necessary.



## Terrorism and Inequality

*Francisco Gutiérrez*<sup>1</sup>

### The Categories

Due to the pain and harm it has caused, and to the fact that there is a war being waged against it, terrorism is the buzzword of the beginning of the 21st century. Where does it come from, and how are we to combat it? These are indeed burning questions. I was asked to reflect about the relations between inequality and terrorism, and this I did. The subject is rather slippery, for many reasons. In the first place, the connections between many manifestations of violence—war, genocide, and political instability—and inequality have been thoroughly discussed, so there is a huge bulk of research results (what can be called the inequality literature) to delve into. However, terrorism has, or should have, a specific meaning that distinguishes it from other violent acts. Otherwise, it would be simply a form of abuse against one's enemies—a normal, not very interesting exercise. In countries long harassed by internal conflicts, like Colombia, old practices are being christened with new names, but this is generally neither smart nor very useful. On the other hand, if terrorism *is* a distinct category, then the inequality literature says nothing conclusive regarding the subject.

Furthermore, the word has a very heavy political load. What is or is not terrorism is hotly debated, and indeed being tagged as such has far-ranging political consequences. Moreover, the assessment of the attack on civilians—the core of any sensible definition of terrorism—has changed with time. What was deemed terrorism yesterday is perhaps not seen as such today, and vice versa. These changes are intimately related with geopolitics. Any research effort involving an empirical—and thus classificatory—dimension should proceed carefully with such problems.

### The Basic Conjecture

Supposing such serious definitional problems can be resolved, and treating terrorism as a form of violence

that systematically targets civilians, the issue of double standards still remains. Powerful countries and actors can carry out massive terrorist acts and get away with it. On the other hand, the notion that terrorism is, in one way or another, a “weapon of the weak”—especially while analyzing its relation with inequality—is self-suggestive. In my paper, I focus on this dimension, and the use of the word refers exclusively to it. In this regard, my basic conjecture is the following: the relation between inequality and terrorism by non-state actors exists and is strong, but it is politically mediated. Political structures act as regulatory variables that decide how the people placed on the wrong side of the inequality ladder will behave.

This does *not* mean: a) that terrorists are the carriers of genuine popular grievance; b) that terrorism is carried out (almost) always by the poor; or c) that, due to a) or b), or some other reason, terrorism should be considered legitimate or tolerable in one sense or another (this also applies, *a fortiori*, to the terrorism of the powerful). It *does* mean that important world changes are fueling what we call terrorism. These changes manifest themselves in the following areas: there is a deepening economic and technological inequality between countries; global governance institutions and policies are being fostered without global accountability (the obvious example is economic policy, but there are many others including the so-called war on drugs); and there is an intensification of tensions over geopolitical issues as well as the continuation of national conflicts. The relevant consequences of these tendencies are twofold:

- The development of a set of global institutions completely devoid of democratic content. Terrorism is, indeed, a dramatic modality of exit from the global order for those who perceive themselves as having no voice in the international order and therefore have strong incentives to exit.

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- The demise of old forms of resistance. Guerrilla warfare is no longer an effective tool to oppose an extra-national actor that strikes with ultramodern airplanes. The "deterritorialization" of anti-colonial motives is linked to the new techniques of terror.

It is important to note, however, that political globalization has another fundamental aspect: it promotes democracy at the national level. This blend of national opening and global closure may be generating something like the semi-repressive regimes that are identified in some of the inequality literature as the ideal breeding grounds for political violence<sup>2</sup>. Under repressive regimes, people have the incentives, but not the means, to rebel. Under democracy, they have the means, but not the motives. Only in semi-repressive regimes do violent opponents have both the means and the motives. Can the global polity be identified with a semi-repressive regime? What this suggests is that the lack of a voice in the global arena and the brutal—and growing—economic inequality make fertile ground for violent contention despite, or even because of, democratization. Expressed differently, the combination of growing global inequality and certain political developments (in the Middle East and elsewhere) gives scant reason for loyalty or confidence in international institutions. Economic and political inequality between the developed and developing worlds has produced an explosive combination, often translated into terrorist violence. The latter, thus, has national roots but global motivations. This can be observed more or less clearly in those situations and regions in which economic inequality is blended with national grievances and concerns, or, said differently, when political and economic inequality appear simultaneously and strongly. In such cases, extremists might easily find the materials to build widespread support. A simple—but, I believe, important—analogy can be established with the Versailles Treaty's impact on the world order in the 1920s: it installed in several countries a coexistence between democracy and a perceived blatant unfairness that could not be addressed, let alone changed, through



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democratic means. It thus permanently drained the political center, offering all kinds of hate-mongers the opportunity for political action and expansion. Centrists and moderates were put in a situation in which they had to choose between the interests and sympathies of their national constituencies and respect for the international order. Consequently, only extremists were in a position to speak "nationally" and "locally" about global problems, and rally people behind easily understandable motives and icons. Please note that this warning about the dangers of the Versailles Treaty does not entail any sympathy whatsoever for those who profited politically from it—all the contrary.

Admittedly, the whole discussion is exploratory. Quantitative cross-national research about terrorism proper is skimpy at best, and the enterprise still has to solve severe classificatory problems, so we have little evidence supported by substantial empirical research. Perhaps we should leave, at least partially, the national level, and consider a global framework.

## The Quest for Motivations

Without understanding the motivations of warlords and terrorists we remain far from fine-tuned explana-

<sup>2</sup> See, among others: Schock, Kurt. "A Conjunctural Model of Political Conflict," *Journal of Conflict Resolution*, March 1996 (40:1), pp. 98-133; Krain, Matthew. "Contemporary Democracies Revisited. Democracy, Political Violence, and Event Count Models," *Comparative Political Studies*, 1998 (31:2), pp. 139-164; and Muller, Edward. "Income Inequality and Democratization," *American Sociological Review*, 1995 vol. 60 pp. 990-996.

tions. Any solid form of political economy must have micro-foundations: why do individuals engage in violent activity? Why and how can terrorist organizations recruit people, gather financial support, and political sympathy? Large-scale terrorism requires a widespread network of supporters, and at any given moment, it may enjoy broad support by several sectors of the population. Thus, it cannot be treated just as a "sickness". There is a rationale for this type of activity that cannot be reduced to plain criminality. One of the main resources in the repertoire of contemporary terrorism is suicide bombing. Suicide attacks are not isolated cases. This suggests that we should drop—at least in some critical situations—the assumption that terrorists are purely self-regarding. When one of the main resources in the repertoire of contention is suicidal attacks, the assumption of selfish, individual rationality can be seen as openly preposterous. While in the case of soldiers in a war, it is possible to think about trade-offs between the probability of losing your own life versus a reward in the future, many terrorists are ready to engage in outright self-destruction to serve a cause or inflict harm on the enemy. Russian roulette is full of pathos, but it admits a wide margin of self-regard; self-destruction involves a completely different subjectivity.

Paradoxically, terrorists seem so powerful and alien precisely because, unlike other combatants where wealth is at stake, their motivations are so far from greed and so near to grievance. So, provided we do not collapse terrorism and war in a single category, no hard-nosed rationalism should interfere with our thinking. But an even worse alternative would be primitive culturalism—a clash of cultures akin to "Star Wars"—as a cover for self-commiseration. In the case of terrorism, what needs to be explained is the almost biblical degree of deadly anger, so intense that it can carry people to self-destruction on the condition that horrible damage is inflicted to a human group perceived as hostile. Grievance is not fully out of fashion, after all. Anger, resentment, and gloating in the face of the misfortune of the hated 'Other' are all products of a (perceived or factual) brutal and permanent injustice, and steep asymmetry between opposing parties.

Indeed, it could be the case that there is no unifying motivation or profile for terrorist behavior today. I would single out, however, three factors that fuel terrorist activity: ethnic and national demands and complaints with a geopolitical background; the experience and know-how of illegality (be it through links with criminal networks, clandestine political activity, or experience in previous conflicts); and political and perhaps military impotence. The three factors, of course, might intermingle.

## Nationalism

Nationalism might have simple, but important, implications for the fight against terrorism, because if national motives are fueling terrorist events, then two conclusions can be drawn. First, interventionism as a response to terrorism is not only flawed on many grounds, but it is even suicidal. It is relatively easy to identify the mechanisms that transform interventionism into terrorist responses: invasions kill, and create immediate hatreds among the network of friends and relatives of the victims; invasions and interventions create huge national resentments; and armed interventions rarely can be won, even in the most asymmetric of situations, without a network of indigenous supporters and allies. The intervening country has to fund, protect, harbor, and train local networks in activities such as sabotage, lethal violence against political opponents, and de-stabilization of the target's political and economic system—in a word, terrorism. It is also possible that at some point, these "fighters for liberty" might turn their arms against their masters, be it because they are ambitious or are mercenaries, or simply because their alliance with the interventionist power was temporary. Add to this the fact that at the global level, the war can be waged effectively, whatever the criteria of evaluation, only by creating a system of alliances. This offers a window of opportunity for organizations, governments, and networks with terrorist contacts and expertise to squeeze out concessions and further their cause. Almost all of the most abominable rogues, past and present, were in some moment "fighters for liberty" and allies of the West, from Noguera to Bin Laden, and including Saddam Hussein. Empowering rogues to topple today's

enemy is a direct consequence of interventionism, and the best way to guarantee future terrorist events—and we are seeing plenty of this today.

Second, it is clear that the status and nature of present day nationalism is misunderstood. We need to think hard and try to understand how nationalism interacts with globalization, and how national motives and overdue demands can be accounted for today. One critical aspect is that the terrorist-interventionist duet is crushing the political center in the Arab world and elsewhere.

## Recommendations

Globalization has blocked and limited many forms of violence but fostered others—there is no novelty in this assertion. That changes in international institutions and global power relations give origin to violent confrontations is everything but new, as Karl Polanyi so brilliantly and forcefully showed in his analysis of the causes of the great 20th century wars. But we are not condemned to repeat the experience, or so I hope. What can be done?

This is a moment of intense political mobilization, with big interests and passions involved. Such situations rarely give leeway to actors and voices favoring fairness and reason. I believe, however, that their role in the long-term might prove meaningful. Ideas count. I offer, consequently, three long-term recommendations:

1. Promote global accountability. Global institutions—starting with global judicial institutions—should be invigorated and staunchly defended and supported. All governments and nations should be accountable in front of them. Existing global

institutions should be radically democratized. Gradually adjudication and conflict resolution—especially in “hot regions”—should be deferred to truly transnational organizations.

2. It is high time that the United Nations starts a process of internal democratization—even a very gradual approach would have a positive impact, if some advances are undertaken in the correct direction. For example, if a supermajority in the General Assembly is empowered with veto power (even if the quota is high, let's say 3/4), a kind of system of checks and balances would be initiated.
3. Independent analyses about terrorism, and what is to be considered a terrorist act—apart from who commits it—should be developed. Basic definitions are crucial to prevent double standards and autistic conventions (“terrorists are the people I fight”). It is important to originate systematic research that transforms our present vague notions and conjectures about the causes of terrorism. Perhaps the International Peace Academy itself can take over this task: on the one hand, establishing a strong scholarly definition, on the other, based on this definition, developing quantitative and historical research. This is not as marginal as might be considered. *Ideas and knowledge count, especially in the long run.*

To acknowledge that terrorism has causes and motivations is completely different from admitting its legitimacy or its right to exist. We should never forget the horror it has inflicted on innocent victims. At the same time, only proper understanding can prevent—or at least minimize—the probability of an upsurge in violence and terror.

## International Humanitarian Law, the Prohibition of Terrorist Acts and the Fight Against Terrorism

Hans-Peter Gasser<sup>1</sup>

Terrorism is said to be a substitute for conventional, or classic, warfare, and the response to terrorism is now called a "war on terrorism". Since time immemorial, warfare has been subject to legal regulations of an international or transnational character—the laws of war. Its foundations can be traced to age-old practices established to mitigate the effects of having recourse to violence when conflicts could not be resolved by peaceful means. The rules used to belong to customs observed by belligerents as a matter of course. The main sources of modern international humanitarian law are the four Geneva Conventions of 12 August 1949 for the protection of war victims,<sup>2</sup> supplemented by their two 1977 Additional Protocols.<sup>3</sup> Other treaties deal with specific aspects of armed conflict, such as the Hague Cultural Property Convention (1954)<sup>4</sup> and the Convention on Certain Conventional Weapons (1980).<sup>5</sup> General principles of international law and rules of customary law supplement the written law in a decisive manner. Many of the customary rules stem from long-standing principles observed on the battlefield, such as the principle of proportionality and the principle that a distinction must be made between those who take part in the war effort and those who do not, in particular the civilian population.

### The Response of International Humanitarian Law to Terrorism<sup>6</sup>

Traditionally, international humanitarian law dealt with humanitarian problems arising in conventional, or classic, warfare in which the armed forces of one state clash with the armed forces of another state. However, the 1949 Geneva Conventions already includes rules for hostilities involving forces other than governmental armies.<sup>7</sup> The law's concern for such groups other than official armed forces, groups which may also use different methods of combat, has been developed by 1977 Protocol I.<sup>8</sup> These new rules by no means exclusively grant "privileges" to these fighters, but also make the whole body of law applicable to them, including its obligations.

Modern international humanitarian law prohibits terrorist acts in all circumstances. In serious cases such acts must be punished as grave breaches of the 1949 Geneva Conventions or their 1977 Additional Protocols. This conclusion is not self-evident, but needs further explanation as violence against persons and destruction of property are inherent in warfare.

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<sup>2</sup> Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 August 1949; Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Geneva, 12 August 1949; Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949; Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949. – 190 States Parties (30 November 2002).

<sup>3</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977. Respectively 160 and 153 States Parties (30 November 2002).

<sup>4</sup> Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954. 141 States Parties (30 November 2002).

<sup>5</sup> Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, 10 October 1980, with four Protocols. – 90 States Parties (30 November 2002).

<sup>6</sup> This section draws on the author's article: "Acts of terror, 'terrorism' and international humanitarian law", *International Review of the Red Cross*, Vol. 84, September 2002, pp. 547-570.

<sup>7</sup> Under the name of "militias," "volunteer corps," or "resistance movements." See Third Geneva Convention, Article 4A (1) and (2).

<sup>8</sup> See, in particular, Protocol I, Articles 1.4, on the status of national liberation movements, and 44.3, on guerrilla warfare.

The use of deadly force against persons and objects is contrary to international humanitarian law only if such acts transgress the limits established by the international rules. Violence is also one of the salient features of terrorism. International law must therefore draw a line to distinguish the violence that is legitimate in war from acts of terrorism, which violate international humanitarian law. How is this distinction achieved?

International humanitarian law approaches the problem from two angles. First, the right to use force and commit acts of violence is restricted to members of the armed forces of each party to an armed conflict. As a rule, only members of such armed forces (or, under clearly defined conditions, associated groups) have the "privilege" of using force against other armed forces, but their choice of methods or means of warfare is subject to certain constraints. On the other hand, only members of armed forces and military objectives may be the target of acts of violence. Second, other categories of persons, in particular the civilian population, or of objects, primarily the civilian infrastructure, are not legitimate targets for military attacks—they are, in the words of the Geneva Conventions, "protected," and must in all circumstances be spared.

International humanitarian law does not grant unfettered license to use any conceivable form of violence against the other party to an armed conflict. Indeed, "...the right of the parties to the conflict to choose methods or means of warfare is not unlimited."<sup>9</sup> For ages past, international rules have drawn a line between acceptable methods of warfare and the unacceptable, such as the assassination of civilians not taking part in the hostilities or, more recently, the use of chemical weapons. To resort to illegal methods and means violates the legal order, and, in aggravated circumstances, can be prosecuted as a crime under domestic law or as a war crime. Consequently, members of armed forces, though entitled to commit

acts of violence, may be held responsible for violations of rules protecting persons or civilian property. In other words, any officer or ordinary soldier must be put on trial if he has committed a violation of the laws of war, including acts of terrorism.

## International Humanitarian Law and the "War on Terror": Some Preliminary Remarks

Acts of terrorism are incompatible with international humanitarian law as applied to armed conflict. They violate commonly accepted international standards and must be punished as crimes of an international character. Like any other serious violation of the 1949 Geneva Conventions and their Additional Protocols, of other humanitarian law treaties or of international customary law, such acts call for action by states party to those treaties to redress the situation. These states not only have a legitimate interest in stopping criminal behavior, thereby protecting their own citizens, they are also legally obliged to monitor compliance with the law, to prosecute and, where appropriate, punish offenders, and to prevent any further act contrary to humanitarian law.<sup>10</sup>

The Geneva Conventions and their Additional Protocols of 1977 have laid down a number of measures and procedures to ensure compliance with their provisions. In particular, serious violations of the more important provisions are crimes of an international character, i.e. "grave breaches", in the words of the Geneva Conventions, or war crimes. All State Parties have jurisdiction to prosecute offenders (universal jurisdiction) for, as has been pointed out in this paper, serious acts of terrorism are grave breaches of international humanitarian law. Those who have committed such acts must be brought before domestic courts or any special international criminal court.<sup>11</sup> The newly established International Criminal Court (ICC)<sup>12</sup>

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<sup>9</sup> Protocol I, Article 35.1.

<sup>10</sup> Article 1 common to the four 1949 Geneva Conventions recalls this basic truth with the following words: "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances."

<sup>11</sup> Such as the ad hoc tribunals for the former Yugoslavia and Rwanda.

<sup>12</sup> Rome Statute of the International Criminal Court, 17 July 1998.

has jurisdiction over war crimes (Article 8) and crimes against humanity (Article 7). As long as terrorist acts are "most serious crimes of concern to the international community as a whole",<sup>13</sup> they fall under the Court's jurisdiction if the precise conditions set out by the Statute are met, in particular if the state concerned is unwilling or unable to prosecute.<sup>14</sup> The ICC is called upon to make a limited but significant contribution to the enforcement of criminal law at the international level, including legal action against crimes of a terrorist nature. It must, however, be borne in mind that the ICC does not serve as a substitute for domestic courts. Domestic criminal jurisdiction will always play the major part in prosecuting war and other criminals. The decision to establish an international tribunal is a signal to domestic jurisdiction to keep up with its task of bringing criminals to court.

As mentioned before, the Geneva Conventions provide for action by third States with a view to responding to grave breaches or preventing further violations, in particular if the State concerned does not or cannot take appropriate action to that effect. Whether action against such a State includes the right to use force against the perpetrator is not a question for international humanitarian law, but for the law of the United Nations Charter.

Under the grim impression of the events of September 11, 2001, a number of states have taken action to prevent terrorist acts from being committed on their territory. The measures taken include inter alia:

- tightening of police surveillance, particularly of foreign residents,
- adopting more "robust" interrogation procedures, which may amount to inhumane treatment or even to torture,
- curtailing the right of alleged terrorists to a fair trial by, for example, imposing limits on access to counsel and witnesses, and on the exercise of other rights of the defendant

- toughening the state's stance towards asylum-seekers, refugees, and migrants, by, among other things, ignoring the prohibition on returning such persons against their will to a country where they fear for their lives (*non-refoulement*).

Certain fundamental and inalienable human rights must be respected in *all* circumstances. The right to life and the prohibition of torture (to take two examples) are such rights; they cannot simply be set aside by those fighting terrorism. Those of the above measures that are not illegal as such may, if applied disproportionately with regard to the purpose, amount to violations of a government's commitment to respect international human rights and humanitarian law obligations.

## Concluding Remarks: Is International Humanitarian Law Adequate for Combating Terrorism?

During an armed conflict, measures to combat terrorism and to bring alleged terrorists to justice must comply with international humanitarian law—and, of course, with any other international rule. In view of the increased danger of even fundamental humanitarian obligations being disregarded in a "war on terrorism," there appears to be a special need to emphasize that all those who, in the context of an armed conflict, are involved in the fight against terrorism have a duty to respect international humanitarian law. Scrupulous respect for international humanitarian law in military campaigns to eradicate terrorism will help to strengthen the determination of all members of the international community to abide by the law in all circumstances.

The 1949 Geneva Conventions and the other humanitarian law treaties do not provide special tools for the fight against terrorism. International humanitarian law cannot eradicate terrorism, among other things because terrorism has multiple and complex causes. Only civil society can attain that goal by concerted

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<sup>13</sup> ICC *Statute*, Article 5.1.

<sup>14</sup> ICC *Statute*, Article 17. The Statute does not include a "crime of terrorism" (as was the case in early drafts), partly because of US opposition.

efforts and patient action abroad and at home. Conflicts that foster violence and terror must be settled by political means, in such a way to open the door to more justice for all. But it must also become clear for every player on the domestic and international scene that, whatever the underlying grievance, recourse to indiscriminate violence is illegitimate and reprehensible—and ultimately useless or even counter-productive. Armed forces and law enforcement agencies must be made aware that full respect for international humanitarian law in counter-terrorist operations is a positive contribution to the eradication of terrorism.

Various provisions of international law guarantee humane treatment for persons (be they military or civilian) who have committed even the most atrocious crimes. These rules do not obstruct criminal justice in the accomplishment of its task. It is quite simply wrong to maintain that humanitarian law provisions are obstacles in the fight against impunity, and particularly the attempt to eradicate terrorism.<sup>15</sup> Bringing suspected criminals to justice is an essential part of ensuring respect for humanitarian commitments, be it in time of war or peace. In the author's opinion, the 1949 Geneva Conventions and their Additional Protocols are equipped for any "war on terrorism" that

is conducted to eradicate terrorism (in the context of an armed conflict).

No law is perfect and immutable, and international humanitarian law in particular has to adapt to changes in the conduct of armed conflicts. Constant evaluation of the law's ability to respond to the real problems of war is therefore necessary to determine whether the rules are adequate or not, and any ideas to enhance the protection of war victims must be taken seriously. Before launching new initiatives to amend the Geneva Conventions and their Additional Protocols, the law as it stands must be properly understood. Some statements made in the debate on the supposed need to amend the Geneva Conventions reveal a clear ignorance of the present law. Nor does it make much sense to amend the law if the last improvement of it has not yet been fully accepted: the 1977 Additional Protocols, which strengthen the ban on terrorism, must still be ratified by *all* states, thus also—and in particular—by the United States.

It might be useful to remember that during negotiation of the 1899/1907 Fourth Hague Convention the so-called Martens Clause was intended above all to establish a legal "safety net" for "unlawful combatants."

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<sup>15</sup> Whether the organization of the domestic criminal system is itself an obstacle is another question.

<sup>16</sup> Hague Convention respecting the Laws and Customs of War on Land, 18 October 1907, preamble. The wording of the *Martens Clause* has been slightly modernized by 1977 Protocol I, Article 1.2.



## Responding to Terrorism: What Role for the United Nations?

Friday, 25 October – Saturday 26 October 2002

Convened by the International Peace Academy  
with the support of the Government of the Netherlands  
and the John D. and Catherine T. MacArthur Foundation

Chadbourne & Parke LLP  
30 Rockefeller Plaza (between 49th & 50th Streets)  
Conference Room, 36th floor

### Conference Agenda

#### FRIDAY, 25 OCTOBER 2002

830-900 Breakfast

0900-0930 Opening Session

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Sir Kieran Prendergast  
United Nations Department of Political Affairs

David M. Malone  
International Peace Academy

0930-1100 Session One - The Changing Face of International Terrorism

Terrorist organizations: their changing tactics, typologies and goals  
Terrorism in the "South": an overlooked phenomenon

Chair: David M. Malone  
International Peace Academy

Speakers: Dr. Rohan Gunaratna  
University of St. Andrews, Scotland

Dr. Martha Crenshaw  
Wesleyan University

Discussant: Dr. Shashi Tharoor  
United Nations Department of Public Information

1100-1130 Coffee Break

1130-1300 Session Two – Exploring the Appeal of Terrorism

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Religion and terrorism: the manipulation and mis-use of world religions

Chair: Dr. Danilo Türk  
United Nations Department of Political Affairs

Speakers: Dr. Farhang Rajaee  
Carleton University, Canada

Dr. Mark Juergensmayer  
University of California, Santa Barbara

Discussant: Ms. Barbara Crossette  
The New York Times

1300-1400 Lunch

1400-1530 Session Three – Root Causes of Terrorism?

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The relationship between poverty, underdevelopment, inequality and terrorism:  
Views from the "developed" and developing worlds

"Southern perspectives" of the economic causes of terrorism

Chair: Mr. Jayantha Dhanapala  
United Nations Department for Disarmament Affairs

Speakers: Dr. Francisco Gutiérrez  
Universidad Nacional, Colombia

Dr. Mwesiga Baregu  
University of Dar Es Salaam, Tanzania

Discussant: Dr. Zahir Jamal  
United Nations Development Programme

1530-1600 Coffee Break

**1600-1730      Session Four – International Law, Human Rights and the Fight Against Terrorism**

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Upholding human rights in the anti-terrorism effort: the role of the UN, the Geneva Conventions and terrorism; new concepts and tools.

Chair:            H.E. Mr. Jenö C.A. Staehelin  
                    Permanent Mission of Switzerland to the United Nations

Speakers:     Dr. Hans Peter Gasser, (Ret.),  
                    Legal Division, International Committee of the Red Cross

                    Ms. Joanna Weschler  
                    UN Representative, Human Rights Watch

Discussant: Mr. Bacre N'Diaye  
                    United Nations Office of the High Commissioner for Human Rights

**SATURDAY, 26 OCTOBER**

**930-1000      Breakfast**

**1000-1100      Session Five –The Regulatory Framework and Global Financial Networks**

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Strengthening the international community's capacity to cut off the funds and the munitions

Chair:            Ambassador John L. Hirsch  
                    International Peace Academy

Speaker:       Dr. Jeremy Carver  
                    Clifford Chance LLP, United Kingdom

**1100-1300      Session Six – The Way Forward for the United Nations**

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Multiplying the advocates: how can the Secretary-General, the Security Council and major UN agencies play an effective role in the struggle against terrorism?

Chair:            David M. Malone  
                    International Peace Academy

Speakers:     H.E. Sir Jeremy Greenstock  
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                    H.E. Mr. Ahmed Aboul Gheit  
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                    H.E. Mr. Kishore Mahbubani  
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Closing Remarks

David M. Malone  
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## About the Project

With strong support from the MacArthur Foundation and the Government of the Kingdom of the Netherlands, the International Peace Academy has actively been involved in supporting the United Nations' efforts to chart a viable response to both the immediate and long-term challenges of confronting international terrorism. As an active participant in the Secretary-General's Policy Working Group (PWG), a high level action-oriented task force, IPA has interacted closely with senior levels of the UN Secretariat since its inception. In particular, IPA has provided its own in-depth analysis on recent trends, facilitated meetings between a number of prominent outside experts and senior levels of the Secretariat in reviewing the PWG draft report, and helped to organize and conduct two key sub-groups on a) the role of ideology and b) strengthening the UN's relationship with Regional Organizations.

Following upon the work of the PWG, IPA hosted a major international conference on "Responding to Terrorism: What Role for the United Nations?" in New York, on October 25-26, 2002. The conference brought together diverse non-governmental and academic voices from the developing world to engage with officials from the United Nations, Permanent Representatives, and leading academics and INGOs. It involved over seventy participants and was co-chaired by Under Secretary-General Kieran Prendergast and IPA President David Malone.

Reports and additional information about the project are available on IPA's website, [www.ipacademy.org](http://www.ipacademy.org).

Edited by Clara Lee, Publications Coordinator and Program Assistant on the *UN, NATO and Other Actors in the 21st Century: Partners in Peace?* project at IPA.

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