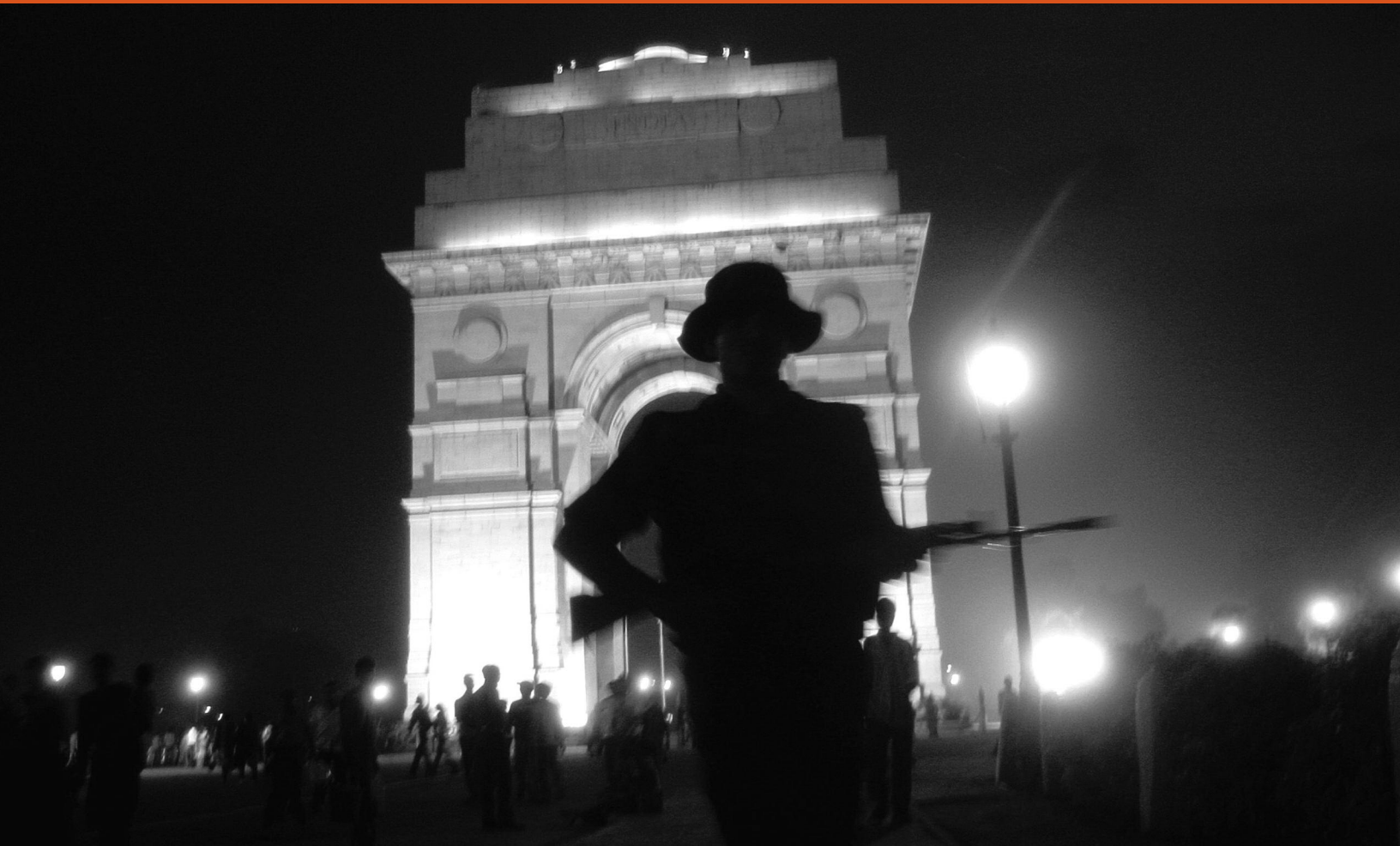


Center for Global Counterterrorism Cooperation

Countering Terrorism in South Asia: Strengthening Multilateral Engagement

Eric Rosand, Naureen Chowdhury Fink, and Jason Ipe

MAY 2009



INTERNATIONAL PEACE INSTITUTE

Cover Photo: An Indian Army soldier patrols at India Gate (All India War Memorial), New Delhi, July 12, 2006.
© Money Sharma/epa/Corbis

The views expressed in this paper represent those of the authors and not necessarily those of IPI. IPI welcomes consideration of a wide range of perspectives in the pursuit of a well-informed debate on critical policies and issues in international affairs.

IPI Publications

Adam Lupel, *Editor*

Ellie B. Hearne, *Publications Officer*

© by International Peace Institute, 2009
All Rights Reserved

www.ipinst.org

ABOUT THE AUTHORS

ERIC ROSAND is Co-Director of the Center on Global Counterterrorism Cooperation in New York. He is the author of numerous articles, book chapters, and reports, and has lectured widely on international counterterrorism cooperation, with a particular focus on multilateral actors.

NAUREEN CHOWDHURY FINK is Senior Program Officer at the International Peace Institute. Her research interests include politically and religiously motivated violence and terrorism, with a particular focus on the Middle East and South Asia.

JASON IPE is Senior Analyst for the Center on Global Counterterrorism Cooperation in Washington, DC. His research focuses on counterterrorism, money laundering, and nonproliferation.

ACKNOWLEDGEMENTS

The Center on Global Counterterrorism Cooperation (CGCTC) and the International Peace Institute (IPI) are grateful for the significant contributions that CGCTC Director, Alistair Millar, and Research Assistant, Michael Healy, made throughout this project, including to the drafting of this report. The CGCTC and IPI also benefited from the research assistance of Liat Shetret at the CGCTC and the wise advice and counsel of Dr. Edward Luck, IPI Senior Vice President and Director of Studies. Invaluable information and analyses of the counterterrorism-related activities of various international, regional, and subregional bodies were provided by representatives of those organizations too numerous to identify here but without whose cooperation this project would not have been possible.

Both this report and the recommendations contained herein were informed by the discussions at a workshop convened by the CGCTC and IPI in New York on November 13-14, 2008. The workshop brought together over forty participants representing academic and other civil society organizations from Bangladesh, India, Nepal, Pakistan, the United Kingdom, and the United States, as well as the Commonwealth Secretariat, UN counterterrorism officers, and diplomatic representatives from South Asian missions to the United Nations in New York. The meeting provided a timely and multifaceted discussion to contribute to a better understanding of the terrorist challenge in South Asia, as well as the broader issues which frame the threat. We are grateful to all of the participants for their contributions.

CONTENTS

Acronyms	i
Executive Summary	1
Introduction	2
Threats, Vulnerabilities, and Key Actors	3
NATIONALISM	
RELIGIOUS EXTREMISM	
ETHNONATIONALIST SEPARATISM	
The UN Strategy	6
Regional Cooperation: SAARC and Other Mechanisms	8
SAARC	
BEYOND SAARC	
The Role of the UN: Four Pillars of Counterterrorism Strategy	13
PILLAR I. MEASURES TO ADDRESS CONDITIONS CONDUCTIVE TO THE SPREAD OF TERRORISM	
PILLAR II. MEASURES TO PREVENT AND COMBAT TERRORISM	
PILLAR III. MEASURES TO BUILD STATES' CAPACITY TO PREVENT AND COMBAT TERRORISM AND TO STRENGTHEN THE ROLE OF THE UNITED NATIONS IN THIS REGARD	
PILLAR IV. MEASURES TO ENSURE RESPECT FOR HUMAN RIGHTS FOR ALL AND THE RULE OF LAW AS THE FUNDAMENTAL BASIS OF THE FIGHT AGAINST TERRORISM	
Conclusion	24
Recommendations	25

Acronyms

AFSPA	Armed Forces (Special Powers) Act 1958 (India)
AML/CFT	anti-money-laundering/countering the financing of terrorism
BEI	Bangladesh Enterprise Institute
BIMSTEC	Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation
CGCTC	Center on Global Counterterrorism Cooperation
CPI-M	Communist Party of India-Maoist
CTC	United Nations Security Council Counter-Terrorism Committee
CTED	United Nations Counter-Terrorism Executive Directorate
CTTCS	Counter-Terrorism and Transnational Crime Sector
DPA	United Nations Department of Political Affairs
DPKO	United Nations Department of Peacekeeping Operations
EOSG	Executive Office of the Secretary-General
FATA	Federally Administered Tribal Areas (Pakistan)
FIU	Financial Intelligence Unit
HuJI-B	Harakatul Jihad—Bangladesh
ICPAT	IGAD Capacity-Building Programme Against Terrorism
IDSA	Institute for Defence Studies and Analyses
IGAD	Intergovernmental Authority on Development
INTERPOL	International Criminal Police Organization
IOJ	Islami Okiya Jote
IPI	International Peace Institute
JI	Jamaat-e-Islami
JMB	Jamatul Mujahedeen
JMJB	Jagrata Muslim Janata Bangladesh
LeT	Lashkar-e-Toiba
LTTE	Liberation Tigers of Tamil Eelam

MDGs	Millennium Development Goals
MLAT	SAARC Mutual Legal Assistance Treaty
OHCHR	United Nations Office of the High Commissioner for Human Rights
OLA	United Nations Office of Legal Affairs
POTA	Prevention of Terrorism Act 2002 (India)
RSS	Rashtriya Swayamsevak Sangh
SAARC	South Asian Association for Regional Cooperation
SARRF	South Asian Regional Research Forum
SDOMD	SAARC Drug Offences Monitoring Desk
STOMD	SAARC Terrorism Offences Monitoring Desk
TPB	Terrorism Prevention Branch (of UNODC)
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific, and Cultural Organization
UNICEF	United Nations Children's Fund
UNMIN	United Nations Mission in Nepal
UNODC	United Nations Office on Drugs and Crime
VHP	Vishwa Hindu Parishad

Executive Summary

Horrible acts of terrorism, such as the November 2008 attacks in Mumbai, underscore the regional nature of the terrorist threat in South Asia, and they highlight the need for greater cooperation within the region to address it. This report explores ways to strengthen such cooperation, with a particular focus on the role that the United Nations can play in this regard. It urges the United Nations to build on the international community's solidarity in the wake of terrorist attacks—such as those recently in Islamabad, Lahore, and Mumbai—to forge stronger engagement between the United Nations and South Asia on counterterrorism and within the region itself.

This report outlines the different manifestations of the terrorist threat in the region and some of the underlying drivers of that violence. Terrorism and political violence are not new challenges in South Asia. Such tactics have long been used by groups espousing a wide variety of causes, including national self-determination or separatism, both right- and left-wing politics, and militant religious extremism.

It also examines some of the region's main vulnerabilities, including limited state capacity and overlapping geopolitical tensions, which undermine the prospects for regional cooperation. The convergence of limited institutional capacities in governments and law-enforcement agencies with grievances about widespread corruption, underdevelopment, socioeconomic marginalization, and the sometimes problematic role of the state, make South Asia an attractive operating base for terrorist groups and constrain the capacity of states to respond. Further, the ongoing consolidation of postcolonial national identities, and the mutual distrust and suspicion among the states of the region—which is not limited to the simmering tensions between India and Pakistan—have so far inhibited the level of regional cooperation necessary to address the threat effectively.

The report discusses the significance of the holistic UN Global Counter-Terrorism Strategy for South Asia in light of the significant challenges facing the region. Adopted by consensus in the UN General Assembly in 2006, the Strategy has broad-based political support which may offer states in the region and other important stakeholders the

opportunity to develop a more coherent, coordinated, and holistic response to the threat in South Asia. By elaborating a broad range of counterterrorism measures, underpinned by the commitment to uphold the rule of law and human rights, the Strategy also offers an important impetus for states in the region and partner countries to recalibrate their efforts to combat terrorism in South Asia, which have been frequently too reliant on military force, and to devote more resources to addressing “conditions conducive to the spread of terrorism.”

The report analyzes the counterterrorism efforts of regional bodies, such as the South Asian Association for Regional Cooperation (SAARC) and the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC), and assesses the prospect that one or both of these actors could contribute to strengthening practical counterterrorism cooperation among experts on the subcontinent and to carrying forward the implementation of the Strategy on the ground. Although both bodies have devised potentially useful counterterrorism instruments, few such measures have been translated into action by their members. Meaningful progress within SAARC has been held hostage to the tensions between South Asia's two largest rivals, and BIMSTEC faces limitations, both in terms of its capacity as an organization and its utility in promoting region-wide counterterrorism cooperation because Pakistan is not a member.

The report also argues that a regionally coordinated response to the threat of terrorism is essential and emphasizes that strengthening those regional bodies should be a long-term objective. However, given their track record, the political obstacles impeding closer regional cooperation, particularly within SAARC, and the urgency of the terrorist threat in the region, the report urges that efforts to promote cooperation be devolved from the political to the expert level, and recommends the establishment of a *technically* focused regional counterterrorism center, possibly under the auspices of the United Nations.

The United Nations, because of its perceived neutrality in a region rife with suspicion and conflict, and its wide-ranging technical expertise, is well-suited to playing a critical role in a region that lacks a mechanism for effective counterterrorism

cooperation. The report further argues that the UN Strategy offers several possible entry points for multilateral engagement in the region. The report highlights the relevance of each pillar of the UN Strategy for South Asia and the role that the different parts might play in the region. It also draws attention to the challenges to realizing more sustained implementation of the Strategy over the long term and suggests some ways in which they might be overcome.

Finally, the report concludes with a set of action-oriented recommendations aimed at strengthening counterterrorism cooperation within South Asia and between the United Nations and the region. It calls for more strategic thinking by the United Nations about how best to engage with the region and for more leadership from the UN Secretary-General, who should designate a senior UN official to spearhead that engagement.

Introduction

Terrorism and political violence are not new challenges in South Asia. They have long been used by groups espousing a wide variety of causes, including national self-determination or separatism, both right- and left-wing politics, and militant religious extremism. In many instances, the fragility of relatively young political systems and nascent democracies has also generated a permissive environment for the use of political violence. In addition, militant religious groups are exploiting local grievances and drawing on international events to promote radical and extremist causes, though the underlying objectives of many of these groups remain the capture of state power and the transformation of systems of government.

It is, however, the increasingly transnational nature of terrorism that is playing a significant role in transforming the rhetoric and the challenge in South Asia. The ferocity and organization of the recent attacks in Mumbai testify to the potential of terrorism to not only challenge national security but threaten regional and international peace.

Terrorist groups can exploit cross-border ethnic ties, globalized financial and commercial networks, widely accessible communications technologies, the twenty-four-hour media cycle, and transnational organized-crime syndicates to project their influence beyond the local to the national, regional,

and even international levels. Furthermore, the use of sophisticated technology and weapons has exponentially increased the potential scale of damage. Events such as the attack on Benazir Bhutto in December 2007 and the bombing of the Marriott Hotel in Islamabad in September 2008, or the May 2008 blasts in Jaipur, use the high profiles and dramatic qualities of their targets to capture media attention and project fear disproportionate to the size of the attacking group.

The convergence of limited response capacities of governments and law-enforcement agencies with grievances about widespread corruption, underdevelopment, socioeconomic marginalization, and the sometimes problematic role of the state, make South Asia an attractive operating base for a wide array of violent groups whose rhetoric and actions can have an impact on ethnic and ideological kin across political borders.

Furthermore, political relationships among states characterized by suspicion, mistrust, and, often, outright hostility, have prevented the development of strong and effective regional cooperative mechanisms in South Asia. Although the South Asian Association for Regional Cooperation (SAARC) has made several attempts to forge regional responses to common challenges, including drugs, small arms, and counterterrorism, its efficacy is often held hostage to the relationship between India and Pakistan. In recognition of the difficulties of political engagement, SAARC has consequently focused primarily on regional economic development rather than on political questions. A wariness of international intervention and encroachments on territorial and political sovereignty, engendered by the history of colonialism in the region, adds an additional obstacle to regionalization and the development of any supranational regional organization.

The linkages between terrorism, political violence, development, governance, and, in many instances, ongoing processes of nation- and state-building, reflect the complexity of the challenge of countering terrorism in South Asia. Nonetheless, they also indicate a number of intervention points through which national initiatives, international actors, and multilateral organizations might make an effective contribution to confronting terrorism. These are acknowledged by the United Nations'

Global Counter-Terrorism Strategy (UN Strategy or the Strategy), adopted by consensus by UN member states in 2006. Its broad-based framework includes measures (1) to address conditions conducive to the spread of terrorism; (2) to prevent and combat terrorism; (3) to build states' counterterrorism capacities; and (4) to ensure respect for human rights and the rule of law in the fight against terrorism. In this way, the UN Strategy offers states in South Asia, and the region as a whole, a framework endorsed by the international community, including all the states of the region, to develop a response that can effectively address the complex threat over the long term.¹

This report begins by outlining the different manifestations of terrorism in the region and some of the underlying drivers of that violence. It then discusses the significance of the UN Strategy generally and for South Asia in particular and examines the roles that regional bodies—primarily SAARC—and the United Nations have to play in carrying forward its implementation. It argues that, while a regionally coordinated response to the threat of terrorism is essential, the current regional dynamics and the limitations of the SAARC point to a heightened role for the United Nations, especially in promoting counterterrorism cooperation and advancing the UN Strategy. The report concludes with a set of action-oriented recommendations aimed at strengthening counterterrorism cooperation within South Asia and between the United Nations and the region.

Threats, Vulnerabilities, and Key Actors

The events of September 11, 2001, brought terrorism to the forefront of the international community's security agenda. However, while this has highlighted the threat posed by "jihadist" terrorism, South Asia has been a victim of violence perpetrated by a myriad of groups with diverse objectives and varied ideologies. One way to categorize terrorist violence is to identify groups according to motivation, which yields three distinct categories: (1) those motivated by nationalist

politics; (2) those motivated by religious extremism; and (3) ethno-nationalist separatist groups. Given the complexity of the terrorist threat, any attempt to classify such a diverse set of actors is sure to prompt vigorous debate and, in many instances, one group may warrant multiple designations, so they may be at the same time nationalist, religious, and separatist.

NATIONALISM

Groups focused on nationalist ideologies have been active in South Asia for decades. The most prominent of these have been ones focused on the political future of Kashmir, where in 2007 alone the conflict witnessed 800 deaths.² The dispute over this territory between India and Pakistan reflects the integral link between contemporary political violence, regional history—including the legacy of colonialism—and the ongoing enterprises of nation- and state-building, as both states struggle to fulfill their foundational ideals (a secular union in the case of India and a homeland for South Asian Muslims in Pakistan) through the acquisition of Kashmir. Since the Line of Control was established following the 1971 India-Pakistan War, most of the violence can be attributed to three groups: Hizbul Mujahideen, Lashkar-e-Toiba (LeT), and Jaish-e-Mohammad.³ Of the three, Hizbul is the only one that seeks the limited political goal of autonomy for Kashmir; it is also the only group composed primarily of Kashmiris. The latter two, LeT and Jaish, differ from Hizbul in that most of their recruits are drawn from Pakistan, and they share the greater religiously inspired ambition of destroying the Indian state.

The state of hostility between India and Pakistan due to the Kashmir issue is often credited as the motivation for terrorist attacks, such as the one on the Indian Parliament in 2003, and has generated fears of a nuclear confrontation between the two states.⁴ Furthermore, the tense relationship impedes the emergence of truly effective regional cooperation on matters like counterterrorism (by the excessive securitization of travel and migration), issues like extradition and mutual legal assistance, and communications between government officials

1 The United Nations Global Counter-Terrorism Strategy is set out in UN General Assembly Resolution 60/288 (September 8, 2006), UN Doc. A/RES/60/288.

2 The Economist, "Terror in India," November 29, 2008, available at www.economist.com/displayStory.cfm?story_id=12701072.

3 For a discussion of the various groups operating in Kashmir, their motivations, and their influence in the India-Pakistan dispute, see D. Suba Chandran, "Jammu and Kashmir: India's Objectives and Strategies," *Swords and Ploughshares* 16, no. 1 (Winter 2007-2008): 4-6.

4 The issue of Kashmir surfaced on the global agenda with United Nations Security Council Resolution 47, which called for a plebiscite to decide the national identity

in the two countries.

Following the 1999 Kargil conflict and the 2002 stand-off between India and Pakistan, however, the overall level of cross-border violence in Kashmir has abated. This is due in part to fears of a nuclear escalation, but more often ascribed to US pressure on the Pervez Musharraf government to end its support for militants in Kashmir.⁵ Nonetheless, the recent uproar over Pakistani President Asif Zardari's comments, which seemed to equate fighters in Kashmir with terrorists, demonstrated that the conflict over the region remains both emotionally and politically salient to the public.⁶ Additionally, as the Pakistani public grows increasingly wary of rising civilian deaths and the impact of the US-led approach on its internal stability, it will be increasingly difficult for the government to take a hard line in both the Federally Administered Tribal Areas (FATA) and Kashmir. As Barnett Rubin and Ahmed Rashid recently noted, it is Afghanistan, and the border areas of Pakistan, that will replace Kashmir as "the main arena of the still unresolved struggle between Pakistan and India," and it is as yet unclear whether this may prompt a resolution on Kashmir or stretch the Pakistani military to address two fronts simultaneously.⁷

Another example of a group motivated by a form of nationalism is the Communist Party of Nepal (Maoist), which was responsible for an insurgency that lasted more than ten years and resulted in the transformation of the last remaining Hindu Kingdom into a democratic republic. Drawing on longstanding grievances, the Maoists engaged in a "people's war" designed to put in place a government that would address chronic poverty and inequality, and eliminate the caste system and the social injustices which it generated. As the

International Crisis Group notes,

[t]he Maoists believe nationalism provides an emotional rallying point for violent struggle: "The Nepalese people are very conscious and sensitive about the question of nationalism, and... they feel proud to lay down their lives while fighting rather than submit to the pressures of the foreigners."⁸

Their activities have been mirrored by Maoist (or Naxalite) groups in India. In fact, the Communist Party of India-Maoist (CPI-M) is believed to be active in seventeen of India's twenty-eight states.⁹ The operational capacity of these groups has been strengthened in recent years by the forging of cross-border ties.¹⁰ Combined, leftist groups in Nepal and India accounted for more than 1,000 attacks in 2007.¹¹ Additionally, they pose not an insignificant threat in Bangladesh, where the number of terrorist acts committed by leftist groups has sometimes exceeded, or equaled, those carried out by militant Islamists.¹²

RELIGIOUS EXTREMISM

Religious extremism defines a second set of groups employing terrorism.¹³ Unsurprisingly, with Osama bin Laden and some of his closest associates still at large, al-Qaida remains a primary focus of the international community. However, as noted by Richard Barrett, although the core of al-Qaida remains intact, it has suffered a backlash within Muslim communities against the forms of violence it inspires and has proved unable to clarify and project its goals following the military actions against it. Nonetheless, the one geographical area in which it retains influence is the Afghan-Pakistan border. Barrett argues, it is through activities in this region that al-Qaida continues to threaten the stability of Afghanistan and Pakistan, as well as South Asia and the international community at

of Kashmir. Consequently, the Tashkent and Simla agreements—reached after the 1965 and 1971 wars respectively—stated that the Kashmir issue would need to be resolved through bilateral negotiations between India and Pakistan. Despite this, Pakistan has often made use of militant groups to project its military power into Indian-controlled Kashmir and to draw further international attention to the ongoing conflict. See UN Security Council Resolution 47 (April 21, 1948), UN Doc. S/726.

5 Syed Rifaat Hussain, "Pakistan's Changing Outlook on Kashmir," *Swords and Ploughshares* 16, no. 1 (Winter 2007-2008): 7-11, p. 9.

6 BBC News, "Fury Over Zardari Kashmir Comment," October 6, 2008, available at http://news.bbc.co.uk/2/hi/south_asia/7654480.stm.

7 Barnett Rubin and Ahmed Rashid, "From Great Game to Grand Bargain: Ending Chaos in Afghanistan and Pakistan," *Foreign Affairs* (November-December 2008): 30-44, p. 31.

8 Communist Party of Nepal (Maoist), "Strategy and Tactics of Armed Struggle in Nepal," March 1995, quoted in International Crisis Group, "Nepal's Maoists: Their Aims, Structure and Strategy," Asia Report No. 104 (Brussels, October 27, 2005), p. 8, available at www.crisisgroup.org/library/documents/asia/south_asia/104_nepal_s_maoists_their_aims_structure_and_strategy.pdf.

9 "While discussion of the threat posed to India by radical Islamist violence tends to dominate security assessments, the country's Maoist insurgency has been steadily expanding its areas of influence and building up its military capability." See Jane's Intelligence Review, "Red storm Rising: India's Intractable Maoist Insurgency," May 20, 2008.

10 Rahul Bedi, "Cross-Border Links Strengthen India's Insurgent Groups," *Jane's Intelligence Review*, November 1, 2004.

11 US Department of State, "Country Reports on Terrorism," 2008, available at www.state.gov/s/ct/rls/crt/.

12 Bangladesh Enterprise Institute, "Trends in Militancy in Bangladesh, August 2007-May 2008" (Dhaka, 2008).

13 Of course, it may also be argued that the conflict over Kashmir is intrinsically tied to religion and religious identities, also.

large.¹⁴ Already, the “push and pull” dynamic of FATA, where militants are being absorbed then deployed to target others, is a worrying trend with the potential to challenge South Asia more widely, and it exemplifies the evolution of some groups’ ideologies from political to religious.¹⁵

Although Pakistan and Afghanistan attract the majority of international attention, the threat of religious extremism is not confined to just two countries. In recent years, there have been concerns regarding an emergent threat in Bangladesh. In 2002, Bertil Lintner of the *Far Eastern Economic Review*, observed in an article that,

a revolution is taking place in Bangladesh that threatens trouble for the region and beyond if left unchallenged.¹⁶

This was most visible to the international community when a series of some 400 bombs went off in all but one of Bangladesh’s sixty-four districts on August 17, 2005, for which Jamatul Mujahedein Bangladesh (JMB) was held responsible.¹⁷ Additionally, militant groups have also been linked to criminal activities.¹⁸ The convergence of radical religious groups with organized-crime syndicates, national or transnational, thus adds an additional dimension of complexity to the terrorist threat. Violence perpetrated by militant religious groups protesting women’s rights and reports of discovered arms caches or stockpiles of explosive materials suggest that, though Bangladesh has been relatively quiet since 2005, there is no room for complacency.¹⁹

In addition to jihadist manifestations of terrorism, there are other signs of right-wing

religious militancy in South Asia, as with the Rashtriya Swayamsevak Sangh (RSS) in India. Though billed as a nationalist movement, it promotes an exclusive Hindu identity and state and has been charged, along with its associates, such as the Vishwa Hindu Parishad (VHP) and its youth wing, the Bajrang Dal, with inciting much communal and religious violence over the past few decades.²⁰ In a region where ethnic and social groups frequently spill over political borders, such violence feeds into the rhetoric of fear and social fragmentation propagated by militant religious groups and fuels a vicious circle of communal violence in the subcontinent.

ETHNONATIONALIST SEPARATISM

Separatist groups are active in every country in the subcontinent. Most notably, the ongoing struggle between minority Tamils, whom the Liberation Tigers of Tamil Eelam (LTTE) purport to represent, and the government of Sri Lanka, representing a powerful Sinhalese majority, remains one of the bloodiest insurgencies in South Asia, having claimed more than 64,000 lives over the past twenty years.²¹ Separatist movements are also present in Pakistan’s Balochistan and Sindh provinces, India’s Punjab and Northeastern provinces, and Bangladesh’s Chittagong Hill Tracts.²² Although most of the violence in each of these conflicts is internal, it has the potential to spill over into neighboring provinces.

According to Kishore Dash, “cross-border ethnic sub-nationalism” is one of the main sources of mistrust on the subcontinent.²³ He explains:

14 Richard Barrett, “Seven Years After 9/11: Al Qaeda’s Strengths and Vulnerabilities” (London: International Centre for the Study of Radicalisation and Political Violence, 2008), available at <http://icsr.info/files/ICSR%20Richard%20Barret%20Paper.pdf>. Barrett is coordinator of the UN expert group responsible for assisting the Security Council with monitoring the implementation of its sanctions against al-Qaida and the Taliban and related individuals and entities.

15 Conference speaker, “Implementing the UN Global Counterterrorism Strategy in South Asia,” International Peace Institute, New York, November 13-14, 2008. It was also noted, however, that the underlying objectives even of many religious groups remain political to varying extents.

16 Bertil Lintner, “Bangladesh: A Cocoon of Terror,” *Far Eastern Economic Review*, April 4, 2002, available at <http://members.tripod.com/cruelbengalbeast/reports/040302-cocoon-of-terror.htm>.

17 This followed a grenade attack on opposition leader Sheikh Hasina in 2004, which resulted in the death of a prominent party member; subsequent attacks have targeted festivals or public gatherings, courts, and officials associated with the secular leanings of government in Bangladesh. Specific targets included former British High Commissioner, Anwar Choudhury, who was attacked during a visit to a shrine in Sylhet, and former Finance Minister, Shah A. M. S. Kibria, who was killed in January 2005.

18 Among the illegal militant groups in Bangladesh are Harakatul Jihad-Bangladesh (HuJI-B), Jamatul Mujahedein Bangladesh (JMB), and Jagrata Muslim Janata Bangladesh (JMJB). Their exact memberships and their relationships to one another remain unclear, though it was reported that many fall under an umbrella organization known as “Al Mujahedein.” Many also suspect the collusion, implicit or explicit, of legal parties like the Jamaat-e-Islami (JI) and the Islami Okiya Jote (IOJ), both of which were members of the governing coalition from 2001-2006.

19 Bangladesh Enterprise Institute, “Trends in Militancy in Bangladesh.”

20 BBC News, “Gujarat Riot Death Toll Revealed,” May 11, 2005, available at http://news.bbc.co.uk/2/hi/south_asia/4536199.stm.

21 K. Alan Kronstadt and Bruce Vaughn, “Terrorism in South Asia,” paper prepared for the US Congressional Research Service, March 8, 2004, p. 37.

22 Kishore Dash, “Explaining the Dynamics of Domestic Preferences for Deep Cooperation in South Asia,” paper presented at the International Studies Association Convention, San Diego, CA, March 22-25, 2006, p. 13 (cited with permission of author). See also Muhammad Tahir, “Tribes and Rebels: the Players in the Balochistan Insurgency,” *Terrorism Monitor* 6, no. 7, April 3, 2008.

23 Dash, “Deep Cooperation in South Asia,” p. 13.

Since ethnic minorities in all states of South Asia have close affiliation with their kinfolks in neighboring states, cross-border ethnic identities widely prevail in South Asia. As a result, ethnic conflicts in one state draw natural support from the co-ethnic groups in neighboring states. Not surprisingly, the spillover effects of these ethnic conflicts have led each country to blame the other for assisting separatist movements on its soil.²⁴

Regional cooperation will continue to suffer until the support for these separatist movements is halted and a compromise is reached with the minority populations. Furthermore, it has an impact on other regional challenges, such as migration, where concerns about terrorism and separatism have caused a backlash against immigrants, exemplified by the violence in Assam against mostly Muslim settlers thought to have emigrated from Bangladesh.²⁵

This assessment of the terrorist threats and vulnerabilities in South Asia is by no means comprehensive; it is intended to provide an overview of the main actors while highlighting the transregional and multifaceted nature of many of the threats and how they impede efforts at the interstate cooperation in the region that is essential to addressing such challenges effectively. It is important to note that terrorist violence on the subcontinent often blurs the distinction between domestic and transnational, single-actor and collective movement, and nationalist and religious objectives. Furthermore, groups often switch affiliations, change strategies, and adopt different names in order to “dodge” counterterrorism efforts.²⁶

Given the complexity of the threat, the geopolitical animosities on the subcontinent, and the inability of leaders to agree on a common definition of terrorism, it is not surprising that governments have been unable to devise a coherent regional response. Instead, the level of threat analysis has focused on the state and its law-enforcement, intelligence, and military capabilities, rather than on a regional approach that includes both “hard”

and “soft” and short- and long-term measures, to combat a transnational threat and emergent nonstate actors. Ayesha Siddiqa of the Regional Centre for Strategic Studies in Sri Lanka notes:

In fact, what seems to have rattled global powers about terrorism is the realization of the ability of non-state actors to use modern technology and sophisticated mechanisms to challenge the primacy of the state. Interestingly, the non-state actors are using the tools of globalization, cutting through artificial barriers like boundaries to form coalitions that would challenge existing power structures.²⁷

The development challenges faced by South Asia are immense. Forty percent of the total population of the region lives below the poverty line (an estimated 900 million people), cyclones and floods are frequent, and the states of the region are still in the process of consolidating their political and national identities. This means that terrorism can pose a significant threat to the region’s long-term development. Though religion has traditionally played an important role in the private lives of many South Asians, its increasing visibility in politics and public life challenges the development of pluralism and democracy. Where tensions in the region were once colored by political ideologies and aligned along Cold War stances, conflict is now fueled by the rhetoric of violent religious extremists. Given this combination of political fragility, development challenges, and violent religious extremism, the threat of terrorism in South Asia is not likely to subside in the immediate future, making the implementation of a long-term, balanced strategy of paramount importance.²⁸

The UN Strategy

Adopted unanimously by the UN General Assembly on September 8, 2006, the UN Global Counter-Terrorism Strategy marked the first time that all UN member states agreed on a common framework for addressing the terrorist threat. Its four-pillar plan of action consists of measures to

24 Ibid.

25 BBC News, “Violence Spreads in Assam State,” October 6, 2008, available at http://news.bbc.co.uk/2/hi/south_asia/7654012.stm.

26 Wilson John, “India’s Intelligence Services Struggle with War on Terrorism,” *Terrorism Monitor* 6, no. 6, March 24, 2008.

27 Ayesha Siddiqa, “Dealing with Terrorism after 9/11,” in *Terrorism in South Asia: Impact on Development and Democratic Process*, edited by Sridhar Khatri and Gert Kueck (Sri Lanka: Sipra, 2003) p. 281.

28 Prabir De, “Cooperation in the Regional Transportation Infrastructure Sector in South Asia,” *Contemporary South Asia* 14, no. 3 (September 2005): 267–287, p. 267; see also Shahedul A. Khan, “The State and the Limits of Counter-Terrorism II – The Experience of India and Bangladesh,” in *Understanding Terrorism in South Asia: Beyond Statist Discourses*, edited by Imtiaz Ahmed (New Delhi: Manohar, 2006), pp. 267–287.

address conditions conducive to the spread of terrorism; measures to prevent and combat terrorism; capacity building; and ensuring a human-rights and rule-of-law-based approach to countering the threat.

Part of the Strategy's significance lies in the fact that it is an "instrument of consensus" on an issue where consensus has been difficult to achieve on a global level. Although it adds little new material to preexisting UN counterterrorism resolutions, norms, and measures, it pulls them together in a single, coherent, and universally adopted framework. Thus it provides a common framework for states, international organizations, regional bodies, and civil society, and it bestows legitimacy upon action against terrorism over the long term.

The Strategy also represents a conceptual shift away from a primarily law-enforcement and security approach, which was encapsulated in the Security Council's forceful response to the events of September 11, 2001, toward a "softer" approach. This has helped move the counterterrorism discourse at the United Nations closer to the perspective of many South Asia experts: that addressing deficiencies in good governance and development is key to effectively countering terrorism in the region. Further, given the often unproductive emphasis that has been placed on "hard" security approaches to combating terrorism in South Asia, the Strategy offers an opportunity to develop a holistic and nuanced approach to addressing the complex and multifaceted threat. Because of its breadth, the Strategy provides a useful framework for an inclusive approach to countering terrorism at the national level, where "joined-up" or "whole of government" approaches are needed for ensuring a comprehensive and coordinated response to the threat.

However, the breadth and ambiguity of the Strategy also presents a problem. It makes the always difficult process of transforming paper

commitments made in New York into action on the ground even more challenging. Yet, for the Strategy to have a sustained impact on global counterterrorism efforts, UN member states must "utilize this [historic] tool and translate it into action."²⁹ Because the nature and perception of the threat varies in different parts of the world, a "one-size-fits-all" approach to implementation is unlikely to be effective or appropriate. Not only do different regions and subregions need to determine how best to implement the Strategy, but South Asian stakeholders need to ensure that implementation is not a top-down exercise initiated from and dictated by New York. Rather, it should be one that proceeds from the bottom up and thus reflects the needs, priorities, and concerns of the region.

Sustained implementation of the Strategy will require contributions from a wide range of stakeholders, starting with member states, but also including the UN system, relevant regional bodies, and civil society. As UN Secretary-General Ban Ki-moon told the General Assembly during its first formal review of the Strategy in September 2008, "multilateral counterterrorism efforts must be done in partnership with regional and subregional organizations and with civil society."³⁰ While contributions from each of these stakeholders are essential, the Strategy can serve as a basis for improving the overall coordination and cooperation within and among them in South Asia and provide a model for a regional counterterrorism strategy.

At the level of the United Nations, the UN Counter-Terrorism Implementation Task Force brings together twenty-three UN-system entities, both "traditional" and "nontraditional," as well as INTERPOL.³¹ The Task Force is the practical expression of the Strategy in the UN system and seeks to serve as a key facilitator for member-state action on its implementation.

Despite the important role assigned to the Task

29 Jean-Paul Laborde, remarks delivered at the "Informal meeting of the General Assembly on the Implementation of the UN Global Counter-Terrorism Strategy," New York, December 4, 2007.

30 Remarks to the UN General Assembly by Secretary-General Ban Ki-Moon, September 4, 2008, available at www.un.org/News/Press/docs/2008/ga10735.doc.htm.

31 The twenty-four entities represented on the UN Counter-Terrorism Implementation Task Force are the Counter-Terrorism Committee's Counter-Terrorism Executive Directorate; the Department for Disarmament Affairs; the Department of Peacekeeping Operations; the Department of Political Affairs; the Department of Public Information; the Department for Safety and Security; the Expert Staff of the 1540 Committee; the International Atomic Energy Agency; the International Civil Aviation Organization; the International Maritime Organization; the International Monetary Fund; the International Criminal Police Organization (INTERPOL); the Monitoring Team of the 1267 Committee; the Office of the High Commissioner for Human Rights; the Office of Legal Affairs; the Organization for the Prohibition of Chemical Weapons; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the United Nations Development Programme; the United Nations Educational, Scientific, and Cultural Organization; the United Nations Interregional Crime and Justice Research Institute; the United Nations Office on Drugs and Crime; the World Customs Organization; the World Bank; and the World Health Organization.

Force, one needs to be realistic about what it can contribute to UN efforts to promote the implementation of the Strategy, and, more broadly, to strengthen counterterrorism cooperation in South Asia. Although it has improved coordination among different UN entities working on counterterrorism, with a thinly staffed and resourced secretariat, wide-ranging levels of commitment from its constituent entities, and uneven support for its work among the UN membership, the Task Force is struggling to find ways to have an impact on the ground. However, the Task Force's effectiveness—including its ability to engage with stakeholders outside of New York—should be enhanced by the March 2009 appointment of a full-time chairperson and the Secretary-General's decision to seek UN regular budget support for its small secretariat staff.

Regional Cooperation: SAARC and Other Mechanisms

The cross-border dimension of many of the internal, often interrelated, security crises that affect South Asian states highlights the importance of developing an effective, broad-based regional response to the threat. Despite declarations regarding the need for greater collaboration among states on issues related to border security, mutual legal assistance, and law enforcement, this cooperation has been slow to materialize in South Asia. The UN Strategy—which all countries in the region endorsed—could be used to stimulate more cooperation and the development of a strengthened regional response.

SAARC

With regard to the adoption of legal instruments, SAARC was ahead of many regional bodies. Its 1987 *Regional Convention on the Suppression of Terrorism* includes a definition of “terrorist acts” and calls for greater regional cooperation on legal issues, including evidence sharing, extradition, and

information and expertise exchange.³² This was updated in a 2002 Additional Protocol, which incorporates into the original convention the obligations of states under UN Security Council Resolution 1373, adopted in the aftermath of 9/11.

The protocol also addresses the issue of terrorist financing, calling for the immediate criminalization of “collection or acquisition of funds for the purpose of committing terrorist acts.”³³ However, much like the Security Council resolution that inspired it, the protocol is notable for its focus on law-enforcement or “hard” security measures. The declaration adopted by SAARC leaders at the August 2008 summit continues in the same vein: the section on “combating terrorism” limits its focus to strengthening law-enforcement cooperation, while recalling Security Council Resolution 1373, but making no mention of the UN Strategy.³⁴ And this is despite the fact the declaration “underscore[s] the need to address the problem in a comprehensive manner.”³⁵

To further the implementation of the provisions in its convention, SAARC created the Terrorist Offences Monitoring Desk (STOMD) in Colombo, Sri Lanka, which is made up of experts from throughout the region working to “collate, analyze and disseminate information about the terrorist [incidents], tactics, strategies and methods.”³⁶ While its accomplishments are difficult to measure, the STOMD has the potential to act as an early-warning system and to facilitate dialogue between member states, but it does not have the ability to enact policy.

Complementing the work of the STOMD are the Drug Offences Monitoring Desk (SDOMD) and an Expert Group on Networking Among Police Authorities. The Expert Group has collaborated with—and reviewed the progress of—both the STOMD and the SDOMD. In many instances, the mandates of all three groups overlap. They have worked together, for instance, on combating narcotics trafficking and drug production, which are not only seen as criminal matters but also as sources of terrorist financing.

32 SAARC *Regional Convention for the Suppression of Terrorism* (1987), available at <http://untreaty.un.org/English/Terrorism/Conv18.pdf>.

33 SAARC *Additional Protocol to the Convention for the Suppression of Terrorism* (2002), available at www.saarc-sec.org/main.php?id=11&t=3.2.

34 SAARC, *Declaration: Partnership for Growth for Our People*, made at the Fifteenth SAARC Summit, Colombo, August 2-3, 2008, available at www.saarc-sec.org/data/summit15/summit15declaration.htm.

35 Ibid., para. 38.

36 Shamsul Islam, “Combating Terrorism in South Asia: Challenges and Prospects,” paper presented at the conference “New Life Within SAARC,” Kathmandu, July 15-16, 2005, p. 136.

Despite the existence of the regional instruments and mechanisms, the mutual distrust and suspicion among states in the region and the ongoing processes of consolidating relatively new, independent political identities, have influenced states' reluctance to seek counterterrorism assistance from their neighbors. This has proved a fundamental obstacle to SAARC and other emerging regional fora. For example, despite the appearance of counterterrorism on the agenda of successive SAARC meetings, there has been little forward movement on it beyond the rhetorical level. There are widely held suspicions that the intelligence agencies of various South Asian states have designs on their neighbors' territories, or facilitate insurgent movements to entrench political rivals in asymmetric warfare, and this further fuels the reluctance to share information and resources.³⁷

Partly as a result of these tensions, few of the counterterrorism instruments and commitments adopted by SAARC in its more-than-twenty-year history have been translated into action by its members. Most significantly, the 1987 SAARC Suppression of Terrorism Convention and the 2002 Additional Protocol have generally not been implemented across the region. The apparent unwillingness of Pakistan to extradite to India those suspected of involvement in the 2008 Mumbai attacks, despite the existence of these instruments, is just the most recent example.³⁸ In addition to the inability of countries to agree on who is and is not a terrorist, Mohan Lohani argues that the instruments have “not been effectively enforced owing to a lack of enabling legislation in most member states.” But, he believes they “can become an effective mechanism to combat terrorism, provided there is a strong political will to implement [them].”³⁹

Although the SAARC secretariat is currently underresourced, its existing offices and desks could be more effectively utilized if there were increased political will among SAARC members. At the more operational level, the STOMD and SDOMD have the potential to identify weaknesses in capacity and technical ability. SAARC countries have also called for the creation of an “INTERPOL-like” SAARC agency to increase the regional capacity of police forces throughout the region.⁴⁰ INTERPOL subregional bodies in East, West, and southern Africa, for example, have proved effective in strengthening practical cooperation among police chiefs and in building support for the expansion of the organization's 24/7 communications network beyond capitals.

Additionally, antiterrorism experts from SAARC countries recently decided on the need to share intelligence for curbing terrorism and other transnational crimes.⁴¹ Heeding this advice, India and Pakistan agreed in April to exchange intelligence regarding recent attacks and to discuss the prospects for strengthening cooperation against terrorism.⁴² Furthermore, SAARC leaders approved the SAARC *Convention on Mutual Legal Assistance Treaty* (MLAT) at the fifteenth SAARC summit in August 2008.⁴³ Among other objectives, it aims to eliminate the need for separate bilateral agreements by harmonizing the domestic legal systems of member countries.⁴⁴

Once it enters into force, SAARC countries may find it easier to cooperate on counterterrorism investigations and the prosecution or extradition of terrorist suspects, assuming again that countries can agree on which individuals and groups should be the target of such cooperation. Although the adoption of the 2008 MLAT is a positive sign, the tensions between India and Pakistan in the

37 See, for example, Jaideep Saikia, “Terror Sans Frontiers: Islamic Militancy in North East India,” Occasional Paper (Champaign, IL: University of Illinois at Urbana-Champaign, July 2003); Jayshree Bajora, “RAW: India's External Intelligence Agency,” CFR Backgrounder (New York: Council on Foreign Relations, November 7, 2008), available at www.cfr.org/publication/17707/raw.html.

38 “Extradition Treaty Excuse Lame, Pak Must Hand Over Terrorists,” *Economic Times* (India), January 2, 2009, available at http://economictimes.indiatimes.com/News/PoliticsNation/Extradition_treaty_excuse_lame_Pak_must_hand_over_terrorists_Pranab/articleshow/3924411.cms.

39 Mohan Lohani, “Terrorism in South Asia and its Implications for Regional Peace and Security,” in *New Life Within SAARC*, edited by Nischal Pandey and Dev Raj Dahal (Institute of Foreign Affairs: Kathmandu, 2005), p. 181.

40 “India, Pakistan to Share Info on Terror Cases,” *Economic Times* (India), April 16, 2008, available at http://economictimes.indiatimes.com/News/PoliticsNation/India_Pakistan_to_share_info_on_terror_cases/articleshow/2954537.cms.

41 “SAARC States Team up to Curb Trans-national Crimes,” *The Post* (Islamabad), April 17, 2008, available at <http://thepost.com.pk/IsbNews.aspx?dtlid=156037&catid=17>.

42 “India, Pakistan to Share Info on Terror Cases.”

43 Muralidhar Reddy and Sandeep Dikshit, “Legal Assistance Treaty Gets SAARC Approval,” *The Hindu*, August 3, 2008, available at www.hindu.com/2008/08/03/stories/2008080361031400.htm.

44 Permanent Mission of Sri Lanka to the UN, “SAARC Convention to Help in Combating Terrorism,” press release (New York, August 27, 2008), available at www.slmission.com/media-releases/21-ministry-media-releases-123-saarc-convention-to-help-in-combating-terrorism.html.

aftermath of the November 2008 Mumbai attacks and Pakistan's reluctance to link its investigations of militants to the bombings serve as reminders of the challenges that remain.⁴⁵

While numerous, these SAARC initiatives and programs have yet to make concrete contributions to strengthening counterterrorism cooperation in the region. Nor have they resulted in the development of a regional strategy for addressing the threat. Even if these SAARC initiatives are implemented, however, the region-wide response will require that more attention be paid to cooperation in addressing conditions conducive to the spread of terrorism and other non-security-related preventive measures and respect for human rights, which is conspicuously absent—even from the recent SAARC declaration.

To this end, the holistic approach reflected in the UN Strategy would seem to offer an appropriate model for developing an effective regional framework for addressing the threat. A remaining challenge is how to translate the broad provisions in the Strategy into something that reflects the particular concerns of, and makes sense for, the region. Regional bodies elsewhere, including in Europe, Latin America, and Asia-Pacific, have served as transmission belts between the global counterterrorism framework, in particular Security Council Resolution 1373 and the UN's conventions and protocols against terrorism, and the states in the relevant region trying to implement that framework.

SAARC has had limited cooperation with the United Nations on counterterrorism issues, however, and SAARC members are reluctant to provide its secretariat with the expertise, mandate, and resources to promote the implementation of the SAARC instruments and commitments—let alone those adopted at the level of the United Nations. This partly stems from a lack of leadership from the major players in the region. For example, according to some experts, India remains “suspicious and/or lukewarm about SAARC... [w]ith the sense among India's political elite that

SAARC bestows an undeserved sense of equality to its smaller neighbors and an opportunity for ganging up to the detriment of India's interests.”⁴⁶

In addition, the point has been made that Pakistan also appears to have a limited use for SAARC, other than as a vehicle for pursuing its foreign-policy objectives vis-à-vis India.⁴⁷ With no strong interest emanating from these two countries, the prospects of SAARC members giving its secretariat a meaningful role in furthering the implementation of SAARC instruments, let alone the UN Strategy in South Asia, are dim.

Nevertheless, it is reasonable to expect SAARC leaders to explicitly endorse the Strategy—something each of their countries signed on to at the United Nations in New York—and the whole-of-government response to the threat it seeks to promote. Such high-level regional endorsements tend to resonate more on the ground than endorsements in the far-away General Assembly.

As the terrorist attacks of the last few years make all too clear, strengthening counterterrorism cooperation in South Asia must be a top priority as it is not only a threat to national security, but to regional stability and international peace. In fact, a silver lining of the Mumbai attacks may be the initial pledges on the part of Pakistan to cooperate with India in investigating the massacre.⁴⁸ Although improved bilateral capacity and cooperation between the region's two powers is much needed and long overdue, this does not obviate the urgent need to develop a regional strategy for addressing the threat that involves not just all members of SAARC, but partner countries and the United Nations.

The initial elements of such a strategy could include the creation of a database for sharing intelligence and other information at the regional level, regular meetings of heads of intelligence agencies⁴⁹ and other practitioners across the region, and increased attention to capacity building to address what are, in many cases, common needs across the subcontinent.

45 CNN, “Pakistan Arrests 124 Suspected Militants,” January 15, 2009, available at www.cnn.com/2009/WORLD/asiapcf/01/15/pakistan.main/.

46 K. V. Rajan, “Renewing SAARC,” paper presented at the conference “New Life Within SAARC,” Kathmandu, July 15–16, 2005, p. 1, available at www.ifa.org.np/document/saarcpapers/rajan.pdf; see also Baljit Singh, “Regional Cooperation in South Asia: Problems and Prospects,” *South Asian Survey* 12, no. 2 (2005): p. 181.

47 Smruti S. Pattanaik, “Making Sense of Regional Cooperation: SAARC at Twenty,” *Strategic Analysis* 30, no. 1 (January–March 2006): 139–160, p. 155.

48 George Packer, “Comment: Risk Factors,” *New Yorker*, December 15, 2008, available at www.newyorker.com/talk/comment/2008/12/15/081215taco_talk_packer.

49 This is currently taking place, but outside the region and under the auspices of the United Nations.

The development of an effective, regional mechanism for fostering sustained counterterrorism cooperation should also be a key component of the Strategy. Namrata Goswami of the New Delhi-based Institute for Defence Studies and Analyses, echoes various other experts in noting that, “given that the terror group which targeted Mumbai was just one small cell of a larger terror network spread across South Asia, defeating the network would require the concentrated efforts of all countries in the region [and that] it is time a common counter-terror framework under the mechanism of SAARC is created.”⁵⁰ However, it is important that the international community and defense and intelligence establishments in the region support such an active role for the regional organization.

Given SAARC’s track record, the political obstacles impeding closer regional cooperation and the urgency of the terrorist threat in the region, it would be advisable to establish closer working relationships among the technical counterterrorism experts through a forum other than SAARC: for example, a new regional counterterrorism mechanism. This would complement, but not be formally related to, SAARC. Among other things, such a mechanism could provide a platform for counterterrorism training and other capacity-building activities, facilitating the exchange of expertise and information among government officials, which is essential for building the trust needed for effective cross-border cooperation, as well as the sharing of good national practices and lessons learned from national implementation among the countries of the region.

There are a number of models of effective mechanisms from other regions, which could be referred to when considering what approach is most appropriate for South Asia. In doing so, however, careful attention should be paid to ensuring that one keeps in mind the region’s needs and its political realities. For example, South Asia is mainly in need of a forum that can help countries move beyond dialogue and stimulate practical cooperation at the technical level, especially since it

already has SAARC.

There are two models in particular that seem most suitable for South Asia. The first is a regional law-enforcement training center, similar to the Jakarta Centre for Law Enforcement Cooperation and other counterterrorism training centers that have been established in Southeast Asia, in cooperation with countries from outside the region, to provide training for a range of counterterrorism practitioners. The South Asian center could train lower-level practitioners and other relevant officials and slowly help undermine the mistrust that exists at the political level among countries in the region. The second is the Intergovernmental Authority on Development’s Capacity-Building Programme Against Terrorism (ICPAT), which is funded entirely by partner countries, administered by a nongovernmental organization, and has developed partnerships with a number of multilateral bodies at the regional and international levels, including UNODC, the Commonwealth Secretariat, and the African Union’s Algiers Center for the Study and Research on Terrorism.

The ICPAT example, which focuses on the Horn of Africa, may be of particular relevance for South Asia. Despite the regional rivalries in the Horn that have limited cooperation on security issues, ICPAT managed to develop a program that focuses on capacity- and confidence-building measures in the region. It concentrates on a number of areas, including (1) enhancing judicial measures; (2) promoting greater interagency counterterrorism coordination at the national level; (3) enhancing border controls; (4) providing training, and sharing information and best practices; and (5) promoting strategic cooperation. One of the keys to ICPAT’s success so far has been its cautious approach which seeks to build confidence and trust among IGAD members, something that is still lacking, but is gradually increasing. Thus, rather than seeking to bring all member states together for common training or other activities, ICPAT has worked on a bilateral basis with those countries interested in receiving ICPAT assistance.⁵¹

Regardless of which approach is adopted, the

50 Namrata Goswami, “Mumbai Attacks: A Deadly ‘Performance,’” *Strategic Comments* (New Delhi: Institute for Defence Studies & Analyses, December 5, 2008), available at www.idsa.in/publications/stratcomments/NamrataGoswami051208.htm.

51 Furthermore, by incorporating one of Africa’s leading nongovernmental research organizations (the Institute for Security Studies [ISS]) in its structure, ICPAT has been able to draw upon the expertise and operational capacities of ISS, which has helped to enhance the work of ICPAT in developing member states’ capacities. For more information on ICPAT, see Eric Rosand, Alistair Millar, and Jason Ipe, “Implementing the UN Global Counter-Terrorism Strategy in East Africa,” (New

support and expertise of partner countries and the United Nations will be essential to its success. For example, countries with significant security and political ties to the region, such as Australia, Canada, the United Kingdom, and the United States, could be among the primary supporters of such an initiative. In addition to funds, these countries could also provide the experienced law-enforcement and other counterterrorism practitioners to lead some of the training sessions.

For its part, the United Nations offers political distance from the region, and neutrality and universality, as compared to the SAARC, which may be too close to the politics of the region to create, let alone operate, the center. In addition, the United Nations can offer technical expertise in a number of counterterrorism-related fields relevant to the needs of the region. Given these attributes, the United Nations could play the leading role in designing the curriculum, in close cooperation with countries from the region; building political and financial support for the center both among countries in and outside the region; and in overseeing its day-to-day operations.

BEYOND SAARC

Efforts to pursue more meaningful counterterrorism cooperation in South Asia should not be limited to finding ways to overcome the institutional limitations of SAARC and establishing a technical mechanism for expert-level cooperation among counterterrorism practitioners in the region. They should also include exploring the opportunities that existing mechanisms, such as the Bay of Bengal Initiative for Multi-Sector Technical and Economic Cooperation (BIMSTEC), might offer.

Heralded as the “alternate” SAARC, BIMSTEC, which includes Bangladesh, Bhutan, India, Myanmar, Nepal, Sri Lanka, and Thailand, was founded in 1997 as a way to facilitate cooperation in

areas such as trade and investment, technology, energy, transportation, communications, and tourism.⁵² Having yet to establish a headquarters or permanent Secretariat, BIMSTEC has been slow to get many of its programs off the ground; however, the initiation of summit level meetings in 2004 has helped it gain traction as a viable pathway to better regional cooperation. BIMSTEC’s primary weakness—or strength, depending on one’s perspective—is the absence of Pakistan from the association. This may make it easier to forge consensus, but it obviously limits the association’s utility with regard to promoting region-wide counterterrorism cooperation. The benefit of BIMSTEC’s position vis-à-vis SAARC may rest in BIMSTEC’s ability to build a solid framework, which can later be adopted by SAARC or can be exported to Pakistan (and the other remaining SAARC countries) by their invitation to join BIMSTEC at a later date.

Counterterrorism was not initially on the BIMSTEC agenda. However, its 2004 Summit Declaration expressed concern about the threat of terrorism to regional trade and urged all member states to coordinate their efforts by exchanging information and cooperating in the ongoing efforts of the international community to combat terrorism in all its forms, “irrespective of its cause or stated rationale.”⁵³ Following the 2004 summit, BIMSTEC established a Counter-Terrorism and Transnational Crime Sector (CTTCS) responsible for coordinating the sub-region-wide response.⁵⁴

Meeting in advance of the November 2008 heads-of-state summit in New Delhi, BIMSTEC foreign ministers adopted a draft convention “on combating international terrorism, transborder organized crime and drug trafficking.”⁵⁵ At the meeting, foreign ministers also agreed to establish a working group to look into options for strengthening the institutional capacity of the BIMSTEC secretariat including its structure, financing, and

York: Center on Global Counterterrorism Cooperation, June 2008), pp. 24-25, available at www.globalact.org/images/content/pdf/reports/eastafrica.pdf. With the recent creation of a network of leading South Asian think tanks—the South Asian Regional Research Forum (SARRF)—to research terrorism-related issues in the region, it might also be worth exploring how it can play in an active role, both by working with governments and by supporting an ICPAT-style multi-stakeholder initiative to implement the UN Strategy in South Asia. “SARRF Launched to Help Curb Terrorism, Establish Peace,” *Daily Star* (Dhaka), October 26, 2008, available at www.thedailystar.net/pf_story.php?nid=60408.

52 Dipankar Banerjee, “SAARC – Helping Neither to Integrate nor Look East,” paper presented at the conference “South Asia: Integrating & Looking East,” Canberra, September 25-26, 2006, available at www.sueztoosuva.org.au/south_asia/2006/Banerjee.pdf, p. 69.

53 Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC), *BIMSTEC Summit Declaration*, July 31, 2004, available at www.bimstec.org/downloads/bimstec_summit/1.pdf.

54 BIMSTEC, “Counter-terrorism and Trans-national Crime Sub-Sector,” 2008, available at www.bimstec.org/counter_terror.html.

55 “Draft BIMSTEC Convention to Combat Terrorism, Crime,” *Daily Star* (Dhaka), August 30, 2008, available at www.thedailystar.net/story.php?nid=52459. The convention, modeled on the SAARC convention on terrorism, was signed by BIMSTEC heads of state in November 2008.

staffing.⁵⁶

While BIMSTEC's efforts are still in their infancy and currently lack the resources to effect change, they represent a promising start toward a more comprehensive counterterrorism program.

The Role of the UN: Four Pillars of Counterterrorism Strategy

The limitations of SAARC and BIMSTEC point to the importance of the United Nations and its role in promoting counterterrorism cooperation and capacity-building activities in the region in the framework of the UN Strategy. The United Nations should treat the relative lack of cooperation in South Asia as an opportunity for it to help shape a regional response to terrorism, using the holistic UN Strategy as an entry point for enhanced engagement in the region. Before doing so, however, the UN, under the direction of the Counter-Terrorism Implementation Task Force, should develop a strategy for such engagement as part of an effort to link the global body more closely to South Asian counterterrorism needs and priorities.

In addition, it should begin to identify key groups of national practitioners in the region willing to work together on practical matters related to the implementation of different aspects of the Strategy and work slowly to build informal networks of cooperation among them. Farooq Sobhan, former Foreign Secretary of Bangladesh and current head of the Bangladesh Enterprise Institute (BEI), noted that among the potential areas of cooperation both in-region and with the United Nations are (1) a more systematic mechanism for information exchange, and (2) capacity-building and training workshops drawing on the UN's long experience in the field.⁵⁷ In addition, the UN should be seeking to find ways to enlist the academic and research communities in the region to promote UN Strategy implementation and greater regional counterterrorism cooperation more broadly, including through joint research projects linking think tanks from different countries in the region. The

potential influence of the UN in making a contribution to national and regional counterterrorism policymaking is exemplified in the national counterterrorism strategy for Bangladesh proposed by BEI, modeled closely on the UN Strategy.⁵⁸

This section highlights the relevance of each pillar of the Strategy for South Asia and the role that the different parts of the UN system, many of which now form the UN Counter-Terrorism Implementation Task Force, can play; the challenges to realizing more sustained implementation of the Strategy over the long term; and suggests some ways in which they might be overcome.

PILLAR I: MEASURES TO ADDRESS CONDITIONS CONDUCTIVE TO THE SPREAD OF TERRORISM

Among the conditions which have the potential to encourage violent radicalization or terrorism, the Strategy identifies “poverty, prolonged unresolved conflicts, dehumanization of victims of terrorism, lack of rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socio-economic marginalization and lack of good governance.”⁵⁹

Although many Pillar I objectives are relatively long-term and beyond the scope of traditional notions of “counterterrorism,” the Strategy does highlight some specific ways in which different elements of the UN system can contribute to the implementation of the pillar. In addition to welcoming the Alliance of Civilizations, a UN initiative to promote cross-cultural understanding, and encouraging the United Nations Educational, Scientific, and Cultural Organization (UNESCO) to further promote inter- and intra-faith dialogue and dialogue among different communities, the Strategy encourages “the United Nations system as a whole to scale up the cooperation and assistance it is already conducting in the fields of rule of law, human rights and good governance, to support sustained economic and social development.”⁶⁰

The United Nations and its agencies have long been active on a number of these fronts throughout South Asia, including through Country Teams, which include representatives of the UN

⁵⁶ Ibid.

⁵⁷ “Implementing the UN Counterterrorism Strategy in South Asia,” Workshop at the International Peace Institute, New York, November 13-14, 2008.

⁵⁸ Bangladesh Enterprise Institute, *A Counter-Terrorism Strategy for Bangladesh*, Dhaka, 2007.

⁵⁹ UN General Assembly Resolution 60/288 (September 8, 2006), UN Doc. A/RES/60/288.

⁶⁰ UN General Assembly Resolution 60/288.

Development Programme (UNDP), the UN Children's Fund (UNICEF), UNESCO, and other key actors. However, as with other regions, but perhaps more than any other, there is a need for better integration of UN counterterrorism efforts into this wider UN political, economic, social, and development engagement. The United Nations is well positioned to play a critical role in helping to promote the whole-of-government response outlined in the UN Strategy and which is starting to take shape in some countries. Unfortunately, that same level of system-wide coherence and inter-agency cooperation is still lacking from the UN's own on-the-ground efforts in South Asia.

With regard to promoting good governance, the rule of law, and social inclusion, and addressing other conditions conducive to the spread of terrorism as central elements of the UN Strategy, UNDP has much to contribute. UNDP's efforts to address inequities in development and access to resources, and in improving governance and respect for the rule of law in South Asia, contribute to undermining the chronic poverty, inequality, and social injustices which fuel much of the political violence in the region. UNDP's regional office covering South (and West) Asia deals primarily with democratic governance, poverty reduction, energy and environment, crisis prevention and recovery, and HIV/AIDS.⁶¹

Among UNDP's efforts in the region are initiatives to increase the transparency of elections, facilitate voter registration, respond to natural disasters, and support poverty reduction.⁶² Its participation in creating the new electronic electoral roll in Bangladesh has been widely cited as a valuable contribution, which also has worthy counterterrorism implications in generating identification documents for citizens.⁶³

Terrorism, as Arun Sahgal of the Institute of Defence Studies and Analyses notes, "has adversely affected development and imposed heavy economic costs on most of the South Asian countries."⁶⁴ A

number of major development agencies, such as the United Kingdom's Department for International Development (DFID), have focused on common objectives, such as promoting the rule of law and good governance, and have succeeded in realizing some of the obvious synergies possible, while avoiding the perception that aid is being instrumentalized to promote security objectives. However, UNDP has been reluctant to explicitly involve itself or its activities in combating terrorism for fear that a "counterterrorism" label might unduly politicize its work on the ground. For example, although a member of the UN Task Force, UNDP has so far had limited involvement with the group; and internal discussions on how to deepen its engagement on counterterrorism, and thus UN-Strategy-related issues, have largely stalled due to a lack of consensus within UNDP as to whether this is something the agency should even be considering.⁶⁵

Finding ways to get UNDP to be less reflexively "anti-counter-terrorism" is crucial to encouraging the United Nations to become more active in promoting the implementation of the UN Strategy at the country level where UNDP is the more prevalent UN actor. For UN counterterrorism efforts to be integrated into the fieldwork of the United Nations in South Asia, therefore, individual resident coordinators need to be willing to include counterterrorism in the portfolio of issues they are tracking on the ground. This is complicated by the fact that resident coordinators are for the most part UNDP resident representatives.

By incorporating much of the development agenda, in particular achieving the Millennium Development Goals (MDGs), and thus not limiting itself to a security agenda, the UN Strategy should make it easier for UNDP to engage systematically on counterterrorism issues.

UNESCO, for its part, has indicated a willingness to engage with the Strategy at a policy level in New York and Paris. It also participates in a number of

61 UNDP also has a regional center in Colombo, Sri Lanka, and country offices in Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka—every SAARC country.

62 UNDP, Asia and the Pacific office website, available at www.undp.org/asia/.

63 IPI interviews with senior UN staff and senior diplomats, Dhaka, February 2008.

64 Arun Sahgal, "Dealing with the Problem of Terrorism in South Asia," paper presented at the conference "New Life Within SAARC," Kathmandu, July 15-16, 2005, p. 5, available at www.ifa.org.np/document/saarcpapers/arun.pdf.

65 It should be noted that UNDP is not the only UN entity with a role to play in Pillar I activities that needs to be encouraged to become involved in UN-Strategy-implementation efforts. Others include UNICEF, the UN Development Fund for Women, and the UN Population Fund.

the UN Task Force's working groups. At the regional level, UNESCO has field offices in Dhaka, Islamabad, and Kabul. India hosts a "Cluster" office in New Delhi covering Bangladesh, Bhutan, India, the Maldives, Nepal, and Sri Lanka. The main purpose of this office is to "create the conditions for dialogue, based upon respect for commonly shared values and the dignity of each civilization and culture."⁶⁶ In particular, UNESCO seeks to "promote intercultural dialogue in the context of globalization," in part by building the capacities of "communities, stakeholders, and decision-makers."⁶⁷ UNESCO sponsors a wide range of conferences and events that bring together representatives from throughout the region, for example, on education issues.⁶⁸

More broadly, the United Nations is also trying to promote counterradicalization by cultivating and sharing best practices in this area. The Task Force Working Group on addressing violent radicalization and extremism that leads to terrorism has conducted a survey of national counterradicalization efforts and is disseminating that information to member states.⁶⁹

Finally, the United Nations has an important role to play in terms of conflict prevention and crisis management. According to the Secretary-General's 2008 report on the Strategy implementation efforts of the United Nations, "the Special Representatives and Envoys of the Secretary-General, in providing mediation support and backstopping the Department of Political Affairs, have helped to facilitate peace agreements in thirteen conflicts around the world since 2001."⁷⁰ The Department of Political Affairs' Mediation Support Unit has helped bolster DPA's capacity in this regard by serving as a repository for peacemaking experience and sharing lessons learned and best practices and providing training and advice to UN and other

mediators. In 2008, DPA also established a five-person Mediation Support Standby Team with relevant expertise that can be deployed on short notice in support of UN and other mediation efforts.⁷¹ However, DPA has been constrained by a number of factors, including resources and personnel, though it has produced a set of counterterrorism-related guidelines for senior UN personnel and envoys.

In South Asia, the United Nations has missions in Nepal and Afghanistan and a military observer group deployed along the Line of Control in India and Pakistan. The UN Mission in Nepal (UNMIN) provides an example of where the UN has played a largely constructive role in "monitoring ceasefire arrangements, provid[ing] technical support for the conduct of the election of a Constituent Assembly in a free and fair atmosphere and provid[ing] a small team of electoral monitors."⁷² Though its role has not been uncontroversial, it has been a successful consultative partner in the establishment of Nepal's Constituent Assembly.

However, there remain gaps in the completion of the peace process, as noted in the UN Secretary-General's report of July 2008. A resurgence of violence remains a possibility if the Maoists demonstrate a reluctance to share power as per the election results, or if minority parties continue to feel excluded from a decision-making process dominated by the majority parties.⁷³

Although it is hopeful that lessons could be learned from UNMIN's experience and applied elsewhere in the region, it is questionable whether the United Nations can play (or would be granted) as constructive a role in mediating conflicts within and between larger more powerful states in the region, which, unlike Nepal, have unique histories of colonization and external political interference. Most notably India has consistently refused to allow

66 UNESCO, New Delhi Office website, available at http://portal.unesco.org/geography/en/ev.php-URL_ID=6031&URL_DO=DO_TOPIC&URL_SECTION=201.html.

67 Ibid.

68 Ibid. Other nontraditional UN counterterrorism actors are also active in areas related to countering terrorism, such as the Office of the High Commissioner for Human Rights, and with particular attention being given to the issue of child soldiers in Sri Lanka, the Special Rapporteur on Child Soldiers, and UNICEF.

69 United Nations General Assembly, *United Nations Global Counter-Terrorism Strategy: Activities of the United Nations System in Implementing the Strategy Report of the Secretary-General*, UN Doc. A/62/898, July 7, 2008, para. 21. In April 2009, the United Nations Interregional Crime and Justice Research Institute opened an office in Lucca, Italy, aimed at fostering dialogue and conducting research focused on countering the appeal of terrorism and other forms of violent extremism.

70 United Nations, "Taking Action: UN Measures to Counter Terrorism," 2008, available at www.un.org/terrorism/strategy-forthepeace.shtml.

71 See United Nations, "Department of Political Affairs," 2009, available at www.un.org/Depts/dpa/peace.html.

72 United Nations, *Report of the Secretary-General on the Request of Nepal for United Nations Assistance in Support of its Peace Process*, UN Doc. S/2008/454, July 10, 2008.

73 Ibid.

any room for third-party mediation (UN or otherwise) in the dispute over Jammu and Kashmir.⁷⁴

PILLAR II: MEASURES TO PREVENT AND COMBAT TERRORISM

The second pillar of the UN Strategy includes a series of short-term, preventative measures that states are to take to address the terrorist threat. These range from adopting effective legislation; denying terrorists safe havens and support; ensuring effective international legal cooperation, including via the adoption and implementation of mutual legal assistance and extradition agreements; implementing the Financial Action Task Force's recommendations on anti-money-laundering and countering the financing of terrorism (AML/CFT); protecting vulnerable targets, such as infrastructure and public places; and improving "border and customs controls to prevent and detect the illicit traffic in, inter alia, small arms and light weapons, conventional ammunition and explosives, and nuclear, chemical, biological or radiological weapons and materials."⁷⁵

All states in the region have taken some steps to implement the measures elaborated in the Strategy's second pillar, particularly when it comes to enhancing national criminal justice and other law-enforcement responses. Examples include the adoption of an AML ordinance in Pakistan by presidential decree in September 2007; the enactment of a range of counterterrorism laws and the establishment of a Financial Intelligence Unit (FIU) in Sri Lanka; the development of a comprehensive CFT regime, which includes an FIU, in India, and the computerization of some checkpoints along India's borders. Bangladesh has also taken steps to guard against terrorist financing strengthening the 2002 AML legislation in consonance with criteria set by the Egmont Group and "by strengthening financial intelligence units operating in the Bangladesh Bank."⁷⁶

However, significant shortfalls remain with regard to the implementation of many of these preventive counterterrorism measures. For example, the Pakistani government still faces popular resistance and legal challenges to the limited efforts it is undertaking against Jamaat-ud-Dawa.⁷⁷ More broadly, according to the UN's Counter-Terrorism Committee, the AML/CFT regimes, law enforcement, and overstretched judiciaries in a number of South Asian countries need strengthening. This is of particular urgency given the increasingly transnational nature of operations and their growing relationship to other illicit activities. The UN notes, for example, that, "the growing interlinkages between organized crime and terrorism in the subregion are also a concern, particularly as the subregion is close to two of the world's largest narcotics-producing regions. These linkages further increase the subregion's vulnerability to human and weapons smuggling."⁷⁸

Terrorist attacks throughout South Asia highlight numerous gaps in the region's response capacity. These include a lack of coherent national counterterrorism strategies, which place too much emphasis on the role of the military and security services; underfunded and poorly coordinated national intelligence services; outdated legal architecture; and generally inadequate rapid response networks. In India, for example, even prior to the November 2008 attacks, Prime Minister Manmohan Singh announced a series of new security measures to combat terrorism, including doubling the ranks of the National Security Guard, a mobile response unit, which would increase its size to 9,000; improving communication between the army, navy, and air force intelligence services; and creating a federal investigation agency dedicated to terrorism prevention and terrorist prosecution in a country where primary responsibility for law and order lies with the governments of

74 See, for example, Mishra, "Fresh Blood from an Old Wound"; and Steve Herman, "India, Pakistan Foreign Ministers Hold Talks," Voice of America, November 26, 2008, available at www.voanews.com/English.

75 UN General Assembly Resolution 60/288 (September 8, 2006), UN Doc. A/RES/60/288, Section III, para 13.

76 Sheikh Mohammed Belal, "Bangladesh's Counter-Terrorism Credentials," *Los Angeles Times*, August 5, 2008, available at www.latimes.com/news/opinion/la-oe-belal5-2008aug05,0,3849382.story. They have also passed ordinances criminalizing terrorism and strengthening AML legislation, which, it is hoped, will facilitate participation in the Egmont Group.

77 Zofeen Ebrahim, "Suspected Terror Group Will Challenge UN Ban," Inter Press Service, December 26, 2008, available at <http://ipsnews.net/news.asp?idnews=45229>.

78 This is according to the UN Counter-Terrorism Committee, *Global Survey of the Implementation of Resolution 1373 (2001)*, UN Doc. S/2008/379, June 10, 2008, paras. 80-81.

the regional states.⁷⁹

Furthermore, those on the ground suffered from insufficient training. Though they were equipped with sophisticated rifles, a lack of marksmanship training, a shortage of bulletproof vests and other equipment left the police relatively open to attack by the gunmen.⁸⁰

Additionally, despite the cross-border dimension of most terrorist activity in South Asia and the recognized need for an effective regional response to the threat, controls over the region's porous borders remain weak. Cooperation and coordination among those government agencies responsible for land and maritime border security and with partner agencies across the border is often insufficient. Additionally, regional mechanisms to facilitate law-enforcement cooperation are largely nonexistent. When cooperation does take place, it generally occurs on an informal, case-by-case basis. There are no bilateral extradition or mutual legal assistance treaties in the region, and states remain reluctant to pursue or agree to legal cooperation under the SAARC instruments.

As a result, the well-recognized principle of *aut dedere aut judicare* is often honored in the breach. However, there may be cause for some cautious optimism here given the adoption of the SAARC *Convention on Mutual Legal Assistance in Criminal Matters* during the fifteenth SAARC Summit in August 2008. If ratified and implemented by all SAARC members, it would establish for the first time a legal basis for regional cooperation in criminal matters related to terrorism.

Pillar II recognizes the important role played by the UN system through, for example, the development and monitoring of international border and other security standards and the promotion of international legal cooperation related to counterterrorism. It refers, either directly or indirectly, to a number of entities represented on the UN Task Force, such as INTERPOL, the International Civil Aviation Organization, the UN Office on Drugs and Crime (UNODC), and the World Customs Organization, as well as the Counter-Terrorism Committee (CTC) and its Counter-Terrorism

Executive Directorate (CTED), which can play an important role in furthering the implementation of this pillar.

The Security Council's CTC, with the support of its group of New York-based experts, the CTED, is charged with both monitoring global efforts to implement Resolution 1373 (the provisions from which have largely been incorporated into this pillar of the Strategy) and for facilitating the delivery of counterterrorism assistance to states that it has identified as needing help implementing the provisions of the resolution. The CTED has developed a number of tools to help it carry out its mandate. These include country visits, where it leads a group of UN system entities, occasionally joined by relevant regional bodies, to meet with a range of government political leaders and technical experts to discuss national implementation efforts. Such visits allow the CTC/CTED to undertake a comprehensive assessment of these efforts and work with the country concerned to identify the priority areas where work needs to be done and where technical assistance is needed.

Once these needs are identified, the CTC/CTED seeks to work with bilateral and multilateral assistance providers to ensure that they can be met. It has so far visited three countries in South Asia—Bangladesh, India, and Pakistan—and reportedly received excellent cooperation with national officials during each one.⁸¹ During these visits it has not only discussed law enforcement, border, and other security-related issues, but issues related to the prevention of radicalization and extremism, such as school curricula and other education reforms, pursuant to the part of its mandate derived from Security Council Resolution 1624 (September 14, 2006), which calls upon states to take measures to prevent radicalization and incitement to terrorism and promote dialogue among cultures and religions.

The limited ability of SAARC to serve as a regional platform to stimulate greater counterterrorism cooperation means that South Asia may be one of those areas where CTED (and the wider United Nations) “may be a more politically-

79 Oxford Analytic, “India: State Will Struggle to Deal with Terrorism,” December 8, 2008, available at www.oxan.com/display.aspx?ItemID=DB147529.

80 Fred Burton and Scott Stewart, “Mitigating Mumbai,” Stratfor Global Intelligence, January 14, 2009, available at www.stratfor.com/weekly/20090114_mitigating_mumbai.

81 Interviews with CTED experts, New York, October 2008.

palatable adviser on [national and regional counterterrorism] efforts than a neighbour or a country further afield, simply because ... the United Nations is seen as an objective and politically neutral player.”⁸² Despite the lack of cooperation, and sensitivities within the region when it comes to matters related to terrorism and counterterrorism, countries have shown a refreshing willingness to engage with the CTED, even looking favourably on CTED’s prodding to adopt appropriate counterterrorism legislation. Although parliaments have so far been slow to act, because of the complicated relationship between some countries in the region and some outside of the region, the UN’s imprimatur might facilitate an easier adoption by parliaments in the region than a bilateral request.

Yet, the ability of the United Nations to engage in the region on counterterrorism is further complicated by the internal rivalries and turf battles within the organization, which hinder effective coordination and cooperation among groups engaged in similar work. Further complicating matters politically is the fact that both the CTED and the Al-Qaida/Taliban Sanctions Committee Monitoring Team (i.e., the two UN units that conduct counterterrorism visits in South Asia) are Security Council entities operating under Chapter VII of the UN Charter. Although mandated to conduct technical assessments of counterterrorism capacities and needs, the Security Council framework in which these visits take place reinforces their political nature and leads to increased involvement by ministries of foreign affairs. This can add an extra layer of bureaucracy for the CTED to navigate before reaching the more technical ministries, which bear the lion’s share of responsibility for developing and implementing national counterterrorism measures. Nevertheless, despite this slight impediment, the CTED visits have allowed it to make direct contact with these officials and to gather more detailed and current information as to the relevant country’s counterterrorism efforts and plans.

In the future, rather than conducting UN counterterrorism country visits through the

Security Council’s 1373/1624 framework, greater consideration should be given to using the General Assembly’s UN Strategy under the Task Force umbrella, with CTED continuing to assume an active role, but only as part of this broader-based entity. Not only might this allow for more holistic UN engagement with South Asia on counterterrorism issues, but it could also lower the political temperature of visits and thus enhance the technical focus. Doing so might also create more space for the UN’s nontraditional counterterrorism actors, such as UNDP and UNESCO, to engage in what is often a delicate issue for those concerned about compromising ongoing programs in the field.

The ability of the CTED and other bodies within the United Nations to engage in the region is somewhat limited by the existence of a SAARC secretariat that has not been provided with either the resources or mandate to allow it to serve as a regional platform for CTED interactions with its member states. Transforming the SAARC into a meaningful and legitimate regional partner in counterterrorism, which is supported by the call in the Strategy to enhance the capacities of such bodies,⁸³ should remain a medium- and long-term priority for the CTED and the United Nations as a whole.

In the meantime, the CTED should continue to deepen its engagement with the subcontinent and play an active role in promoting regional counterterrorism cooperation, while recognizing the need to move at a deliberate pace given the political sensitivities in the region. For example, it could promote the creation of a technically focused, regional counterterrorism mechanism. In addition, as a result of having visited a number of countries already, it should soon be able to identify a set of common problems and difficulties and suggest ways of overcoming them, which might draw on best practices from other parts of the globe, and design regional training programs or workshops aimed at addressing common problems. The programs could target individual countries with a view to eventually bringing together experts from across the region.

82 Mike Smith, “The Role of the UN in Fighting Terrorism,” paper presented to the International Law Committee of the Association of the Bar of the City of New York, April 30, 2008.

83 UN General Assembly Resolution 60/288, Section III, para. 8.

PILLAR III: MEASURES TO BUILD STATES' CAPACITY TO PREVENT AND COMBAT TERRORISM AND TO STRENGTHEN THE ROLE OF THE UNITED NATIONS IN THIS REGARD

South Asia confronts overwhelming development challenges including widespread poverty and overpopulation. It should therefore come as little surprise that the region faces enormous capacity challenges in trying to implement the UN Strategy as well as in developing and implementing national counterterrorism strategies and initiatives. The ability of countries in the region to implement the Strategy is further compromised by underdevelopment, especially in the border areas, as well as poor governance, unemployment, corruption, and the lack of trust and limited cross-border cooperation. In view of the wide-ranging capacity gaps in the region, in order to be both effective and sustainable, counterterrorism capacity building in South Asia must be done in a broader context of state capacity building.

For example, the region suffers from strategy-related shortfalls in terms of legislative drafting; training for police, judges, prosecutors, investigators, and other criminal justice officials; the capacity of courts in the region to handle terrorism-related cases in a timely manner; the regulation of informal money transfer systems such as *hawala* or *hundi*, which are widely used and present a possible risk of abuse by terrorists and other criminals; effective interagency coordination mechanisms; the ratification and the implementation of the sixteen international conventions and protocols against terrorism; the creation of national (or regional) counterterrorism databases to enable law enforcement officials to remain informed on a real-time basis of terrorist-related events; and limited access to INTERPOL's 24/7 global police communications system at border crossings in the region.

More generally, many South Asian states have strong central governments, but are weak at the local levels and poor at delivering goods and services to their populations. Thus, for example, while the military is amply funded and law enforce-

ment and other criminal justice officials may be very capable at the national level, significant shortfalls exist at the local level, in terms of numbers, training, and equipment.⁸⁴ This dichotomy between strong-national and weak-local governments helps explain why countries in the region frequently use the military or state security services, which are often viewed as the most effective instruments of governments, to confront what should, in most cases, be a local law-and-order matter.

Pillar III of the Strategy is thus of critical importance for South Asia as efforts are made to translate the holistic UN Strategy into action on the ground. With its significant capacity gaps and vulnerabilities, nearly every part of the UN system represented on the Task Force has an important role to play in helping states implement the Strategy in an integrated manner.

UNODC's Terrorism Prevention Branch (TPB) should seek to ramp up the provision of technical assistance to criminal-justice officials in South Asia surrounding the ratification and implementation of the sixteen international conventions and protocols related to terrorism. Relative to other regions, UNODC's engagement with South Asia in this regard has been rather limited. As TPB often relies heavily on regional organizations and other partners in both helping to organize and build local political buy-in for TPB's work among its member states, the lack of such an entity in South Asia helps explain TPB's struggles in the region. In addition, in trying to find ways to deliver more national training, it could seek to bring together criminal-justice practitioners from all countries in the region, much like it has done in places like East and West Africa, the Caribbean, and Latin America, for common training sessions that would allow for the expert-to-expert contacts that are essential to building cross-border trust. Given the political sensitivities on the subcontinent and the lack of an effective on-the-ground partner, however, UNODC may wish to bring these practitioners to Vienna rather than convene them in situ as it has done in other regions.

84 This region-wide shortcoming was highlighted by India's response to the November 2008 attacks in Mumbai. Lacking a dedicated Mumbai-SWAT team, "[i]t took hours to decide to send in the nation's rapid-response National Security Guards, based in New Delhi. The capital is three hours away by air, but no military aircraft were available and the unit evidently lacked authority to requisition a commercial plane. Military transport was flown in from elsewhere." See Mark Magnier, "India's Response to Attacks Lays Bare Broader Failures," *Los Angeles Times*, December 1, 2008, p. 1-A.

In addition, UNODC should partner with the Commonwealth Secretariat as it seeks to deepen its engagement with the region. On numerous occasions since the formation of the Commonwealth's Counterterrorism Committee in 2001, the Commonwealth Heads of Government have emphasized the need for a holistic approach to counterterrorism, paying particular attention to delivering legislative drafting and other counterterrorism capacity-building expertise to states that request it.⁸⁵ Given that five of the eight SAARC members are also members of the Commonwealth and thus share legal traditions, a common language, and historical associations, the fifty-three-member organization could be an effective and complementary partner to UNODC and other UN actors in assisting member countries to implement the UN Strategy in South Asia.

In a region like South Asia, those ordinarily not associated with counterterrorism—the “nontraditional counterterrorism actors”—such as the OHCHR, UNESCO, and UNDP, also have essential roles to play and valuable contributions to make toward countering violent radicalization and terrorism, in practice if not in name.

In addition to increased attention from CTED and UNODC, steps should be taken to ensure that the UN Strategy takes root in South Asia at the UN country/field level, where many of the nontraditional UN counterterrorism capacity-building actors are present (again, for example, UNDP, UNESCO, and OHCHR). Only then will counterterrorism be streamlined within the various projects conducted by the UN on the ground. Given that for some UN actors and government officials “counterterrorism” is a controversial label, it is necessary for the various UN agencies involved on the ground to frame the issue in a manner which is within their comfort zone. How one chooses to

label these activities is less important than ensuring that, when devising programs and engaging with host governments, UN field agencies understand the potential linkages their projects may have within the context of security, and make adjustments if necessary (and permissible within their mandates) to account for the specific counterterrorism needs of the host country.

Many of these needs can be identified as a result of the CTED (or, perhaps eventually, UN Task Force-led) visits. Having such a mechanism in place would ensure that the shortcomings identified by CTED during its country visits will have a better chance of being followed through by the wider UN family. The UN went through a similar exercise during the mid-1990s, in mainstreaming human rights, and there is no reason why the same could not be done for counterterrorism.⁸⁶ As in the human rights context, among the keys to success would be ensuring that the Secretary-General's office in New York is delivering a clear message on this point to all UN Task Force representatives and that all UN country offices are expected to report on UN-Strategy-related programs and activities.

A good starting point for launching such a streamlining exercise might be to include more South Asian countries among the eight countries piloting the UN's “Delivering as One” initiatives. Currently, Pakistan is the only country in South Asia in this group. These initiatives are looking at how the United Nations can deliver in a more coordinated way at the country level.⁸⁷ This would be consistent with the recommendation of the High-Level Panel on United Nations System-wide Coherence in the Areas of Development, Humanitarian Assistance, and the Environment to establish “one United Nations at the country level, with one leader, one program, one budget, and, where appropriate, one office.”⁸⁸

85 For more information on the Commonwealth Secretariat's counterterrorism programs see “Review of Anti-Money-Laundering and Countering the Financing of Terrorism (AML/CFT) Work and Proposed Activities,” and “The Counter-Terrorism Programme: Review and Next Steps,” papers by the Commonwealth Secretariat, May 2008 [copies on file with authors].

86 United Nations Development Group (UNDG), “Background Paper: Human Rights Mainstreaming Within the United Nations,” for the “Third Interagency Workshop on Implementing a Human Rights-Based Approach,” Tarrytown, NY, October 1-3, 2008, available at [www.undg.org/docs/9405/LAW3_background_paper_\(HR_mainstreaming\).doc](http://www.undg.org/docs/9405/LAW3_background_paper_(HR_mainstreaming).doc).

87 For more information on the UN's “Delivering as One” initiative, see UNDG, “United Nations System-wide Coherence: The Next Steps – Summary of Main Points,” March 2008, Vienna, available at www.undg.org/docs/8642/86886_SWC_Meeting_Summary_Final.pdf.

88 United Nations General Assembly, *Report of the High-Level Panel on United Nations System-wide Coherence in the Areas of Development, Humanitarian Assistance, and the Environment*, UN Doc. A/61/583, November 20, 2006, p. 11.

PILLAR IV: MEASURES TO ENSURE RESPECT FOR HUMAN RIGHTS FOR ALL AND THE RULE OF LAW AS THE FUNDAMENTAL BASIS OF THE FIGHT AGAINST TERRORISM

The potential for limitations or violations of civil and human rights or extra-judicial killings to be justified by governments in the name of combating terrorism makes it particularly urgent that the UN do all that it can in South Asia and beyond to promote a human-rights-based approach to counterterrorism. This point was underscored by the Eminent Jurists Panel on Terrorism, Counter-Terrorism, and Human Rights after conducting hearings in the region.⁸⁹

The countries of South Asia share experiences of tragic and indiscriminate terrorist acts, both past and present. Some of them have faced long-running armed conflicts in which terrorist acts have been committed. Many counterterrorism laws and policies in the region predate the events of September 11, 2001. Participants noted that the changing international climate after these events lent new momentum and legitimacy to counterterrorism measures, which has led to robust and overbroad laws and policies in the region.⁹⁰

The introduction of special or extraordinary laws to address terrorism can be particularly detrimental to the protection of human rights, as they can lead to long-term institutionalization of oppression and foster a culture of impunity within state security forces and agencies. Widespread human rights abuses by security and law enforcement officials seriously undermine relations between security services and minority populations which have further contributed to cycles of violence across much of the subcontinent.

In India, for example, the current government

repealed the 2002 *Prevention of Terrorism Act* (POTA) after a parliamentary review committee found that of 1,529 people detained under its provisions, which allowed the government to detain terrorist suspects for up to 180 days without charges, “the cases of 1,006 did not meet prima facie standards of evidence.”⁹¹ In addition, concerned human-rights groups noted that the law was “often used against marginalized communities such as Dalits (so-called untouchables), indigenous groups, Muslims, and the political opposition.”⁹²

There are also examples of institutionalized special measures in Pakistan, such as the *Suppression of Terrorist Activities Ordinance*, 1975, which have been challenged on human-rights grounds. The Act was then repealed and replaced by the *Anti-terrorism Act of 1997*, which, among other things, created special antiterrorist courts. Additional measures taken by General Musharraf also raised concerns by human rights watchdogs.⁹³ The unparalleled position of importance that Pakistan held in South Asia as a close ally of the United States after 9/11 led to additional measures enacted in the name of addressing terrorism that increased concern about human rights abuses and had a profound effect beyond Pakistan’s borders in the subcontinent.⁹⁴ Kenneth Roth, Executive Director of Human Rights Watch, has noted that the “Bush administration and to some extent General Musharraf chose to fight terrorism by disregarding human rights. Some of the excesses were encouraged by the US in Pakistan, but some were the Pakistani government’s own doing.”⁹⁵ Others have observed that acquiescing to the US calls for more stringent measures from the Pakistani security forces, particularly in the FATA region has led to the unintended emboldening of radical elements who turn to violence, increasing

89 The Eminent Jurists Panel is an initiative of the International Commission of Jurists, which “examined the compatibility of law, policies and practices, which are justified expressly or implicitly as necessary to counter terrorism, with international human rights law and, where applicable, international humanitarian law.” The panel’s final report, “Assessing Damage, Urging Action,” was released in February 2009 and is available at <http://ejp.icj.org/IMG/EJP-Report.pdf>.

90 Eminent Jurists Panel on Terrorism, Counterterrorism and Human Rights “Eminent Jurists Assess Counter-Terrorism Laws in South Asia” Geneva: International Commission of Jurists Press Release, March 2, 2007, available at http://ejp.icj.org/IMG/PR_South_Asia2.pdf.

91 “India: State will Struggle to Deal with Terrorism,” Oxford Analytica, December 8, 2008.

92 Human Rights Watch, “India: Repeal Armed Forces Special Powers Act,” August 17, 2008, available at www.hrw.org/en/news/2008/08/17/india-repeal-armed-forces-special-powers-act. Although POTA was repealed in 2004, the promulgation of the Unlawful Activities (Prevention) Amendment Ordinance in the same year, however, has been viewed by some as a “reincarnation of POTA under a different name.” South Asian Human Rights Documentation Centre, “The Reincarnation of POTA: Unlawful Activities (Prevention) Amendment Ordinance is POTA’s Second Coming,” New Delhi, October 12, 2004, available at www.hrdoc.net/sahrdc/hrfeatures/HRF106.htm.

93 Charles H. Kennedy, “The Creation and Development of Pakistan’s Anti-terrorism Regime, 1997-2002,” in *Religious Radicalism and Security in South Asia*, edited by Statu P. Limaye, Mohan Malik, and Robert G. Wirsing (Honolulu: Asia-Pacific Center for Security Studies, 2004), pp. 387-412.

94 See, for example, Shabana Fayyaz “Responding to Terrorism: Pakistani’s Anti-terror Laws Parts I and II,” *Perspectives in Terrorism* 2, no. 6 (March 2008), available at www.terrorismanalysts.com/pt/index.php?option=com_rokzine&view=article&id=44&Itemid=54.

95 Human Rights Watch, “The World Needs Pakistan to be a Strong Defender of Human Rights: An Interview with Kenneth Roth,” July 2008, available at www.hrw.org/en/news/2008/07/01/world-needs-pakistan-be-strong-defender-human-rights.

their hate for the West, thereby exacerbating rather than reducing the threat of Islamist terrorism.⁹⁶

In Bangladesh, the security forces and intelligence agencies have been accused of widespread killing and torture in the name of countering terrorism.⁹⁷ During this period, a range of exceptional criminal procedures including in terrorism-related matters, were applied on the basis of emergency provisions as well as existing laws, including the 1974 *Special Powers Act*, which allows extended preventive detention without charge. Human rights groups welcomed the lifting of the emergency and the democratic elections that ushered in the new administration. Activists and analysts express the hope that the new administration will uphold its pledge to ensure the highest human rights standards.⁹⁸

Despite reports of widespread human rights abuses in the name of counterterrorism across the region, important work is being done to address abuses at the national level in many countries in the region where some states and civil society have established human rights commissions to investigate human rights violations, including in the context of counterterrorism.⁹⁹ In Bangladesh, for example, the 2007-2009 caretaker government established the National Human Rights Commission, which the new government has promised to strengthen. However, the institutional capacities to address these issues remain weak and governments need help developing and empowering them. The capacity of criminal justice officials, including judges and prosecutors at national and local levels, to perform their functions and uphold the rule of law and human rights also needs strengthening across the region.

Coordinated efforts at the regional level to monitor and address human rights violations also need more attention. The SAARC charter does not

mention human rights.¹⁰⁰ Furthermore, SAARC meetings have been largely devoid of any discussion of human rights, with the most recent SAARC summit statement offering “no indication that the SAARC leaders made any effort to grapple with the human rights violations and internal displacement that result from their efforts to combat ethnic and religious-based insurrections.”¹⁰¹ Some experts have called for the establishment of a “SAARC Human Rights Commission or equivalent body with a mandate to advise the member states on human rights, and to which aggrieved parties could address their complaints.”¹⁰² This is a laudable goal and realizing it would signal region-wide commitment to making this issue more of a priority. It might also offer a regional forum for monitoring implementation of these issues in the context of UN Strategy implementation. However, given the mistrust and mutual suspicion that continues to exist among many countries in the region, and national sensitivities surrounding the issue of discussing human rights issues in a regional context, the prospects for such a commission are far from promising in the foreseeable future.

Given the range of capacity and political challenges and the lack of an effective intergovernmental human rights mechanism on the subcontinent, the role of the UN system is particularly important. This makes the OHCHR's stated plans to establish a regional office in South Asia of particular significance. Among the countries that would be covered by this office are Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, and Sri Lanka. Prior to the launch of the program, OHCHR listed the need to “strengthen national institutions and combat discrimination” as two of its top priorities.¹⁰³ It noted that “strong legal systems and normative frameworks to protect human rights were established, but that there is a

96 See, for example, Ashley J. Tellis, “Pakistan: Conflicted Ally in the War on Terrorism,” Policy Brief No. 56 (Washington, DC: Carnegie Endowment for International Peace, December 2007), available at www.carnegieendowment.org/files/pb56_tellis_pakistan_final.pdf.

97 Asian Legal Resource Centre, “Bangladesh: Prolonged State of Emergency Threatening the Judiciary and Human Rights Defenders’ Ability to Work,” written statement submitted to the UN Human Rights Council, August 21, 2008, available at www.alrc.net/doc/mainfile.php/hrc9/519/.

98 Ibid.; Asian Human Rights Commission, “Bangladesh: Indemnity for Perpetrators Will Further Encourage a Military Coup in Bangladesh,” December 19, 2008, available at www.ahrchk.net/statements/mainfile.php/2008statements/1815/.

99 For more information on regional efforts to address human rights abuses at the national level see Asian Centre for Human Rights, “South Asia Human Rights Index 2008,” available at www.achrweb.org/reports/SAARC-2008.pdf.

100 The text of the Charter of the South Asian Association for Regional Cooperation is available at www.saarc-sec.org/data/docs/charter.pdf.

101 Jehan Perera, “Human Rights Missing at SAARC Summit,” United Press International, August 6, 2008, available at www.upiasia.com/Politics/2008/08/06/human_rights_missing_at_saarc_summit/6470/.

102 Ibid.

103 Office of the High Commissioner for Human Rights (OHCHR), South and West Asia Regional Office website, available at www.ohchr.org/EN/Countries/AsiaRegion/Pages/SouthWestAsiaSummary0809.aspx.

need to address gaps in capacity, security, and commitment to implementation.”¹⁰⁴ The regional office plans to engage with regional actors, particularly SAARC, to foster cooperation in the field of human rights. Working in partnership with other UN agencies as well as national institutions, the office will seek to promote the sharing of best practices and will advocate for treaty ratification in regional states.

Country offices have been set up in Afghanistan, Nepal, Pakistan, and Sri Lanka. These offices have engaged in efforts to build the capacity of national institutions, aiding the development of democratic governance in transitional societies, and upholding the rule of law in human-rights-abuse cases.

The UN Special Rapporteur on torture has also been engaged with governments in the region, producing reports on Nepal in 2005 and Sri Lanka in 2007. The report on Nepal concluded that the police forces as well as the Royal Nepalese Army were systematically engaged in torture.¹⁰⁵ The Sri Lankan report acknowledged the difficulties presented by the ongoing conflict with LTTE but said that “the high number of indictments for torture filed by the Attorney General’s Office, the number of successful fundamental rights cases decided by the Supreme Court of Sri Lanka, as well as the high number of complaints that the National Human Rights Commission continues to receive on an almost daily basis indicates that torture is widely practiced in Sri Lanka.”¹⁰⁶ A number of United Nations human rights mechanisms, including the Special Rapporteur on extrajudicial, summary, or arbitrary executions, have raised concerns regarding the excessive use of force and extrajudicial killings by Bangladeshi security personnel.¹⁰⁷

Going forward, as part of an effort to show the region’s commitment to ensuring that human rights and civil liberties are not sacrificed in the fight against terrorism, SAARC leaders should issue a standing invitation to all special rapporteurs and independent experts of the Human Rights Council to visit each country of the region. In particular, an

invitation should be extended to the Special Rapporteur for the promotion and protection of human rights and fundamental freedoms while countering terrorism.

CTED country visits to South Asia also represent an opportunity to stress the importance of respecting human rights in the context of countering terrorism. Until recently CTED had proved reluctant to include human rights considerations as part of its site visits but there are signs that CTED, as well as some countries in the region, are willing to engage more on these issues. Going forward, CTED should include human rights as part of its visits to the countries in the region and also ensure that such issues are given sustained attention and follow up as it works with the region, in particular identifying areas where individual countries might benefit from human-rights-related technical assistance, particularly in improving the human rights compliance of police and other security officials. Consideration of how CTED can work more closely with OHCHR in the field, particularly at the regional level when OHCHR’s new regional center begins operations, would also help to support implementation of the Strategy.

More broadly, OHCHR, the Special Rapporteur for the promotion and protecting human rights and fundamental freedoms while countering terrorism, and CTED should spearhead the development of UN best practices for institutionalizing the protection of human rights in the context of counterterrorism, particularly as it relates to the law-enforcement community. In addition, these UN actors could play a leading role in promoting a more holistic and sustainable approach to capacity building on human rights issues, which, for example, focuses less on “one-off” training workshops, and more on mentoring programs for judges, prosecutors, and other criminal-justice officials.

A first step to ratcheting up the focus of the UN system on these issues in South Asia could be an OHCHR-organized seminar that brings together

104 Ibid.

105 OHCHR, *Report by the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, Mission to Nepal*, UN Doc. E/CN.4/2006/6/Add.5, January 9, 2006.

106 OHCHR, *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, Mission to Sri Lanka*, UN Doc. A/HRC/7/3/Add.6, February 26, 2008.

107 OHCHR, *Report of the Special Rapporteur, Asma Jahangir, Submitted Pursuant to Commission on Human Rights Resolution 2002/36*, UN Doc. E/CN.4/2003/3, January 13, 2003. Other Special Rapporteurs engaged in the region include the Rapporteur on violence against women, the Rapporteur for children and armed conflict, and the Rapporteur on freedom of religion or belief.

not only representatives of foreign ministries, national human rights institutions and nongovernmental organizations from countries in the region, but also security and law enforcement officials from throughout South Asia. OHCHR has already organized such seminars in other parts of the world, including the Middle East and North Africa where both the terrorist threat and the political sensitivities surrounding counterterrorism remain high.¹⁰⁸ Such a forum would provide an excellent opportunity for government and nongovernment experts from the region to exchange experiences, challenges, and best practices in addressing the common terrorist threat in a manner that is consistent with human rights norms. It would represent an important statement from both the UN and the countries of the region on the need for governments to safeguard human rights as they continue to develop measures to combat terrorism on the subcontinent.

Conclusion

The November 2008 Mumbai attacks served as a stark reminder of the regional dimension of the terrorist threat in South Asia, whereby terrorist groups can exploit the political fragility, development challenges, and violent religious extremism that are increasingly prevalent across the subcontinent. The incident also highlighted the lack of a meaningful regional framework to facilitate the cooperation necessary to respond to and prevent future terrorist acts and the need to develop an effective regional counterterrorism response. Consequently, this report has argued that the United Nations is well-placed to stimulate greater regional cooperation on counterterrorism, especially given its comparative advantages as a result of its neutrality, expertise, and distance from the region.

These attributes are among the reasons why the

new Pakistani government requested that the UN investigate the facts and circumstances surrounding Benazir Bhutto's December 2007 assassination, as for many in Pakistan, only the United Nations is seen as having the impartiality and independence to produce a credible report. This development is a sign that at least one of the major players in the region is eager to see increased UN engagement on a set of highly sensitive and politicized issues where sovereign walls have historically limited the ability of the UN to engage.¹⁰⁹

Countries in the region, as well as bilateral partners, are gradually coming to understand the virtues of, and need for, a holistic approach to addressing the terrorist threats confronting the region and are recalibrating the balance between "hard" and "soft" counterterrorism measures. Perhaps most significantly, on March 27, 2009, US President Obama announced a comprehensive, new US strategy for Afghanistan-Pakistan that recognizes that a "campaign against extremism will not succeed with bullets or bombs alone." As part of this new approach the president called upon Congress "to pass a bipartisan bill co-sponsored by [Senators] John Kerry and Richard Lugar that authorizes \$1.5 billion in direct support to the Pakistani people every year over the next five years—resources that will build schools, roads, and hospitals, and strengthen Pakistan's democracy."¹¹⁰ As Senator Richard Lugar has stated,

[US] Defense, Intelligence, and State Department officials recognize that economic development and improved governance are at least as critical as military action in containing the terror threat. Congress should recognize this opportunity to ensure an inclusive, coherent strategy for US-Pakistan relations.¹¹¹

The United Nations should seek to complement this new and welcome development by ensuring that it interacts with the region in a manner that complements and reinforces this approach. The UN

108 OHCHR, Outcome Document from "Regional Seminar for the Middle East and North Africa Region on Upholding Human Rights while Countering Terrorism," Amman, October 27-29, 2008.

109 "Ban to Set Up Independent Probe into Assassination of Former Pakistani Leader," UN News Centre, February 5, 2009, available at www.un.org/apps/news/story.asp?NewsID=29793&Cr=pakistan&Cr1=. Rather than being cowed by the political differences and lack of trust among countries in the region, the United Nations should now build on this significant development and seek to stimulate the largely stagnant regional counterterrorism cooperation. It should treat the lack of regional cooperation as an opportunity for it to help shape a regional response, using the holistic UN Strategy as an entry point for enhanced engagement.

110 Barack Obama, "Obama's Strategy for Afghanistan and Pakistan," speech delivered in Washington, DC, March 27, 2009," available at www.cfr.org/publication/18952/obamas_strategy_for_afghanistan_and_pakistan_march_2009.html. The Kerry-Lugar bill was actually passed unanimously in the Senate Foreign Relations Committee in July 2008, but did not reach the floor for vote in the Senate as a whole before the end of the congressional term. Following President Obama's March 2009 speech, however, Senator Kerry indicated his intent to reintroduce this bill in order to reinforce the US' new Afghanistan-Pakistan strategy.

111 Senate Foreign Relations Committee, "Biden/Lugar Legislation on Pakistan Passes Senate Foreign Relations Committee," press release, July 29, 2008, available at http://biden.senate.gov/press/press_releases/release/?id=E4B56754-BF2C-484A-A2A1-8682FFE18264.

Strategy offers an ideal framework for this. Coordinated and sustained engagement by the different parts of the UN system, at the level of headquarters, on the ground, and in between, will be needed to help ensure not only that states seek to implement the Strategy in an integrated manner, but that the United Nations itself is maximizing its comparative advantages.

This will require more strategic thinking by the United Nations about how best to engage with the region on issues related to the UN Strategy. For example, which of the many tools in the UN Strategy toolkit should be used in South Asia to promote implementation? Which aspects of the Strategy deserve priority attention in the region? Which UN actors should take the lead on the ground? These are all issues that the Task Force needs to consider rather than largely limiting itself to the important but perhaps insufficient task of improving coordination and cooperation within the UN system on different thematic aspects of the Strategy. To succeed, however, these efforts will require more leadership from the Secretary-General, and stronger engagement between the UN and South Asia and within the region itself on countering terrorism.

Recommendations

- 1) The United Nations should build on increasing recognition of the importance of combating terrorism, conflict, and political violence in South Asia to forge stronger cooperation on the implementation of the UN Global Counter-Terrorism Strategy between the UN and South Asia, and within the region itself.
- 2) SAARC leaders should explicitly endorse the UN Strategy and initiate a whole-of-government approach to implementing measures proposed by the Strategy to counter the conditions conducive to terrorism, prevent and combat terrorism, build state capacity, and streamline a human rights approach to all counterterrorism measures.
- 3) South Asian leaders should develop a regional strategy for addressing the terrorist threat that involves not just all members of SAARC, but partner countries and the United Nations. Such a strategy could include
 - a) the reiteration of SAARC leaders' commitment to building a better future for their peoples (taken from the SAARC charter) and recognition that terrorism poses a challenge to human security and the achievement of their development goals;
 - b) the creation of a common database for sharing intelligence and other information at the regional level;
 - c) regular meetings of heads of intelligence agencies and defense establishments—something that is currently taking place under the auspices of the United Nations, but outside of the region—and other practitioners across South Asia;
 - d) increased attention to capacity building to address what are, in many cases, common needs across the subcontinent; and
 - e) the development of an effective, regional mechanism for fostering sustained counterterrorism cooperation.
- 4) A regional, technically focused counterterrorism mechanism—which may be complementary but not formally related to SAARC—should be established to stimulate practical cooperation at the functional level.
 - a) Among other things, such a mechanism could provide a platform for counterterrorism training and other capacity-building activities, facilitating the exchange of expertise and information among government officials, which is essential for building the trust needed for effective cross-border cooperation, as well as the sharing of good national practices and lessons learned from national implementation among the countries of the region.
 - b) Such a mechanism should be designed to address the particular needs of the region and could draw upon the experiences of mechanisms in other regions, e.g., the Jakarta Centre for Law Enforcement Cooperation in Indonesia and other counterterrorism training centers that have been established in Southeast Asia, in cooperation with countries from outside the region, to provide training to a range of counterterrorism practitioners. Another example is the Intergovernmental

- Authority on Development's Capacity-Building Programme Against Terrorism, which is funded entirely by partner countries and where a nongovernmental organization serves as the secretariat.
- c) Partner countries could be among the funders of such a mechanism. These countries could provide the experienced law-enforcement and other counterterrorism practitioners to lead some of the training sessions.
 - d) The United Nations could play the leading role in designing the curriculum, in close cooperation with countries from the region, and building political and financial support for the center both among countries in and outside the region, and overseeing its day-to-day operations.
- 5) The UN Secretary-General should ask the newly appointed full-time chairperson of the UN Task Force, in close cooperation with CTED, to spearhead UN efforts to deepen the UN's engagement on counterterrorism issues in South Asia.
 - 6) The UN Counter-Terrorism Implementation Task Force should
 - a) develop a strategy and action plan for engagement in South Asia at the national and regional levels;
 - b) identify key groups of national practitioners in the region willing to work together on practical matters related to the implementation of the UN Strategy and work slowly to build informal networks of cooperation among them, building upon the Al-Qaida/Taliban Sanctions Committee's Monitoring Team's informal meetings of intelligence chiefs;
 - c) enlist the academic and research communities in the region to promote UN Strategy implementation and greater regional counterterrorism cooperation more broadly, including through joint research projects linking together think tanks from different countries in the region;
 - d) leverage UN-system expertise, resources, and build on the partnership that the UN Country Teams have developed with national and regional actors across the subcontinent; and
 - e) take steps to ensure that when devising programs and engaging with host governments, UN field agencies understand the potential linkages their projects may have within the context of counterterrorism, and make adjustments if feasible (which are permissible within their mandates) to account for the specific counterterrorism needs of the host country.
- 7) The Secretary-General, the UNDP Administrator, and the UNDP Executive Board should encourage UN Resident Coordinators to include counterterrorism and violent extremism in the portfolio of issues they are tracking on the ground. In engaging with development actors, and UNDP in particular, counterterrorism practitioners should emphasize the commonality of objectives, such as rule of law and good governance, and how these objectives reinforce development goals rather than a securitization of aid or the shifting of resources away from development.
 - 8) Greater consideration should be given to conducting UN counterterrorism country visits using the General Assembly's UN Strategy as a framework rather than Security Council Resolutions 1373 and 1624 with their Chapter VII mandate. Such an approach might allow for more holistic UN engagement with South Asia on counterterrorism issues, but lower the political temperature of the visit and thus enhance its technical focus.
 - 9) Placing its work in the context of the UN Strategy whenever possible, CTED should continue to deepen its engagement with the subcontinent and play an active role in promoting regional counterterrorism cooperation, while recognizing the need to move at a deliberate pace given the political sensitivities in the region. For example:
 - a) CTED should promote the creation of a technically focused, regional counterterrorism mechanism (as mentioned above).
 - b) Over the long-term, CTED and the United Nations as a whole should identify ways to

- allow SAARC and BIMSTEC to become meaningful and legitimate regional partners on counterterrorism.
- c) CTED should identify common problems and difficulties facing SAARC member states and suggest ways of overcoming them, which might draw on best practices from other parts of the globe, and design regional training programs or workshops aimed at addressing regional problems. The programs could target individual countries with a view to eventually bringing together experts from the different countries.
 - d) CTED should continue to include human rights as part of its visits to the countries in the region and also ensure that human rights issues are given sustained attention and follow up as it works with the region. In particular it should identify areas where individual countries might benefit from human-rights-related technical assistance, particularly in improving the capacities of police and law-enforcement officials to comply with these norms. In addition, it should identify assistance providers willing to deliver such training to countries in the region.
- 10) UNODC's Terrorism Prevention Branch should seek to ramp up the provision of technical assistance to criminal justice officials in South Asia regarding the ratification and implementation of the sixteen international conventions and protocols related to terrorism. For example, it could seek to bring together criminal justice practitioners from all countries in the region for common training sessions that would allow for the expert-to-expert contacts that are essential to building cross-border trust. Given the political sensitivities on the subcontinent and the lack of an effective on-the-ground partner, however, UNODC may wish to bring these practitioners to Vienna rather than convene them in situ as it has done in other regions.
 - 11) A first step toward ratcheting up the focus of the UN system on protecting human rights while countering terrorism in South Asia should be an OHCHR-organized seminar that brings together not only representatives of foreign ministries, national human rights institutions, and nongovernmental organizations from countries in the region, but also security and law-enforcement officials from throughout South Asia. Such a forum would provide an excellent opportunity for government and nongovernment experts from the region to exchange experiences, challenges, and best practices in addressing the common terrorist threat in a manner that is consistent with human rights norms.
 - 12) OHCHR, the Special Rapporteur for the promotion and protection of human rights and fundamental freedoms while countering terrorism, and CTED should
 - a) spearhead the development of UN best practices for institutionalizing the protection of human rights in the context of counterterrorism, particularly as it relates to the law-enforcement community;
 - b) play a leading role in promoting the need for a more holistic and sustainable approach to capacity building on human rights issues, which focuses less on "one-off" training workshops, and more on mentoring programs for judges, prosecutors, and other criminal-justice officials and encourage greater donor engagement; and
 - c) OHCHR should ensure that its proposed South and West Asia Regional office is fully staffed and operational at the earliest opportunity.
 - 13) SAARC leaders should issue a standing invitation to visit the region to all special rapporteurs and independent experts of the Human Rights Council, in particular to the Special Rapporteur for the promotion and protection of human rights and fundamental freedoms while countering terrorism.

The **INTERNATIONAL PEACE INSTITUTE (IPI)** is an independent, international institution dedicated to promoting the prevention and settlement of armed conflicts between and within states through policy research and development.

The **Center on Global Counterterrorism Cooperation (CGCTC)** is a nonpartisan research and policy organization that works to improve internationally coordinated responses to the continually evolving threat of terrorism by providing governments with timely, policy-relevant research and analysis. CGCTC has offices in Washington, DC, and New York. To learn more, visit www.globalct.org.

This report builds on IPI's past work on multilateral responses to transnational security challenges, including global terrorism. It is the fifth in a series on enhancing implementation of the UN Global Counter-Terrorism Strategy. Previous reports in the series by CGCTC include assessments of the Asia-Pacific, southern Africa, East Africa, and Latin America and the Caribbean. Similar assessments of North Africa and West Africa are expected before the end of 2009.



777 United Nations Plaza New York, NY 10017-3521 USA

TEL +1-212 687-4300 FAX +1-212 983-8246

www.ipinst.org