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GOOD PRACTICES IN COUNTER TERRORISM

COE-DAT
Centre of Excellence Defence Against Terrorism

Vol. 2 • 2022



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Edited by Haldun Yalçinkaya

**COE-DAT
Centre of Excellence Defence Against Terrorism**

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Good Practices in Counterterrorism/by Haldun Yalçinkaya (ed.)

Authors: Richard Warnes, Omi Hodwitz, Arabinda Acharya, Zeynep Sütalan, Jean Pascal Zanders, Stephen Harley, Petar Marinov

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CENTRE OF EXCELLENCE DEFENCE AGAINST TERRORISM

Address : Devlet Mahallesi İnönü Bulvarı Kirazlıdere Caddesi No:65 Çankaya 06582

Ankara - TURKEY

P.O. Box Address : P.K.-57 06582

Bakanlıklar-ANKARA TURKEY

PHONE : +90 312 425 82 15

FAX : +90 312 425 64 89

E-MAIL : info@coedat.nato.int

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Preface

It is with great pride that COE-DAT presents volume 2 of “Good Practices in Countering Terrorism (GP CT Vol.2).” This project launched in 2020 to address current issues and research in the field of counterterrorism. Within this scope, the GP CT Vol.2 is the latest initiative aimed at practical solutions to counter-terrorism policy problems with innovative best practices proven in the field.

This project, in cooperation with TOBB University of Economics and Technology, was published by terrorism experts, academics, and practitioners. The aim of this project is to provide critical thinking in the field of CT, an inherently sensitive subject, and to create an interactive platform of expertise on effective methods, strategies, national responses and alternative models.

As stated in NATO 2030 document, Allies agreed to step up NATO efforts to build the capacity of alliance partners in areas like CT. Each of NATO’s member stability is significantly vital for alliance security. Previous experiences reveal that prevention is always a better option when we compare with intervention. Recent conflicts in Ukraine with Russia once again emphasized the emergency of this issue.

In this context, COE-DAT organized a series of workshops, which increased information sharing and demonstrated progressive research on current issues in the fight against terrorism, including Terrorism Experts Conference 2021. This project, which emerged because of this hard work, aimed to develop and synchronize CT policies at the national level, but also to provide for future studies and research. Without a doubt, these practices will not work in all environments, as terrorism varies by region and circumstances. However, COE-DAT submits that these can be used as an inspiration in the development of effective counter-terrorism policies and efforts.

COE-DAT believes that this book will be an inspiration and lead up to more “good practices” combining the conceptual and operational aspects of counter-terrorism in the coming years. COE-DAT is committed that this series will continue to be updated in future endeavors.

A little about COE-DAT

COE-DAT provides key decision-makers with a comprehensive understanding to terrorism and CT challenges, in order to transform NATO and Nations of interest to meet future security challenges. This transformation is embedded into NATO's three declared core tasks of Collective Defence, Crisis Management, and Cooperative security.

As a strategic level think tank for the development of NATO DAT activities sitting outside the NATO Command Structure, COE-DAT supports NATO's Long-Term Military Transformation by anticipating and preparing for the ambiguous, complex, and rapidly changing future security environment. COE-DAT is able to interact with universities, think tanks, researchers, international organizations, and global partners with academic freedom to provide critical thought on the inherently sensitive topic of CT. COE-DAT strives to increase information sharing within NATO and with NATO's partners to ensure the retention and application of acquired experience and knowledge.

Oğuzhan PEHLIVAN
Colonel (TUR A)
Director COE-DAT

Acknowledgements

The Center of Excellence Defence Against Terrorism (COE-DAT) is proud to complete the second in the series of “Good Practices in Combating Terrorism” launched in 2020 to address current issues and debates in the field of counterterrorism.

This book would not be possible without the efforts of the authors; support team from TOBB University of Economics and Technology, as well as our staff at COE-DAT.

First and foremost I would like to express my deep and sincere gratitude to the authors Richard WARNES, Omi HODWITZ, Arabinda ACHARYA, Jean Pascal ZANDERS, Petar MARINOV, Stephen HARLEY, and Zeynep SÜTALAN for their valuable academic knowledge and insights into practical solutions to counter-terrorism that made this book reality.

COE-DAT is grateful to our academic assistants Alice LÖHMUS and Elif Merve DUMANKAYA, our assistant project manager Fulya HİSARLIOĞLU, and particularly our lead project manager Prof Haldun YALÇINKAYA (Chair of the Department of Political Science and International Relations at TOBB University of Economics and Technology) for assisting COE-DAT to conceptualize and organize this book project.

Last but not least, I am highly indebted to all the members of COE-DAT especially; Col. Atilla CSURGO, Col. Ioan PRIBEK, LTC. Uwe BERGER, Maj. Ian McDONALD, Maj. James KADEL, Maj. Bert VENEMA, Maj. Ali MAVUŞ, and Mrs. Özge ERKAN for their endless patience, tireless work, critical reviews, and passion to complete this book. A special thanks goes to Mrs. Selvi KAHRAMAN because without her computer skills we could never have been able to coordinate this project with our team members all around the world.

Daniel Wayne STONE,
Colonel (USAF)
Deputy Director COE-DAT

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CONTRIBUTORS *(in the order of alphabet)*

Prof. Arabinda Acharya works at the Rabdan Academy in Abu Dhabi (UAE). Before that he was with the College of International Security Affairs, National Defense University in the USA, and the S. Rajaratnam School of International Studies, Nanyang Technological University in Singapore. He is the Director, Centre for Peace and Development Studies, India. Acharya's areas of specialization include regionalism and human security (as listed in United Nations Roster of Global Experts) political violence and terrorism, maritime security and cyber security. He has published 6 books and a number of articles in a range of journals of high standards.

Stephen Harley is a former British Army officer who has latterly worked in Iraq & the pan-Arab region for the US government, in Afghanistan for NATO and in Somalia for the UN and the UK Foreign and Commonwealth Office in the fields of counter-terrorism, Preventing & Countering Violent Extremism (P/CVE) and Strategic Communications. He currently works for the British Embassy Mogadishu with a broad remit of building confidence in the Federal Government of Somalia and countering the al-Qaida linked terror group, al-Shabaab. He has published extensively on Somalia, most recently contributing two articles to the UN's seminal study, 'War and Peace in Somalia: National Grievances, Local Conflicts & al-Shabaab', as well as covering East African issues for The Economist Group. He can be contacted at stephenharley@me.com

Dr. Omi Hodwitz is a criminologist and Assistant Professor in the Department of Culture, Society, and Justice at the University of Idaho. Prior to becoming a professor, Dr. Hodwitz was a researcher at the National Consortium for the Study of Terrorism and Responses to Terrorism (START) Center at the University of Maryland. This is also where she received her Ph.D. after completing dissertation work examining the intersection between civil society and terrorist organizations. Dr. Hodwitz specializes in quantitative research examining the influence of policies and practices on violent and extremist behavior. She is the director of the Terrorism Recidivism Study (TRS), a large-scale data project that tracks and reports incidents of terrorist recidivism in the United States and abroad. She also directs the Aviation Attack Database (AAD), which records all violent attacks directed towards the global aviation industry. Dr. Hodwitz has delivered guest lectures and trainings on data collection, analysis, and policy assessment to academic, practitioner, and military audiences in North America, Europe, MENA, and Asia. She has published an assortment of journal articles, chapters, and research reports on violence and extremism, as well as instructive guides for the counterterrorism community on conducting high quality and ethically sound research.

Dr. Petar Marinov, is on active duty in Bulgarian armed forces since 1997. He conducted his PhD on Rakovski National Defense College (RNDC) in 2010 with a special focus on the asymmetric and net-centric warfare. He has been a full-time lecturer at RNDC since 2011. The author is the executive of the Master Degree Programme, named “Security and Counteraction to Radicalization and Terrorism”. He has personal experience in participating in peacekeeping operations in Iraq (tactical operation center commander in 2006/2007) and Afghanistan (mentor in Afghanistan National Army- 2011/2012). Marinov is also a specialist in the areas of peacekeeping operations, military command and control, military staff procedures, and net-centric warfare.

Dr. Zeynep Sütalan holds a PhD degree in International Relations from the Middle East Technical University. Between the years 2005 and 2011, she worked for the Centre of Excellence Defence Against Terrorism (COE-DAT) as a concept specialist. She has been giving lectures about terrorism in COE-DAT and Partnership for Peace Training Center in Ankara. Her academic interest includes terrorism, counterterrorism, gender and terrorism, history, politics and economics of the Middle East. Currently, she is a part-time lecturer at the Atılım University.

Dr. Richard Warnes, spent seven years during the 1980s and early 90s as an NGO worker, involved in international relief and campaigning, travelling extensively and engaging with communities in the Middle East, Eastern Central Europe, South East Asia and South America. He previously served in the British Army including as a UN Peacekeeper in Bosnia during the warring faction period in the mid-1990s, again dealing on a daily basis with different communities. He then spent nine years in the Metropolitan Police (London), serving in a response team, public order (riot), rapid entry team, Special Branch and Counter-Terrorism Command. From 2007 he worked for ten years as a research analyst in RAND Europe, including conducting field evaluation of a capacity building programme for Iraqi and Afghan police and military specialists over a six-year period. This focused on the development of local community intelligence. He is currently a self-employed research analyst in defence and security, a Research fellow with RAND Europe and has a doctorate on ‘The Mark 1 Counter-Terrorist: Human Factors in Effective Counter-Terrorism’.

Prof. Haldun Yalçinkaya is an International Relations Professor in TOBB ETU University. Prof. Yalcinkaya graduated from Kuleli Military High School and later Turkish Military Academy. During his military service as an officer, he completed his post-graduate studies in International Relations at İstanbul University. After earning his Ph.D. degree, he conducted postdoctoral studies at Oxford University, West Point Military Academy and the University of Florida. He published two books on war issues and several academic articles. After serving more than ten years at Turkish Military Academy, he has been Associate Professor in International Relations at TOBB University of Economics and Technology since 2013.

Dr. Jean Pascal Zanders is founder of The Trench and an independent researcher and consultant. He specialises in questions of armament and disarmament, covering chemical, biological, radiological and nuclear weapons, as well as space policy. Using foresighting strategies, he researches the meaning of disarmament in a fast-evolving security context, including the longer-term future of the Chemical and Biological and Toxin Weapons Conventions, the preconditions for new global and regional disarmament initiatives, and related security developments. He participates in working groups studying opportunities for non-conventional weapon disarmament in the Middle East. His interest also goes to the internal dynamics of a terrorist or criminal entity seeking to acquire a chemical or biological weapons capability. He furthermore develops educational strategies and courses for security, disarmament and technology transfer controls and designs and runs tabletop exercises. He was a Senior Research Fellow at the European Union Institute for Security Studies (EU-ISS) in Paris from June 2008 until May 2013. Since 2009 he has participated as an expert to the Belgian and EU Delegations in the BTWC and CWC meetings. Before that he was Project Leader of the Chemical and Biological Warfare Project at the Stockholm International Peace Research Institute (SIPRI) from October 1996 until August 2003 and Director of the Geneva-based Bio-Weapons Prevention Project (BWPP) between April 2003 and May 2008. At the BWPP he was also entrusted with the implementation of the first European Union Joint Action in support of the Biological and Toxin Weapons Convention (2006-2008). He has published extensively on chemical and biological weapon and other security issues in English, Dutch and French since 1986. He holds Masters Degrees in Germanic Philology-Linguistics (1980) and Political Sciences (1992) and a PhD in Political Sciences (1996) from the Free University of Brussels (VUB).

INTRODUCTION

Haldun Yalçınkaya

GOOD PRACTICES IN COUNTER TERRORISM

It is a privilege to share the second volume of “Good Practices in Counter Terrorism”, the results of the efforts of a group of highly respected researchers and practitioners. In order to address the current issues and the burgeoning discussions in the field of counter terrorism (CT), in early 2020, the NATO Centre of Excellence for the Defence Against Terrorism (COE-DAT) initiated the “Good Practices in Counter Terrorism” project with the academic support of TOBB Economics and Technology University (TOBB ETU). This living project has been produced by members of the pool of visiting lecturers at the COE DAT, the accumulated human resources of the center through years of engagement with academics and practitioners. Within this framework, we, as COE DAT and TOBB Economics and Technology, organized a series of workshops in which current issues in CT were addressed by relevant experts. Upon the conclusion of the discussions and based on the latest research and experience of our experts, we published the first volume of “Good Practices in Counter Terrorism” in early 2021. Following the same structure, and initiated in early 2021, the second volume of the series is the final outcome of a one-year endeavor which has built an interactive platform of expertise on the effective methods, strategies, national responses, and alternative models in CT. We hope that this timely contribution will offer a comprehensive and multi-sectoral approach to support efforts in the CT domain through inspiring various actors in their ongoing endeavors to develop, professionalize and synchronize CT policies at the national level.

Although the project was initiated after one year of preparatory work, it is built upon the accumulation of COE-DAT’s knowledge and project contributors’ competences and depth of understanding over a far longer period. Moreover, by the time the efforts for the first volume reached its final stages, we had already realized that a second iteration of the project should be conducted and that a second volume was a responsibility for the center, to reflect upon its continued accumulation of expertise. A second volume for the book was, therefore, inevitable. Thankfully, the expertise the research team developed during the first iteration made the job easier when it began work on the second volume. Admittedly, the Covid pandemic prevented the authors, the editor and his team and the COE DAT staff coming together not only for the first chapter but also for the second one. All but one of the component activities of the project were to be executed online in this period. However, in 2021, the COE DAT organized its annual Terrorism Experts Conference (TEC) in a hybrid form, where the speakers presented their papers in person and the participants joined the conference online. During the TEC 2021 event, the research team and the authors as well as the COE-DAT staff, although sadly not all of them, had the opportunity to come together in person. The preliminary results of

the research papers presented during the online TEC 2020 as well as at the hybrid TEC 2021 provided an opportunity to share and receive feedback from other experts. As a result, the chapters included in volume two, just like volume one, are mature and robust thanks to being presented during the Terrorism Experts Conferences.

As a strategic level think tank working for the development of NATO-Defence Against Terrorism activities, COE-DAT supports NATO's Long-Term Military Transformation by anticipating and preparing for the ambiguous, complex, and rapidly changing future security environment. The Centre strives to increase information sharing within NATO and with NATO's partners to ensure the retention and application of acquired experience and knowledge. It supports NATO allies, Sponsoring Nations, NATO Partners, non-NATO entities, and other stakeholders in their CT efforts with emphasis on military effectiveness and interoperability amongst assets, forces, and capabilities. Sitting outside the NATO Command Structure, COE-DAT interacts with universities, think tanks, researchers, international organizations and global partners with the academic freedom to provide critical thought on the inherently sensitive topic of CT. Against this background, COE-DAT provides a sophisticated intellectual platform enabling CT stakeholders (military officials, policy makers, academics, CT experts and so on) to draw lessons from CT field-tested practices and share profound information on policy alternatives and possible future threats driven by the national and case specific experiences in this dynamic and complex domain.

In line with this, the "Good Practices in Counter Terrorism" collection is the latest initiative that aims to fill gaps in existing CT literature and policy-making through presenting field-tested and evidence-based good practices as well as innovative models addressing current trends and future threats in CT. This collection will contribute to a global CT agenda that involves the harmonization of CT requirements, the pooling and sharing expertise in the field, setting priorities, standardizing CT mechanisms and facing up to new security challenges. In the meantime, this publication will also support policy-makers and high-level practitioners to transform their CT frameworks, based on alternative solutions to dealing with relevant aspects of CT.

Structure of the Book

Richard Warnes contributes to this volume an analysis of the societal aspect of countering terrorism. He discusses the good practices in community policing programmes within the framework of countering terrorism. He argues that the basic concepts which underpin community policing are not only good practice in reducing local crime but are equally valid in countering terrorism. Additionally, such concepts are not only applicable in the context of domestic police counterterrorism but can be successfully transferred and employed by the military in both domestic security and expeditionary missions overseas where terrorism is one aspect of a wider insurgent campaign. This is because such community policing

approaches, and the principles underpinning them, help facilitate a greater understanding of the 'human terrain' within the local community, develop situational awareness and ultimately lead to the development of 'bottom up' local intelligence. Since the development of local community intelligence is predicated on the 'human factors' of building trust with these local communities, interacting and engaging with people, developing a rapport, understanding and knowledge, it can be argued that such concepts are cross-cultural, eminently transferable and consequently equally relevant to both domestic Military Aid to Civil Authorities (MACA) and foreign military operations.

In the next chapter, Omi Hodwitz examines prosecution and detention procedures and their impacts on recidivism and re-engagement. The chapter assesses different methods of processing, prosecuting, and detaining extremists who are in custody with the goal of identifying practices with positive outcomes, particularly in relation to reoffending. These methods may be grouped into two models of counterterrorism: the military model and the criminal justice model. These two models are paired with definitional and comparative considerations and a description of model goals and metrics of success, including deterrence (goals) and reengagement or recidivism (metrics). As a means of gauging effectiveness, the chapter provides a general assessment or meta-analysis of model applications and effects in select nations around the world. It also includes a data-driven case study assessment of the practices and outcomes of each model in the United States. The individual and collective outcomes of these assessments indicate that the criminal justice method of prosecution and detention is the more effective means of deterring terrorism. The results are evident across most case studies, despite the variability in their application of the criminal justice and military models. She concludes that these findings may be due, in part, to key factors such as definitive court convictions and sentencing and detention-based programming.

Detection and disruption of the financial resources of terrorist groups is another preventive measure in the domain of counterterrorism. In this volume, Arabinda Acharya revisits some of the key military and non-military initiatives against terrorist financing and examines whether the existing regulations are effective in preventing terrorist entities making and moving money. The chapter first details the typology of terrorist financing followed by the measures and initiatives taken by governments and the international community, particularly after 11 September 2001 (9/11), to fight terrorist financing, and then assesses the progress made since then on this front. He underlines the fact that these efforts are in the civilian domain, derived from age-old anti money laundering policies and practices which have yielded some level of success, albeit slowly and incrementally. Based on his analysis of joint civilian and military counterterrorism missions in three case studies (i.e. counterterrorism activities targeting Liberation Tigers of Tamil Elam (LTTE) in Sri Lanka, Islamic State of Syria and Iraq (Daesh) in Syria and Iraq, and Revolutionary Armed Forces of Colombia (FARC) in Colombia), he highlights field tested good practices led by the military operations, targeted to disrupt specific financial resources of the terrorist groups. Military

campaigns have been successful in causing serious damage in criminal activities to make money as drug cultivation, illegal trafficking activities (human, arms, drugs, gold, oil and petroleum), and other financial resources including ransom revenues from mass kidnappings and extortions. Targeting terrorist financing, as is the case with terrorism itself, therefore requires both tactical military operations to disrupt the individual nodes (terrorists and their financiers) and strategic means to change the environment within which terrorists raise and move their resources.

Zeynep Sütalan, in her chapter on the gender dimension in counterterrorism, covers the prosecution, rehabilitation and reintegration of the women associated with terrorism. Her primary focus is the issue of returning foreign terrorist fighters and the women associated with Daesh and its affiliates. In addition to reiterating the need for a timely and effective response which should be age and gender-specific, she argues that the responsibility to respond to women (and children) associated with or suspected of having links with Daesh rests upon the shoulders of the international community as a whole as well as the individual nations concerned (meaning nations who have nationals who are associated/affiliated with Daesh). Despite the calls to the nations by the United Nations for the immediate repatriation of their nationals from the camps in Syria, there is still great deal of uncertainty regarding the ‘time’ when this should happen. Based on her analysis of the lessons-learned and various reports on the gender dimension in countering terrorism, she concludes that gender-specific (women) and age-specific (children) counterterrorism measures should seek the security of subjects and address their physical and psychological needs, ideally within the framework of an internationally established temporary protection regime monitored by an international peacekeeping force. She highlights the fact that good practices addressing how to formulate gender-sensitive policies including foreign terrorist fighters are limited: this matter has been discussed in several global and regional platforms, and some of guidelines are present to improve good practices. Among them are: the need to avoid gender stereotypes in assessing the varying roles women play in terrorism; recognizing that both women and men can be victims or perpetrators of violent terrorist acts; acknowledging that these women and men should go through the necessary processes in accordance with their deeds including prosecution; that they should receive support and treatment when necessary; the importance of ensuring that these women and men have access to age and gender-sensitive rehabilitation and reintegration accompanying their sentences in prison, or after imprisonment or instead of imprisonment; and the importance of providing appropriate gender training for the professionals who are dealing with terrorists in the criminal justice sector, military, and social services.

The next chapter addresses another timely issue in countering terrorism. Having experienced the devastating and still ongoing impacts of the COVID-19 pandemic, we contribute to the burgeoning debate about biological threats in the domain of counterterrorism. In line with this, Jean Pascal Zanders introduces the international and the national practices, regulations,

and measures currently in to deal with the use of pathogens in terrorist campaigns. The chapter discusses the contribution of the 1972 Biological and Toxin Weapons Convention, a global disarmament treaty, and the associated actions taken by the international community for the prevention of terrorism using biological weapons. The treaty urges parties to take on the national level legislative measures that prevent any non-state actor from acquiring biological materials and any other equipment or technologies that might contribute to the development, production or any other form of acquisition of biological weapons. In this very specific field of counterterrorism, there are various parties including the international community, national authorities, research and development communities, national and multinational corporations and individuals. He highlights the fact that the ultimate deterrent to the use of biological means in terrorist activities is the complexity of the armament dynamic – acquisition of appropriate pathogen strains, their cultivation and production, storage, and dissemination. However, regardless of this, measures to prevent and respond to acts of terrorism involving biological weapons should be taken seriously at both national and global levels. Based on his analysis of good practices in individual nation states, legislative measures should address the technology transfer, the physical protection of infrastructure, personnel, and other facets of bio-risk management, improving intelligence, the effective enforcement of criminal law, developing proficiency in rapid response emergency measures, and raising awareness of present and possible future security risks that may result from commercial or research activities. In the meantime, he also discusses NATO's preparedness in this specific domain within counterterrorism. Derived from tabletop exercises and the recent COVID-19 pandemic experience, Dr. Zanders underlines the importance of the use of a wide range military capability for emergency responses. In addition to this, he also notes that peacekeeping missions might have a special role in detecting and reporting local health crises and suspicious outbreaks.

Another professional practitioner – Stephen Harley - contributes to our second volume a chapter on the role of activities towards negotiated settlement with terrorist groups in counterterrorism campaigns. He is inspired by Harmonie Toros' previous COE-DAT study aimed at bridging peacebuilding and reconciliation frameworks with activities focused on the disarmament, demobilization and reintegration of terrorist groups. This chapter provides a timely review of the place of activities along the continuum of conflict resolution, including shaping, negotiated settlement, longer term reconciliation and the post-conflict rehabilitation of groups and individual fighters. The chapter identifies ten broad thematic areas which have shown promise or, by contrast, which have experienced setbacks, related to the analysis of the peace agreement with the FARC in Colombia and other various negotiation efforts including those focused on al-Shabaab, the IRA, Daesh, and the PKK. Discussions around these thematic areas shed light on the fragility of the negotiation environment, which has inherent dangers driven by proscription, labelling & villainisation amongst negotiating parties, ill-managed and non-effective defections, non-inclusive settlement efforts, and breaches of the secrecy of the negotiation process. In order to deal with these challenges and to eliminate

the risk of the escalation of terrorism due to setbacks in the negotiation process, Harley suggests that strategic communications, adjustments in language, remote negotiations, and opening new communication channels with the support of international community have proven effective in preparing both the terrorist group and the institutions of government for a negotiated settlement.

Petar Marinov, in the last chapter, discusses the link between de-radicalization and CT policies. Given the fact that radicalization is one of the root causes of terrorism, Marinov attempts to derive lessons from both successful and unsuccessful CT practices to understand basic procedures underpinning the process of radicalization. Within this aim, he analyses the process of radicalization, which is triggered by a deep sense of injustice and the extreme suppression of the anger linked with the individual state of mind, and finally the expression of this deep anger through terroristic means. He pays special attention to the military sector and the operational environment in addressing the factors prompting radicalization and the use of terror by extremists. Marinov notes that, especially in the context of military interventions for peace-building and peace-keeping missions, military personal should be aware of the situation, and that they are 'walking on thin ice'. Since the deployed military is, by its very nature, an external imposition, this perception might actually lead to local resistance and political tensions over national sovereignty. In the meantime, radicalization may be the unintended result of the armed forces' activities at the operational level. With respect to this, he underlines that at the operational level, peace-building missions should refrain from actions which may intimidate local people or conflict with the local cultural and ethno-religious standards. Highlighting the lessons-drawn from Iraq and Afghanistan, Marinov also discusses the importance of well-structured cooperation with the local media and NGOs. Apart from the radicalization triggered by misconduct at operational level, the author sheds light on the radicalization inside the military units. Based on his analysis of right-wing radicalization in some armed forces, he points out that the possibility of a secret network of radicalization in the security system is very possible and dangerous, particularly because these groups have access to the military equipment and intelligence. Accordingly, Marinov concludes that the processes of radicalization, anarchism and ultra-nationalism expose multi-dimensional challenges that, in turn, require multifaceted responses drawing on all relevant policy areas and involving all the relevant actors at local, regional, national, and international level.

CHAPTER I

COMMUNITY POLICING: GOOD PRACTICES IN COUNTERTERRORISM

Richard Warnes

Introduction

Community Policing, sometimes referred to as Community Orientated Policing or Neighbourhood Policing¹, is very much based around engagement with local communities, the development of relationships and the building of trust.² To some extent it is a return to more traditional concepts of *'policing by consent'* and foot patrols. This follows a period of more reactive vehicle-based Response Policing during the latter period of the 20th Century and early 21st.³ However, this chapter will argue that the basic concepts which underpin Community Policing are not only good practice in reducing local crime but are equally valid in countering terrorism. Moreover, it will argue that such concepts are not only applicable in the context of domestic police counterterrorism but can be successfully transferred and employed by the military in both domestic security and expeditionary missions overseas, where terrorism is one aspect of a wider insurgent campaign.

This is because such community policing approaches, and the principles underpinning them, help facilitate a greater understanding of the *'human terrain'* behind the local community, develop situational awareness and ultimately lead to the development of *'bottom up'* local intelligence. Since the development of local community intelligence is predicated on the *'human factors'* of building trust with these local communities, interacting and engaging

¹ UK College of Policing, "Neighbourhood Policing", October 2018. <https://www.college.police.uk/guidance/neighbourhood-policing>

² The US Department of Justice (DOJ) Community Orientated Policing Services (COPS) states that 'Community Policing is a philosophy that promotes organisational strategies which support the systematic use of partnerships and problem-solving techniques, to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder and fear of crime'. See The Office of Community Oriented Policing Services (COPS Office), "About the COPS Office", Undated. <https://cops.usdoj.gov/aboutcops>. In a different policing environment, the Northern Ireland Policing Board point out that 'A major objective for the PSNI (Police Service of Northern Ireland) is to establish active partnerships between the police, the community and other relevant bodies through which crime, service delivery and police-community relations can be analysed and appropriate solutions designed and implemented'. See Northern Ireland Policy Board, www.nipolicingboard.org.uk

³ UK College of Policing, "A career pathway in response policing", Undated. <https://d17wy4t6ps30xx.cloudfront.net/production/uploads/2020/08/A-career-pathway-in-response-policing.pdf> (Date of Access: 20.01.2022)

with people, developing a rapport, understanding and knowledge, it can be argued that such concepts are cross-cultural, eminently transferable and consequently equally relevant to both domestic Military Aid to Civil Authorities (MACA) and foreign military counterinsurgency operations.

For the purposes of this chapter, the definitional distinctions between terrorism, counter-terrorism and insurgency are as follows:

Terrorism – *‘The unlawful use or threatened use of force or violence, instilling fear and terror, against individuals or property in an attempt to coerce or intimidate governments or societies, or to gain control over a population, to achieve political, religious or ideological objectives’;*

Counter-Terrorism – *‘All preventive, defensive and offensive measures taken to reduce the vulnerability of forces, individuals and property against terrorist threats and/ or acts, and to respond to terrorist acts’.*⁴

Insurgency is a wider concept that can be defined as *‘An organised, violent subversion (often incorporating terrorism as one part of a wider campaign of violence), used to effect or prevent political control, as a challenge to established authority’.*⁵

Community Policing

Community policing is predicated on the engagement and interaction of police officers with the local community in order to develop an understanding of the community, build relationships and develop partnerships with key elements in that community in order to counter crime, reduce disorder and improve local security...

“Community policing is, in essence, a collaboration between the police and the community that identifies and solves community problems. With the police no longer the sole guardians of law and order, all members of the community become active allies in the effort to enhance the safety and quality of neighbourhoods.”⁶

While the phrases *‘community policing’*, *‘neighbourhood policing’* or *‘community orientated policing’* became more common in the 1980s and 90s, many believe the key principles behind such an approach, certainly in the case of the United Kingdom (UK), can be traced back to Sir Robert Peel’s Nine Principles of policing in 1829. In particular, Peel stressed that *‘the police are the public and the public are the police’*, where police officers are seen as members of the wider community they police, and they police by consent of that community.⁷

⁴ NATO, NATO Glossary of Terms and Definitions (English and French).

⁵ Based on British Army, Army Field Manual Countering Insurgency, 1-4.

⁶ Bureau of Justice Assistance, Understanding Community Policing: A Framework for Action, vii.

⁷ UK Government Home Office, Definition of Policing by Consent.

The understanding and engagement with the local community, necessary to effectively implement community policing approaches, is normally facilitated by police foot/ bicycle patrols (as opposed to vehicular response policing), dedicated community policing teams, community liaison officers and neighbourhood watch teams. The latter comprise volunteer members of the public, who form a group to monitor and report suspicious criminal activity in the local community area.⁸ These neighbourhood watch groups normally liaise closely with community policing officers, reporting their concerns and suspicions, while being updated by the police regarding local criminal activity and crime *'hot spots'*.⁹

Concepts and Applicability - Policing

One of the key concepts underpinning community policing is the Procedural Justice Model, advocated by criminologists such as Tyler, Jackson, Bradford, Hough and Stanko.¹⁰ This argues that the legitimacy of police amongst local communities, and associated public compliance with the law, is not only linked to their effectiveness in countering crime, but also how they interact with the public, particularly in the case of minority communities. If police officers are allowed the time and resources to engage with the public and treat members of the community fairly and in a just manner, it helps build trust, enhance legitimacy and in the longer term, to develop some level of institutional authority. As alluded to, this is particularly important when engaging with culturally and linguistically diverse minority communities. Research has shown that if minority communities perceive the behaviour of police during their interactions as *'firm but fair'* and without prejudice, their confidence and trust in the police increases.¹¹

This confidence in, and perceived legitimacy of, the police amongst local communities is crucial to the level of interaction and engagement, the development of local community knowledge and ultimately the willingness of the population to report offences, raise their suspicions and pass on information. This is essential in underpinning the development of *'bottom up'* local community intelligence. As will be shown in the various examples that follow, the generation of such local community intelligence is not only important in reducing local crime, but can prove critical in countering terrorism, which often hides amongst and exploits local communities, their legitimate institutions and places of worship...

Examples

1. *In 1999 a group of Breton Separatists of the Armee Revolutionnaire Bretonne (ARB) (Breton Revolutionary Army) and Basque Euzkadi Ta Askatasuna (ETA), stole eight and a half tons of the commercial quarrying explosive Titane 30 from a factory in*

⁸ UK Government Home Office, Help make your neighbourhood a safer place.

⁹ Eck, et. al. Mapping Crime: Understanding Hot Spots.

¹⁰ Jackson, et. al. Why do People Comply with the Law?.

¹¹ Bradford, et. al. Contact and Confidence: On the distribution and significance of encounters with the Police.

Plevin, France. Some of the explosives were subsequently used in fatal ETA attacks in Spain and ARB bombings in France. In 2002, a rural landlord in France approached his local Gendarmerie regarding two suspicious lodgers who had not paid their rent. The Gendarmes attended the address, but finding the lodgers had left in haste, searched the building. During the search, they recovered a large quantity of the explosives stolen by terrorists.¹²

2. *In 2002, a Spanish couple rented a flat in Talence, near Bordeaux in France. They paid several months in advance with a large sum of cash, which the landlord found highly suspicious. He felt confident enough to report his concerns to the local Gendarmerie, resulting in an investigation. Soon after, in a joint Franco-Spanish armed operation, the couple were arrested.¹³ They were Ainhoa Mugica Goni and Juan Antonio Olarra Guridi, the leaders of the military wing of ETA (Basque Fatherland and Freedom), linked to at least nine terrorist related murders.¹⁴*
3. *In 2004, a group of British religious extremists linked to the al-Qaeda network purchased around half a ton (600kg) of agricultural Ammonium Nitrate fertiliser, which they planned to use to fabricate a series of 'home-made' explosive devices for attacks on night clubs and shopping centres. They stored the large quantity of precursor at a storage facility in west London. Critically, a member of staff at the storage facility remembered the historical use of Ammonium Nitrate by the Provisional Irish Republican Army (PIRA) in their earlier terrorist bombing campaigns and contacted the authorities. The resulting Operation CREVICE investigation, arrests and trial led to five members of the cell receiving life sentences.¹⁵*

Countering Radicalisation¹⁶

In addition to improved police understanding of the community, one of the additional benefits of close police liaison with the wider community and its institutions is the wider public's understanding of potential threats based on police advice and inputs. In particular, such liaison increases the likelihood that members of the community will recognise... and be willing to report, individual cases of radicalisation at an earlier stage. Community actors are clearly in a much better position to identify the early signs of individual radicalisation towards violent extremism. These community actors might include family members, social workers, teachers, religious leaders or sports club members. They are also more likely to have some level of personal relationship with the individuals concerned and consequent

¹² Author interview with senior French Gendarmerie officer. For more details on the ARB, see Baud, J. (2003) *Encyclopedie des Terrorismes et Violences Politiques*.

¹³ The Guardian, French police detain suspected ETA terrorists.

¹⁴ For more details on ETA and its terrorist campaign, see Leonisio F. & Muro, *ETA's Terrorist Campaign: From Violence to Politics 1968-2015*.

¹⁵ Clutterbuck & Warnes, *Exploring Patterns of Behaviour in Violent Jihadist Terrorists*.

¹⁶ Although countering radicalisation is one potential benefit of community policing, a more detailed chapter on the topic of radicalisation is contained in this publication.

motivation to intervene... as long as they recognise some of the associated warning signs and where to find effective support, often through local community policing officers.¹⁷

Consequently, Preventing/Countering Violent Extremism (P/CVE) interventions continue to remain important tools in countering-terrorism at a local community level.¹⁸ These play a key role in maintaining both individual and community/ group resilience against extremist messages, radicalisation and a potential turn to violence. Many of these interventions have previously been developed to counter a corrupted religious message, but in the future, they will increasingly need to focus on those vulnerable to Extreme Right wing, Extreme Left wing and other extremist and racist ideologies.¹⁹

Examples

1. *In the Netherlands, the authorities have introduced multi-agency 'Regional Safety Houses', which work with vulnerable individuals at risk of radicalisation or involvement with violent networks.²⁰ These comprise various local community actors along with prosecutors and critically, local community police, who work with individuals while also providing support to their families and others closely linked to them.²¹*
2. *UK Neighbourhood Policing teams have been closely linked with the Prevent strand of the wider UK CONTEST (Counter Terrorism Strategy).²² Prevent works with local communities, the private sector and wider community stakeholders, in order to provide a community-based response to vulnerable or radicalised individuals, or those who might radicalise others.²³*

Concepts and Applicability – The Military (1): Domestic MACA & Counterterrorism

Despite their different training, arming, and roles, it is argued that such concepts of community engagement, the development of relationships and building of trust are not only valid for police officers involved in community policing, but equally valid for military forces when they are used in domestic military operations, including enhancing counterterrorist security. These domestic Military Aid to the Civil Authorities (MACA) operations often see military personnel operating, working alongside and in support of policing colleagues

¹⁷ EU RAN, Preventing Radicalisation to Terrorism and Violent Extremism.

¹⁸ Disley, et. al., Individual Disengagement from al-Qaida Influenced Terrorist Groups.

¹⁹ Briggs & Feye, Review of Programs to Counter Narratives of Violent Extremism: What works and what are the implications for government?.

²⁰ These are often younger people, many in their teenage years, whose attraction or interest in forms of extreme forms of religion or politics can be encouraged and exploited by extremist networks through online or face to face radicalisation.

²¹ See OHCHR, 'Contribution by the Kingdom of the Netherlands', Undated, Office of the United Nations High Commissioner for Human Rights. [Netherlands-GA75CT.pdf \(ohchr.org\)](#)

²² UK Government, 'CONTEST: The United Kingdom's Strategy for Countering Terrorism', CM 9608, HM Government, June 2018. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/716907/140618_CCS207_CCS0218929798-1_CONTEST_3.0_WEB.pdf

²³ UK Government, Prevent Strategy, CM 8092.

and other first responders of the emergency services.²⁴ Numerous historical and more recent examples of such MACA operations and resultant engagement with the public exist...

Examples

1. *With its strong links to the wider community, the Irish Defence Forces have traditionally fulfilled a strong MACA role in a variety of different areas. In Ireland this is known as Aid to the Civil Power (ATCP).²⁵ As a result, unlike some countries, the Irish military are very much 'part and parcel' of daily routine and have established a strong tradition of close cooperation with the Garda (police).²⁶ This was particularly the case during the period of 'The Troubles' between the 1970s and 1990s, when the Irish Army regularly supported the Garda in conducting their duties.²⁷*
2. *In France, the military are regularly deployed to patrol airports, rail stations, critical infrastructure and tourist locations, providing additional security against terrorism along with public re-assurance as part of the wider Vigipirate Plan and Operation SENTINELLE.²⁸ Plan Vigipirate (Vigilance et Protection des Installations contre les Risques d'Attentats Terroristes a l'Explosif) was created in 1978 and provides an adjustable antiterrorist security plan.²⁹ Operation SENTINELLE was introduced following the Ile-de-France terrorist attacks of January 2015 (Charlie Hebdo and Hypercacher Kosher supermarket) and reinforced after the Paris attacks on November 2015, including the Bataclan Theatre.³⁰ Because of these deployments, the French military regularly engage with the public in a MACA security role, while both Belgium and the UK have similar military security plans, respectively with Operations VIGILANT GUARDIAN and TEMPERER.³¹*
3. *Following the 2004 Atocha rail bombings in Spain by Groupe Islamique Combattant Marocain (GICM) affiliates of al-Qaeda, the Spanish Army increased uniformed security patrols of the Spanish rail network.³² Due to its role in the protection and security of Spain's Critical National Infrastructure (CNI), elements of the Spanish Army were previously regularly deployed to patrol oil pipelines, airports, nuclear plants and the railway network. However, in addition to security, the increased rail patrols and engagement following the Atocha bombings played a major role in re-assuring the Spanish public.³³*

²⁴ UK Ministry of Defence, UK Operations: The Defence Contribution to Resilience and Security.

²⁵ Centre for Crime, Justice and Victim Studies, Aid to the Civil Power?.

²⁶ Irish Government, Defence.

²⁷ Harvey, *Soldiering Against Subversion: The Irish Defence Forces and Internal Security During the Troubles 1969-1998*.

²⁸ French Government, *L'Action Contre le Terrorisme*.

²⁹ French Government, *Prevention des Risques Majeurs: Comprendre le Plan Vigipirate*.

³⁰ Chrisafis, *Thousands of troops on Paris streets but are they France's new Maginot line?*.

³¹ US Army Centre for Army Lessons Learned (CALL), *Operation Sentinel French Homeland Security Operation*.

³² Reinares, *Al-Qaeda's Revenge: The 2004 Madrid Train Bombings*.

³³ Author interview with senior police counter-terrorism liaison officer in Spain.

Negation of Trust

However, the flipside of developing positive community engagement, whether in policing or military roles, or indeed in relation to the intelligence services, are the various factors that can negate and undermine community trust, sometimes due to historical legacies or culture. In France, notwithstanding the previous positive French examples and despite the passage of time, there is still a legacy of public mistrust and unwillingness to speak to the *Police* and *Gendarmerie* amongst some elements of the public, because of historic collaboration during World War II.³⁴ Although there are many courageous examples of individual officer's involvement with the Resistance Movement,³⁵ at an organisational level, both the *Police* and *Gendarmerie* played significant roles in supporting the *Vichy* Regime and German occupation, in particular arresting Resistance members and rounding up the French Jewish community for onward transportation to the concentration camps.³⁶ Likewise, despite modern perceptions of the Spanish *Policia Nacional* and *Guardia Civil*, for some, particularly from older generations, there is still a '*legacy of fear*' from the Franco period, when they were seen as instrumental in upholding and maintaining the Francoist regime through brutality and public fear.³⁷

While the size, technological support and resources of the US Intelligence Community (IC) are extraordinary, this can be a '*double edged sword*' where members of the public fear these very capabilities leading to an increased level of '*big brother*' type intrusiveness.³⁸ Likewise, while French intelligence structures are often seen as being very effective in historically countering terrorist threats, particularly from international and religious terrorism, there is also perceived to be a cultural pre-disposition towards '*Direct Action*' within the overseas *Direction Generale de Securite Exterieur* (DGSE), emanating from a heritage of World War II Resistance and the conflict in Algeria.³⁹ Israel's use of '*targeted killings*' has sometimes resulted in the '*law of unintended consequences*', including mistaken identity, where the wrong individual has been targeted, unintended collateral casualties, and the replacement of targeted terrorists with more effective terrorist leadership.⁴⁰ Along with policing and intelligence services, these negative cultural and historical factors can also affect the military...

Examples

1. *While the British Army were extensively deployed in Northern Ireland for decades in support of the Royal Ulster Constabulary (RUC) to counter the Provisional IRA (PIRA) as part of Operation BANNER, they were rarely deployed on the mainland.⁴¹ Consequently, when troops and light armoured vehicles were deployed at Heathrow in 2003 during heightened security concerns, there was an element of public surprise.⁴²*

³⁴ Author interview with senior French Police Counterterrorist liaison officer.

³⁵ Cobb, *The Resistance: The French fight against the Nazis*.

³⁶ Gaskill, M, *Why did French Police help the Nazi's deport France's Jews*.

³⁷ Author interviews with various Spanish policing and security officials.

³⁸ Bamford, *The Agency that could be Big Brother*.

³⁹ Denece, *Histoire Secrete des Forces Speciales: De 1939 a nos jours*.

⁴⁰ Bergman, *Rise and Kill First: The secret history of Israel's targeted assassinations*.

⁴¹ Edwards, *The Northern Ireland Troubles: Operation Banner 1969-2007*.

⁴² Peachey, *Troops patrol Heathrow after terror warning of missile attack on aircraft*.

2. *Although the majority of the US public have a positive view of the military, the introduction of Posse Comitatus legislation in 1878, following the excesses of the American Civil War, restricts the use of regular 'Federal' military forces in the Continental United States (CONUS).⁴³ Both the Posse Comitatus Act and FBI primacy in dealing with domestic terrorist incidents affected the formation of the national level domestic FBI Hostage Rescue Team (HRT).⁴⁴ While comprising serving FBI agents, many of its members are fast-tracked former Army Special Forces, Navy SEALs or Marines. This clearly provides a way around the restrictions on domestic military usage imposed by Posse Comitatus, a legacy of the Civil War.⁴⁵*

Concepts and Applicability – The Military (2): Overseas Counterinsurgency

Going beyond domestic military operations, and despite often significant differences of language, culture and environment, it is argued that the concepts and principles outlined are even applicable when the military are deployed abroad in an expeditionary role, countering terrorism as one element of a wider campaign of insurgency. This is because the concepts and principles detailed are based around human behaviours and culture... *'human nature'*. The overlap, transferability and applicability to military counterterrorism operations abroad is highlighted by one of the key concepts of counterinsurgency, namely to *'Gain and Maintain Popular Support'* with the local community.⁴⁶

“Gaining and maintaining popular support is an essential objective for successful counterinsurgency. It gives authority to the campaign and helps establish legitimacy. Unless the government gains its people’s trust and confidence, the chances of success are greatly reduced.”⁴⁷

Effective application of this approach helps:

- Create friendly force influence
- Separate insurgents from their support base
- Eliminate the level of subversive support from elements of the community to the insurgents
- Generate intelligence which enables the military to minimise its use of force by directly targeting the insurgents and minimising collateral impact or damage on the wider community⁴⁸

⁴³ Banks, *Troops Defending the Homeland: The Posse Comitatus Act and the Legal Environment for a Military role in Domestic Counter Terrorism*.

⁴⁴ Tomajczyk, *US Elite Counter-Terrorist Forces*.

⁴⁵ Whitcomb, *Cold Zero: Inside the FBI Hostage Rescue Team*.

⁴⁶ US Army/ Marine Corps, *Counterinsurgency Field Manual (FM-3-24)*.

⁴⁷ British Army, *Op. Cit. 3-9*.

⁴⁸ *Ibid.*

The academic David Kilcullen, a leading expert on guerrilla warfare⁴⁹, former Australian Army officer and previous advisor to General Petraeus in Iraq, suggests that such approaches help minimise the creation of what he describes as ‘*Accidental Guerrillas*’. Such ‘*Accidental Guerrillas*’ are ordinary members of the local community, such as farmers, who have been so negatively impacted by the deployment of the military, such as the death of livestock, the damage of land, or insulting behaviour and lack of cultural sensitivity, that they decide to take up arms and join the insurgent campaign.⁵⁰

Balance between Community Engagement and Force Protection

Clearly, in conducting such engagement with local communities during overseas military operations, as opposed to most domestic MACA roles, there is always a balance to be struck with the need for force protection, which will depend on the permissiveness of the environment (or lack of it). Obviously, each situation and its associated risk has to be carefully assessed, security overwatch and source protection established, and contingency plans made. However, excessive security resulting in force isolation and lack of engagement with the local community can result in reducing situational awareness and a concomitant limitation of local field intelligence.

Thus, while ensuring that troops on the ground in such a ‘*kinetic*’ environment are not exposed to unnecessary risks, developing some level of engagement and legitimacy with the local community is important in ‘*gaining and maintaining popular support*’. This in turn is essential to the generation of local community intelligence on terrorists, insurgents and their support networks.

Examples

1. *The following example is based on the author’s experience while serving in the British Army as a UN Peacekeeper in Bosnia during the warring faction period in the mid-1990s. In order to engage with the local communities of the various warring factions, Serb, Croat and Bosniac, it was regularly necessary to leave off body armour, wear a beret instead of a helmet and carry a pistol instead of a rifle... It is difficult to engage with local civilians and strike up a meaningful conversation if you look like ‘Robocop’!*⁵¹
2. *Kilcullen highlights a more recent example from Iraq of what happens when military units do not engage with the local community... “Rather than working with the population so as to protect them from the insurgents, some units, because of their lack of situational awareness and personal relationships with the people, tended to treat all*

⁴⁹ ‘Guerrilla’ is taken from the Spanish word for ‘little war’, used to describe irregular warfare during the Napoleonic Peninsular War of the early 1800s. Guerrilla Warfare is also an aspect of a wider insurgency, where small groups of irregular combatants, armed civilians or militia, use small unit tactics such as ambushes and hit and run raids against larger, less agile regular military formations.

⁵⁰ Kilcullen, *The Accidental Guerrilla: Fighting small wars in the midst of a big one*.

⁵¹ Author’s personal operational experience.

Iraqis as a potential threat and thus adopted a high-handed approach that alienated the population. This exacerbated the backlash against their presence, discouraged people from coming forward with information about the insurgents and thus further reduced these unit's situational awareness, leaving them trapped in a vicious cycle of intervention and rejection."⁵²

Generation of Local Community Intelligence

Ultimately, the various '*community policing*' approaches discussed can form the bedrock upon which local community intelligence can be generated. This is facilitated through an understanding of the '*human terrain*', the mobilisation of members of the local community to provide '*additional eyes and ears*', the generation of a more permissive environment for surveillance and the recruitment of human sources to provide local Human Intelligence (HUMINT). The resulting local community intelligence can be generated at three levels:

- **Overt Information:** Developing positive community engagement allows fixed Observation Posts (OPs), foot and vehicle patrols to identify and note the location and movement of key individuals, their associates, vehicles etc. which can be recorded in detail in an OP log or following the patrol in a patrol report.
- **Confidential Information:** By developing a level of engagement with the local community and building a measure of trust, individuals are more likely to report their concerns and suspicions or pass on confidential information.
- **Secret Intelligence:** Developed through the identification, recruitment, cultivation and development of human sources, who can not only tell you what has happened and what is happening in the present but may be in a position to tell you what is being planned in the future.

Arguably, although the traditional '*top down*' intelligence of national intelligence agencies remains critical, due to the nature of the terrorist threat, which often operates amongst the population in local communities, the role of this '*bottom up*' local community intelligence has become increasingly significant, whether domestically or on overseas expeditionary operations.⁵³

Community and Culture

The engagement of either the police or the military with local communities, and resultant opportunities to generate local community intelligence, are clearly enhanced with linguistic, cultural, religious and historical understanding of the '*human terrain*' they are operating amongst.⁵⁴ While such understanding can be improved by study and training, this capability

⁵² Kilcullen (2009) Op. Cit., 124.

⁵³ Brown, War Amongst the People: Critical Assessments.

⁵⁴ Yalçınkaya & Özer, Another lesson learned in Afghanistan: The concept of cultural intelligence.

is particularly the case when the police or military units have serving personnel who can speak the language or are even from the relevant community itself. Despite intensive training and study, no one will ever understand a community like an insider.

Consequently, with policing or military personnel from relevant communities, rather than just considering them in relation to the statistical demographic make-up of an organisation, such individuals and their linguistic and cultural knowledge should be seen in terms of '*force multiplication*' and the agency and potential that they can bring to the organisation. Some of these individuals, with the necessary psychological aptitudes and skills, can be used to conduct specialised infiltration and undercover work, particularly when dealing with terrorists from particular minority communities.

One further means of developing such '*cultural asymmetry*' to counter terrorism abroad is through capacity building, taking indigenous operators with the linguistic skills, local community knowledge and appropriate contacts, and then '*raising the bar*' through developing their operational skills and tradecraft through training. Thus, rather than taking the trained operator from '*outside*' the community and developing their linguistic skills and cultural knowledge, instead utilising local police or security force individuals from '*inside*' the community and then developing and improving their tradecraft and operational skills.

Examples

1. *Although British military linguists were trained to speak Pashto for operations in Afghanistan, and this was understood locally on the ground, they did not have the dialects, accents or additional words found amongst local indigenous communities. This resulted in them speaking what was regularly referred to as 'The Queen's Pashto'!*⁵⁵
2. *In Ireland, the Garda police find it culturally more difficult to be situationally aware regarding minority communities in the Country, because most of its officers are from the majority white Irish Catholic community. As a result, the Garda are actively recruiting from these minority communities.*⁵⁶ *However, on the flip side, the Garda have a good operational understanding of dissident Republican 'Subversives'. Coming from the same cultural and religious heritage, and often with local knowledge, they have a clear advantage in understanding and countering this type of nationalist terrorist threat. Likewise, given their cultural background and understanding, the FBI successfully infiltrated undercover agents into the Militia movement, helping to break up the network following the Oklahoma City Bombing of 1995.*⁵⁷

⁵⁵ Authors operational knowledge.

⁵⁶ Author interviews with various Garda officers. See Gallagher, Garda internship scheme will aim to drive recruitment of minorities.

⁵⁷ Author interview with senior FBI official. For more details on the Oklahoma City Bombing, and current threat posed by the extreme right wing, see the International Institute for Justice and the Rule of Law (IJJ), Malta, 'IJJ Criminal Justice Practitioners Guide: Addressing Racially or Ethnically Motivated Violent Extremism.

3. *In Israel, Police and Army Mista'aravim ('disguised as an Arab') operators are often recruited from Sephardic Jewish communities, often second or third generation immigrants from historic communities in Yemen, Morocco, Iraq and Egypt. Consequently, as well as having Arabic features, they often speak Arabic fluently and can be trained to disguise and pass themselves off as Palestinians in order to operate in that community to obtain intelligence, conduct Close Target Reconnaissance (CTR) or direct intervention.*⁵⁸
4. *France also uses a similar 'military-cultural pool' from within the Foreign Legion, where as well as highly trained elite light infantry and para-commandos they have genuine representatives from most of the World's countries, with the associated languages, demographics, cultural knowledge and passports.*⁵⁹ *Once loyalty to France has been ensured, these can be recruited for specialised intelligence roles.*⁶⁰ *Spain also has its Spanish Legion and the Regulares, where the majority of the highly trained troops are North African Muslims of Moroccan origin.*⁶¹

Unlikely Counter-Terrorists

Whether in a domestic policing or overseas military context, a key factor in the generation of local community intelligence is harnessing the support of members of the local community, particularly those in positions of access or authority, who are linked into the community and can provide additional 'eyes and ears'. Such non-state actors from the communities, commerce and business, have been referred to by Sir David Veness, a former Metropolitan Police Assistant Commissioner for Specialist Operations, as 'Unlikely Counter-Terrorists'.⁶² In a number of recorded cases detailed in the various examples, these members of the public with local knowledge and understanding have reported their concerns to the authorities, resulting in arrests and the thwarting of terrorist attack plans. This type of community support also provides understanding, insights and awareness of the local 'human terrain' that are normally unavailable to policing and military organisations outside the community.

Critical to maximising and leveraging this local community knowledge from 'unlikely counter-terrorists', is having good liaison and engagement with the community, the establishment of bespoke police or military liaison officers, a structured network, and established and easily accessible means of communications. One of the biggest problems currently undermining such approaches is, the lack of funding, resources and police personnel being dedicated to such community orientated roles.⁶³

⁵⁸ Cohen, Brotherhood of Warriors.

⁵⁹ Riou, Integration, Collective Identity and Assimilation in the French Foreign Legion.

⁶⁰ Author interview with Foreign Legion 2 REP veteran.

⁶¹ Wilkinson, The Spanish Legion, Franco's regiment, marches on to a brighter future.

⁶² Veness, The Role of the Police' in R. Briggs (ed.) The Unlikely Counter-Terrorists.

⁶³ Merrick, Police cuts: Loss of 7000 neighbourhood officers in three years putting public at risk, Labour warns.

Examples

1. *One key group of 'unlikely counter-terrorists' are security guards. In the US, the Los Angeles Police Department (LAPD) introduced the Security Officer Terrorism Awareness Course (SOTAC), which trains security guards to think beyond crime and consider possible terrorist indicators when dealing with their daily security duties. In this way they can provide additional 'eyes and ears' and act as a 'force multiplier' to the LAPD, by reporting their suspicions or concerns.*⁶⁴
2. *Likewise, the Israeli National Police liaise closely with security guards as part of their 'Third Circle of Security'. While the 'First Circle' concerns the security of the border and beyond, and the 'Second Circle' internal national security, the 'Third Circle' is concerned with local target hardening of shopping centres, bus depots and train stations. While in Spain, following the 2004 Atocha rail bombings, legislation was introduced allowing the police to co-opt local security guards to provide additional personnel at critical incidents.*⁶⁵
3. *Further 'unlikely counterterrorists' working with the police can be found amongst local businesses with a level of local understanding and awareness, particularly when their staff are involved in the sale or provision of 'dual purpose' technology, which can be exploited for terrorist purposes. This type of liaison with businesses is reflected in the New York Police Department's (NYPD) Operation NEXUS.*⁶⁶
4. *National campaigns to improve public awareness of terrorism and increase reporting can be found in many countries. These focus on various suspicious behaviours such as extremist research, the collection, preparation, or storage of materials, such as explosives or weaponry, hostile reconnaissance, terrorist financing or individual radicalisation. A good example of this type of campaign is the UK Counter Terrorism Policing 'Action Counters Terrorism' (ACT).*⁶⁷
5. *In a more hostile operational environment, following the increasing level of attacks by the PKK in the rural southeast of Turkey, in 1985 the authorities passed Law 3175. This allowed the formation, training and arming of Geçici Köy Koruculuğu (GKK) or 'temporary village guards' from local residents in those areas. These GKK have helped defend rural communities and supported the Turkish security forces to mount operations against the PKK, where their local knowledge and contacts have proved critical.*⁶⁸

⁶⁴ Author interview with senior LAPD officer.

⁶⁵ Author interviews with various Israeli and Spanish police and security personnel.

⁶⁶ NYPD Shield, Operation NEXUS.

⁶⁷ UK Government, Action Counters Terrorism (ACT).

⁶⁸ Village Law, (Koy Kanunu), Kanun No. 442, March 18, 1924; Revision, March 26, 1985, Article 74. (<https://www.resmigazete.gov.tr/arsiv/18715.pdf>)

HUMINT and Surveillance

Underpinned by the detailed knowledge and understanding of a community generated through the community policing approaches detailed, such community support can also benefit the more covert intelligence methodologies of source led HUMINT and visual intelligence from surveillance. While great care must be taken to 'firewall' these methodologies from the wider population, particularly in relation to source protection, such human centric intelligence can prove critical to developing counterterrorist interventions, both domestically and overseas. Much of this local community intelligence is developed through skilled 'handlers' running sources for the generation of HUMINT within the community...

Examples

1. *A good example of this type of intelligence development was demonstrated by both the Royal Ulster Constabulary (RUC) Special Branch⁶⁹ and the British Army Force Research Unit (FRU)⁷⁰ which ran human sources within the PIRA. The resulting HUMINT significantly weakened the terrorist organisation's external capabilities to launch attacks and undermined its internal cohesion and trust to a point where it strongly impacted its cohesion. Ultimately this helped lead to a ceasefire and the Good Friday Agreement of 1998.⁷¹*
2. *Other countries have also utilised HUMINT to counter various types of terrorist threats⁷²; French intelligence services extensive networks 'on the street' to counter extremist cells in urban communities, Spanish use of human sources married to technical intelligence (TECHINT) in a 'virtuous circle' to counter ETA in the Basque Region, Israeli intelligence of the 'two-legged variety' on HAMAS and Palestinian Islamic Jihad (PJI)⁷³ and Turkish human sources 'listening to the heart of the PKK'.⁷⁴*
3. *In 2008, the US Marine Corps (USMC) was suffering serious casualties from Improvised Explosive Devices (IEDs) in Iraq. As a result, they examined a range of historical examples of successful counterterrorism. They identified the UK Police Special Branch model as an effective approach to the collection, analysis and exploitation of local community intelligence through the development of human sources. As a result, they sought to replicate this model operationally as the Legacy Programme. Over time as Legacy expanded to Afghanistan, Iraqi and Afghan police and army operators were intensively mentored by embedded former UK source handlers with previous operational experience. They already had the linguistic skills, cultural insight and community knowledge, but the Programme sought to develop their tradecraft and operational skills through capacity building. Ultimately, in support of wider NATO*

⁶⁹ Matchett, *Secret Victory: The intelligence war that beat the IRA*.

⁷⁰ Urban, *Big Boys Rules: The SAS and the secret struggles against the IRA*.

⁷¹ Edwards, *Agents of Influence: Britain's secret intelligence war against the IRA*.

⁷² Author interviews with various French, Spanish, Israeli and Turkish police and security officials.

⁷³ Ganor, *The Counter-Terrorism Puzzle: A guide for decision makers*.

⁷⁴ Aktan & Koknar, 'Turkey' in Y. Alexander (ed.) *Combating Terrorism: Strategies of ten countries*.

operations, the Legacy Programme sought to improve Iraqi and Afghan HUMINT capacity, and because of its very nature, it is difficult to assess the success of Legacy. However, it was calculated that if every IED recovered and every weapons cache seized saved only one life each, then over six years between 2008-2014 the wider Legacy Programme saved thousands, possibly tens of thousands of lives. These were not just NATO ISAF lives, but local Iraqi and Afghan security forces and civilians, which one operator described as a 'Legacy of Lives'.⁷⁵

The other methodology used to generate and develop local community intelligence is specialised surveillance. While the 'handling' of human sources helps 'find' terrorists, the use of surveillance allows the police and military to 'fix' terrorists, identifying their lifestyles, movements and contacts, before going executive through arrest or tactical intervention to 'finish'.⁷⁶ Such surveillance can be in the form of either mobile surveillance by means of foot or in vehicles, or through the use of static Observation Posts (OPs) to monitor a venue, such as the subject's home address or a meeting place. With rural locations, this often requires additional specialist skills in the construction of Covert Rural Observation Posts (CROPS) or camouflaged hides...

Examples

1. *Possibly one of the best examples of inter-state counterterrorist operational cooperation are joint Franco-Spanish surveillance teams, provided with a level of extra-territoriality on both sides of the border. These played an important role in countering the threat posed by the Basque separatist group ETA, through the identification and arrest of its leadership.⁷⁷ The continuing identifications and arrests helped push ETA to negotiate and ultimately to declare a ceasefire.*
2. *Both the RUC Special Branch with its E4A unit and the British Army's 14th Intelligence Company (14 Int or the Det), were very actively involved in conducting specialist surveillance on the PIRA during the terrorist organisation's campaign of violence in Northern Ireland, playing a critical role in countering their plans and operations.⁷⁸*
3. *In Ireland, the Garda National Surveillance Unit (NSU) has been particularly active in operations across the whole country against both Dissident Irish Republicans and organised crime, which often overlap in a Crime-Terrorism nexus. While its operators have great local knowledge, the small size of the Country and close-knit local communities mean personnel have to be particularly careful to avoid being compromised.⁷⁹*

⁷⁵ Clutterbuck, 'The Other Side of COIN: New challenges for British Police and Military in the twenty-first century', in Johnson, R. & Clack, T. (eds.) *At the End of Military Intervention: Historical, theoretical and applied approaches to transition, handover and withdrawal*, 437-56.

⁷⁶ Peritz & Rosenbach, *Find, Fix, Finish*.

⁷⁷ France 24, *Spain looks to France for help against Basque separatists*.

⁷⁸ McCallion, *Undercover War: Britain's special forces and their secret battle against the IRA*.

⁷⁹ *Irish Examiner, Surveillance in the Spotlight*.

Because of their nature and the type of *'bottom up'* community intelligence they can generate, both HUMINT and surveillance methodologies can prove critical to establishing the *'ground truth'* in both domestic community-based counterterrorism, or overseas operational environments. In particular, they help in the establishment of intelligence *'tripwires'*, where hostile individual or group activities within the community, such as the collection and storage of precursor material for IED fabrication or hostile reconnaissance of potential targets, are flagged up to the authorities and can be responded to. These intelligence methodologies are intrinsically linked to the type of personal relationships, local community knowledge and cultural understanding generated and underpinned by the concepts and applications of community policing previously detailed. While the recruitment of sources is clearly dependent on a good understanding of key individuals and their roles and connections within a community, surveillance operations not only benefit from a good understanding of the local *'human terrain'* but can also operate in a more permissive environment.

Good Practices

As the various previous sections and their examples show, because of the complexity of different communities, cultures, environments, and associated variables, there is no set process of *'Good practice'* to develop such *'Community Policing'* and engagement. Nevertheless, there are various concepts and approaches, which have been highlighted that can be taken to develop and strengthen such relationships. Critically, and balanced with the permissiveness (or not) of the operational environment, all require some level of community engagement by police and military personnel:

- Appropriate training of police and security force personnel to understand the community history and culture in the environment they are operating in.
- Initial and developing community engagement to develop greater understanding.
- Application of the principles behind the Procedural Justice Model – Treat the public fairly, build a level of trust and ultimately, seek to develop a level of institutional authority.
- Appropriate recruitment and use of officers and soldiers from minority communities or with relevant language skills, cultural knowledge and community understanding – Not as statistics, but as *'Force Multipliers'*.
- Generating an understanding of the local *'Human Terrain'*.
- The identification, recruitment and organising of *'Unlikely Counter-Terrorists'* from among the local community – Security guards, businesses, shopkeepers, hoteliers, taxi-drivers etc. – Moving from *'Hearts and Minds'* to become additional *'Eyes and Ears'*
- Creating a firewall between local community policing and the development of intelligence.
- The development and use of HUMINT and surveillance.
- The generation of *'bottom up'* local community intelligence and resultant *'tripwires'*.

Conclusion

Although the processes previously detailed can ultimately lead to the development of actionable local community intelligence, which can be used to disrupt or stop terrorist or insurgent attacks, they begin with effective community policing approaches. The starting point of this process begins simply with the building of personal relationships and treating people from within a local community fairly and with respect. This can result in the development of a level of trust, legitimacy and institutional authority, which can ultimately provide the basis for the longer-term generation of local community intelligence to counter both domestic terrorism and overseas insurgency. Perhaps two final examples best demonstrate the potential effectiveness and relevance of such ‘Community Policing’ approaches...

Examples

1. *An exemplar, which highlights how such community engagement can work in a domestic context is the case of Andrew ‘Isa’ Ibrahim. He was the son of a consultant pathologist, had a good education, but was expelled from various schools and started taking drugs. He became addicted to on-line computer games, moved out of the family home and began taking heroin and crack cocaine, shoplifting to feed his habit. He was converted to a corrupted version of Islam by extremists and began to engage with the local Muslim community in Bristol. At some point, he attended a local Mosque where some of his comments were so extreme that it raised concerns amongst the local community. Police then received a tip off from the local Muslim community and as a result searched his flat in the suburbs of Bristol in 2008. They recovered two homemade suicide vests, nails, screws, ball bearings, a trigger mechanism and a quantity of HMTD Home Made Explosive (HME).⁸⁰ He was on the verge of conducting a suicide PBIED attack in a local shopping centre, where he was filmed by CCTV conducting hostile reconnaissance. He was not on the police radar, and had he not been identified by the local Muslim community, he would have conducted his attack.⁸¹*
2. In relation to the importance of such approaches in overseas military counterinsurgency operations, General Rupert Smith, the NATO Deputy Supreme Allied Commander Europe (DSACEUR), has stated that, “War amongst the people is conducted best as an intelligence and information operation... We need the information so as to achieve the deterrent of the law and evidential information in sufficient depth for a successful prosecution... For the rule of law to be supported and enhanced such that the people support it, the military measures must be focused on the lawbreakers. This demands good information and intelligence, precision in the attack or arrest.”⁸²

80 Hexamethylene Triperoxide Diamine – A highly unstable peroxide based Home Made Explosive (HME).

81 Young, How a Bristol Schoolboy who was radicalised into a terrorist was unknown to Police.

82 Smith, The Utility of Force: The art of war in the modern world.

In conclusion, moving beyond the traditional definitions of ‘*Community Policing*’, it is argued that the concepts and approaches detailed in this chapter are not only applicable in a domestic policing or security context, but also in relation to military overseas counterinsurgency operations. This is because the approaches outlined are ‘*human centric*’, cross-cultural, eminently transferable and consequently equally relevant to both domestic Military Aid to Civil Authorities (MACA) and foreign military counterinsurgency operations. Consequently, the approaches detailed in this chapter:

- Can be used at the point terrorists or insurgents become active amongst the community.
- Help develop an understanding of community, ‘*human terrain*’ and local patterns of behaviour.
- Can help generate a more permissive environment for policing and surveillance operations.
- Assist in the recruitment of local sources and the development of ‘*bottom up*’ local community intelligence, in particular establishing ‘*intelligence tripwires*’ that can flag up individuals or activities of concern.
- Ultimately, it is argued that such approaches can assist in the identification of terrorist, insurgents and their support networks, exploiting and operating inside local communities.

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CHAPTER II

SPECIAL COURTS AND PROSECUTION CRIMINAL JUSTICE AND MILITARY MODELS OF PROSECUTION AND DETAINMENT

Omi Hodwitz

Introduction

The beginning of the 21st century was marked by several high-profile terrorist attacks, the success of which drew attention to deficits in national and international counterterrorism strategies. In response to these events, practitioners and legislators around the world introduced new policies and practices designed to address intelligence and security deficiencies. These new measures resulted in a dramatic increase in the number of detained extremists, flooding military and criminal justice facilities. After a decade or more of incarceration, many of these individuals have been released and many more are due to be freed shortly. The influx of returning extremists has caused no small amount of concern for legislators and practitioners as they are faced with the daunting task of preparing for reentry. Lacking historical data on similar populations, the counterterrorism community is left relatively blind, forced to predict the likelihood that extremists can reintegrate without the benefit of generations of research. Of particular concern are questions relating to the deterrent nature of detention and punitive proceedings and the ability to curb reengagement and recidivism.

The purpose of the chapter is to begin to address these questions regarding returning extremists. Specifically, the chapter assesses different methods of processing, prosecuting, and detaining extremists who are in custody with the goal of identifying practices with positive outcomes, particularly in relation to reoffending. These methods may be grouped into two models of counterterrorism: the military model and criminal justice model. The chapter includes an introduction to these models paired with definitional and comparative considerations and a description of model goals and metrics of success, including deterrence (goals) and reengagement or recidivism (metrics). As a means of gauging effectiveness, the chapter provides a general assessment or meta-analysis of model applications and effects in select nations around the world. The chapter also includes a data-driven case study assessment of the practices and outcomes of each model in the United States. The individual and collective outcomes of these assessments indicate that the criminal justice method of prosecution and detainment is the more effective means of deterring terrorism. The results are evident

across most case studies, despite the variability in their application of the criminal justice and military models. These findings may be due, in part, to key factors such as definitive court convictions and sentencing and detention-based programming.

Recidivism and Deterrence

Terrorism and responses to terrorism have changed dramatically over the last two decades. High-profile attacks and the expansion of terrorist organizations have prompted nations to secure the homeland, create complex legislation, and take up an active presence in conflict areas. Motivated by the desire to counter the growing threat of domestic and international terrorism, governments around the world have increased the reach of criminal justice and military agencies, granting them new powers of investigation and enforcement. These measures have proven to be effective by some metrics, particularly in the identification and detainment of suspected extremists.

State agencies have been successful in gaining custody of an increasingly large number of potential offenders, securing them in facilities and prisons domestically and overseas. The United States (U.S.) provides a stark illustration of this escalation. Prior to the terrorist attacks on domestic targets in September of 2001 (9/11), the prosecution of suspected terrorists by the U.S. was scarce, only occurring once every year or two on average.¹ Following 9/11 and the expansion of state powers, these numbers increased dramatically, with some years reporting as many as 70-80 prosecutions. The same trend is evident in other western nations. Between 1995 and 2003, for example, Spain averaged 12 extremist-related arrests per year.² Following the bombing of trains in Madrid in 2004, this number quadrupled to 52 arrests per year.

Although the escalation of the detainment of suspected terrorists bodes well for a state's investigative capacities, it also facilitates some unique issues, particularly concerning expectations of the feasibility of rehabilitating or de-radicalizing extremists and the likelihood that they will reengage with political violence or alternate forms of criminal activity if released.³ The research literature is rich with information on recidivism; however, these results are focused on an apolitical population.⁴ There are, for example, numerous studies carried out in Western nations that illustrate that traditional apolitical offenders have a high likelihood of recidivism following reentry into society. These numbers may range from 30-70 percent in the first few years following release, suggesting sobering predictions of reentry failure.⁵

Although the literature is replete with studies on apolitical reoffending rates, there is a notable deficit in information about political recidivism. Predictive outcomes depend on large samples and a lengthy assessment period; offenders must first be captured, then detained for a set length of time, and finally released and followed in the community for years, thus allow-

¹ The Intercept, *Trial and Terror*.

² Reinares and Garcia-Calvo, *Spain's Shifting Approach to Jihadism Post-3/11*, 36.

³ Renard, *Overblown*, 19.

⁴ Apolitical offending or reoffending refers to engaging or reengaging in traditional acts of violence, property offenses, and drug use, usually for personal gain. Political offending or reoffending refers to criminal events that are ideologically motivated.

⁵ See, for example, Antenangeli and Durose, *Recidivism of Prisoners*, 1.

ing them time to recidivate. The absence of research directed towards terrorist recidivism is due in large part to a lack of data of this kind. Given that capture and detainment of extremists was rare prior to the 21st century, the numbers and duration of time needed for analysis simply did not exist.

Fortunately, the last two decades of increasing detainment and release rates have generated the data necessary to begin to address the gap in the literature and empirical efforts have ballooned as researchers engage in large data-collection projects that record and track extremists detained in nations around the world. Results from these studies vary widely, with many reporting surprisingly low recidivism rates. Wright, for example, reported a recidivism rate of approximately one percent among a sample of extremists incarcerated in the United States, while Reinares and colleagues reported a seven percent recidivism rate for jihadi extremists in Spain.⁶ Similar results were reported in the Netherlands, France, and Northern Ireland, to name but a few.⁷ Although most of the research supports low rates, there are also studies that report unexpectedly high rates. Altier and colleagues, for example, review recidivism among a multinational group of offenders, reporting a rate of approximately sixty percent.⁸

These varying results have prompted researchers to identify and isolate factors that narrow predictions of successful reentry. These forays have highlighted the importance of demographic and offense characteristics, geopolitical features, and post-release surveillance practices, among others.⁹ Thus, the quest to understand terrorist recidivism and the many characteristics that influence successful reentry continues, contributing to an expanding cache of literature designed to assist practitioners and policymakers in making evidence-based decisions.

Although the literature on terrorist recidivism is evolving, there are still notable gaps in the exploration of factors that may explain varying recidivism rates. The criminological literature, for example, identifies several key factors that influence apolitical reoffending that remain relatively unexplored in the literature addressing extremism. Specifically, there is abundant empirical evidence pointing to the importance of the characteristics of punitive consequences in determining the success of reentry for apolitical offenders. Adopting the assumption that offenders are rational and weigh the costs and benefits of conformity versus deviance, criminologists point to punishment as a key facilitator of offender perceptions of the potential costs of deviance.¹⁰ Appropriate punishments serve to deter individuals from reengaging with a future crime as the costs begin to outweigh the benefits while inappropriate costs may have no effect or even facilitate further offending. Thus, mechanisms of punishment are believed to be a primary facilitator of offender conformity versus deviance and, therefore, are an important part of understanding extremist recidivism.

⁶ Wright, *An Examination of Jihadi Recidivism Rates*, 26-29; Reinares and Garcia-Calvo, *Yihadismo y Prisioneros*, 13-15.

⁷ See, for example, Van der Heide and Schuurman, *Reintegrating Terrorists in the Netherlands*, 221; Hecker, *Terrorisme*; Hecker, *Once a Jihadist*, 73-77; and Silke, *Prisons, Terrorism, and Extremism*.

⁸ Altier, Boyle, and Horgan, *Returning to the Fight*, 850-857.

⁹ See, for example, Hasisi, Carmel, Weisburd, and Wolfowicz, *Crime and Terror*, 449-472.

¹⁰ See, for example, Gendreau, Cullen, and Goggin, *The Effects of Prison Sentences*; Carlsmith, Darley, and Robinson, *Why Do We Punish?*.

The specific mechanisms of punishment are unique to each country as they are a byproduct of national history, growth, and culture. However, although the characteristics of each mechanism may vary greatly between countries (take, for example, the lack of uniformity in the application of the death penalty), most countries, including Western nations, rely on a system of courts and prisons as a method of punishment and, thus, deterrence. These courts and detention centers assign and execute punishments, determining the length and conditions of confinement, manipulating factors that are likely to influence the deterrent effect of such measures. The data surrounding apolitical offenders validate such an influential relationship, illustrating the importance of courts and prisons in defining recidivism rates.¹¹ Apolitical results, therefore, support the supposition that a complete understanding of terrorist recidivism requires a closer look at the role of select methods of prosecution and detainment on subsequent reoffending rates. In short form, an important next step in the examination of terrorist behavior and, thus, the goal of this chapter, is to examine the effectiveness of the different methods of prosecution and detainment in achieving the goals of deterrence by way of reduced recidivism rates.

Given the diversity of specific mechanisms of punishment between countries, it would be a lengthy and potentially futile endeavor to delve too deeply into one mechanism over another, particularly if the goal is to draw general conclusions about the effectiveness of courts and prisons. Instead, the remainder of this chapter will engage in a comparative assessment of the effectiveness of two contrasting models of counterterrorism, which prioritize prosecution and detainment in their strategic approach to countering extremism: the military and the criminal justice model.

The Military Model and the Criminal Justice Model

Counterterrorism strategies can be grouped into several models or approaches. Two prominent approaches include the criminal justice model and the military model.¹² Although the two overlap in some respects, they ultimately differ in fundamental ways, including philosophies, mandates, strategies, and tactics. They also produce different outcomes, suggesting the application of one over the other should be a topic of careful consideration.

The military model is a proactive model; it seeks to preempt terrorist events before they occur.¹³ It can achieve this through a variety of methods, including targeting assets, infiltrating groups, raids, and similar measures. Within this model, terrorism is viewed as an act of escalating violence and, thus, is subject to the rules of engagement for military operations. In practice, this means that the state relaxes its commitment to due process or other civil liberties while allowing the use of force to achieve its goals.

¹¹ See, for example, Jackson, Tyler, Bradford, Taylor, and Shiner, *Legitimacy and Procedural Justice*; Beijersbergen, Dirkzwager, and Nieuwbeerta, *Reoffending After Release*.

¹² Crenlinden, *Perspectives on Counterterrorism*, 3-4. Although the military/war and criminal justice models are the most frequently cited models, scholars do identify additional approaches, including the regulatory model or the public health models. See, for example, Posner, *Fear and the Regulatory Model*.

¹³ Crenlinden, 3-4.

The criminal justice model, in contrast, is reactive; within this model, terrorism is a crime and, as such, measures should be implemented once an event is occurring or has already taken place.¹⁴ Terrorism is defined by criminal statutes and responses to terrorism are constrained by the rule of law, the protection of civil rights and liberties, and the preservation of democratic principles.¹⁵ The model relies on the criminal justice system and its main players and the primary weapon against extremism is the threat of prosecution.

Military and criminal justice practitioners both prioritize deterrence as a primary goal, seeking to send a clear message to active and would-be extremists that engaging in political violence has painful and debilitating consequences and, thus, conformity is the less costly and more beneficial option.¹⁶ This goal informs a variety of aspects of each model, but it is arguably most evident in their methods of detainment and prosecution. Both military and criminal justice experts rely on a complicated system of courts and detention centers designed to dissuade alleged offenders from engaging in further extremist activities. The execution of these systems is public, clear, and seemingly harsh, leaving little room for doubt of their deterrent intentions.

Thus, although both models have unique operational goals, they share the common theme of deterrence and reducing recidivism, particularly within the workings of their system of courts and detainment. This begs the question: how effective are they at achieving this goal? Are the varying recidivism rates evident in the literature informed, in part, by the specific model of punishment? The remainder of the chapter is dedicated to addressing these questions. Specifically, it consists of two separate assessments. The first assessment relies on the collective pool of literature examining extremist recidivism in a diverse array of countries. It provides a snapshot image of the overarching trends apparent in the research regarding model type and reoffending rates. The second assessment compares the deterrent effects of military and criminal justice courts and detention centers in the United States, a country that provides a particularly rich example of both models in action.

Case Studies from Select Countries

As mentioned previously, there are several data collection efforts that record the capture and release of extremists in select countries. Most of these track individuals processed by the criminal justice system, but a select few also examine suspected extremists that are processed and detained by way of the military model. This section will focus on the individual and collective findings of these various research endeavors, with a critical eye turned towards the influence of each counterterrorism model.

In addition to each model type, this section will also consider the unique characteristics of specific prosecutorial and detainment procedures. The criminological literature has identified additional factors related to these procedures that may have an influence on offender outcomes and, therefore, it would be an oversight not to take them into account. Specifically,

¹⁴ Carter, *Analyzing the Criminal Justice and Military Models*, 56-66.

¹⁵ Rineheart, *Counterterrorism and Counterinsurgency*, 37-38.

¹⁶ Carter, 17-24.

research illustrates that when it comes to prosecution and the courts, offenders' perceptions of the legitimacy of the proceedings can be informed by a lack of formal proceedings and official sentencing.¹⁷ Indefinite detention without the benefit of a finding of guilt can incite anger in alleged offenders, as they perceive their continued detention as unjust or without merit.¹⁸ If the model through which they are processed lacks legitimacy in their eyes, prisoners may adopt a vengeance-based attitude, one that serves to further radicalize the detained population. Upon release, this can result in a backlash effect, leading to recidivism of a violent and political nature.¹⁹ Therefore, the analyses carried out in this chapter will include consideration of the presence or absence of official court proceedings, determinations of guilt, and set sentences.

Another factor that has been determined to be influential for successful reentry is exposure to programming during detainment. Studies with offender populations illustrate the utility of treatment ranging from psychological support through to skills training.²⁰ For extremist detainees, deradicalization programs have shown a great deal of promise, facilitating disengagement from terrorist ideologies and practices in a variety of contexts and communities.²¹ Thus, in addition to the presence of official court proceedings, the analyses presented below will also factor in the presence of programming emphasizing deradicalization. This will allow for a more detailed assessment of factors that may facilitate successful reentry that extend beyond model type.

Results from Select Countries

Table 1 provides an overview of the various studies identified for assessment. In total, sixteen different analyses that reported terrorist reoffending rates in recent years were reviewed for inclusion. Case studies that lacked information on court proceedings or programming, shifted between model types, or were not specific to a particular country were excluded, resulting in nine case studies in total.²² Thus, although this is not an exhaustive list of the available research, it does provide an informative snapshot of the larger pool of literature. It should be noted that studies differed in their definition of recidivism, but their analyses could be grouped into two categories which is noted in the table: recidivism (all criminal offending) and reengagement (a return to extremist activity).²³

¹⁷ McCann, *Indefinite Detention in the War on Terror*; 130; Roberts and Plesnicar, *Sentencing, Legitimacy, and Public Opinion*, 35-38.

¹⁸ Butler, *Indefinite Detention*, 15-24.

¹⁹ See, for example, Mack and Kelly, *Equal Justice in the Balance*.

²⁰ See, for example, Ndrecka, *The Impact of Reentry Programs*; Latessa and Lowenkamp, *What Works in Reducing Recidivism*.

²¹ See, for example, Noricks, *Disengagement and Deradicalization*; Koehler, *De-Radicalization and Disengagement Programs*.

²² In some countries, differentiating the criminal justice and military model is a difficult task due to the intertwined nature of the two. Case studies that incorporated characteristics of both models were excluded while those that displayed characteristics of one model over the other were included. In some cases, this meant that model type was determined based on specific characteristics, not on the name or identity of the detaining agency (e.g., the involvement of "military police" was not assumed to be a clear indication of the military model but the use of a proactive process and practices that reflect the rules of war would qualify for the military typology).

²³ Reengagement is a subset of recidivism and, thus, some studies reported rates for the former and then rates for the former nested within the latter. For the same reason, when only reengagement is reported, it is likely that, if recidivism were also included, its numbers would exceed those reported for reengagement.

Author	Location	Type of Reoffence	Reoffending Rates	Years of Study	Court Proceedings and Programming	Model Type
Cragin (2017)	Indonesia	Reengagement	40%	1980s-1990s		No Model
Cragin (2017)	Algeria	Reengagement	90%	1980s-1990s		No Model
Carmel et al (2020)	Israel	Reengagement	6.8% - 17.3%	2004-2017	Court convictions and sentencing No programs	Criminal Justice Model
Van der Heide and Schuurman (2018)	Netherlands	Recidivism and reengagement	4.2% (reengagement) 5.8% (all recidivism)	2008-2012	Court convictions and sentencing Deradicalization programs	Criminal Justice Model
Ministry of Justice (2020)	England and Wales	Reengagement	3.1%	2013-2016	Court convictions and sentencing Deradicalization programs	Criminal Justice Model
Renard (2020)	Belgium	Recidivism and reengagement	2.3% (reengagement) 4.8% (all recidivism)	1990-2019	Court convictions and sentencing Deradicalization programs	Criminal Justice Model
Hecker (2021)	France	Reengagement	0%	2016-2020	Court convictions and sentencing Deradicalization programs	Criminal Justice Model
Ismail and Sim (2016)	Indonesia	Reengagement	15%	Prior to 2013	Court convictions and sentencing Limited programming	Criminal Justice Model
Boucek (2010)	Saudi Arabia	Reengagement	1-20%	2003-2008	Mixed court convictions and sentencing Deradicalization programs	Military Model
Seifert (2010)	Yemen	Reengagement	40%	2002-2005	Limited court convictions and sentencing Deradicalization programs	Military Model
Azam and Fatima (2017)	Pakistan	Reengagement	1%	2009 to unknown date	No court convictions and sentencing Deradicalization programs	Military Model

Table 1: Collective study results on reoffence rates between countries.

The first two cases reported in Table 1 serve as a point of comparison. Cragin documented reengagement rates of foreign fighters returning home in the 1980s and 1990s, free from detainment and prosecution at the hands of either the military or the criminal justice model.²⁴ She reported high reengagement rates in both Indonesia and Algeria of forty percent and ninety percent respectively. These results should be interpreted with caution given the early era of study, but they do suggest that, without intervention from either model, extremists are prone to recidivate at high rates.

The criminal justice model sample consists of six case studies, distributed across a relatively diverse array of countries. Overall, the reengagement and recidivism rates are quite low among this sample, with most studies reporting rates in the single digits. The exception is Israel, which documents approximate reengagement rates ranging between seven percent and 17 percent, depending on how many years of follow-up are included in the analysis.²⁵ Despite the increased rate in Israel, the sample suggests that political offenders processed through the criminal justice model are unlikely to reoffend at rates comparable to apolitical offenders processed by the same model or political offenders processed by no model.

All criminal justice studies relied on complete court proceedings, including a ruling of guilt and a determination of a sentence. Given the uniformity of court process across the criminal justice sample, there is little that can be concluded regarding its effectiveness within the criminal justice model other than to note that it is a stable characteristic of the model. Thus, this factor was included at this stage for the purposes of transparency rather than for analytical purposes but will remain a key factor in subsequent assessments in this chapter.

Deradicalization programs are somewhat more varied across case studies. Of the six cases, four employed empirically driven deradicalization programs in their prisons.²⁶ The lowest recorded rates of reoffending stemmed from these case studies. The two countries that report the highest reengagement rates are lacking programming entirely (Israel) or have limited programming that has been criticized as a program in name only (Indonesia).²⁷ Thus, these results suggest that programming in detention facilities may be a beneficial component of the criminal justice model.

The military sample includes three case studies, including Saudi Arabia, Yemen, and Pakistan. The former two carry criminal justice identifiers but adopt military characteristics and, therefore, are categorized as active participants of the military model. Reengagement rates among these three case studies are varied, ranging from one percent in Pakistan through to forty percent in Yemen. These results should be interpreted with caution as they are based on government reports that critics suggest may be biased or incomplete.²⁸ Despite these con-

24 Cragin, *The Challenge of Foreign Fighters Returning*, 306-307.

25 Carmel, Molfowicz, Hasisi, and Weisburd, *Terrorist Recidivism in Israel*, 93.

26 It is important to note that programming may not have been available for the entirety of the sample study but was implemented for at least some portion of it (Belgium, for example, was a notable latecomer and did not implement deradicalization programs until 2015).

27 See, for example, Muhammad and Hiariej, *Deradicalization Programs in Indonesia*.

28 See, for example, Azam and Fatima, *Mishal: A Case Study*.

cerns and factoring in that a sample size of three cases is limited, it does appear that reengagement rates are less reliable within the military model and, in some cases, may achieve levels that may be comparable to apolitical offenders.

Unfortunately, there are few conclusions that can be drawn concerning court proceedings and programming. All the military case studies employed some form of deradicalization program, although these varied widely in content and, although there was diversity in court proceedings, these did not align in a logical manner with reengagement rates. Pakistan reported the highest success rates without the benefit of court proceedings while Yemen reported the lowest success rates with limited court proceedings. Therefore, given the limited diversity in programming and inconsistency between court proceedings and recidivism rates, the case studies included in Table 1 are less informative about potential factors that contribute to reoffending within the military model.

Overall, Table 1 points to a few limited conclusions. First, the criminal justice sample produces low and consistent reoffending rates while the military model oscillates. Second, deradicalization programs appear to influence rates in the criminal justice model. Third, it does not appear that court proceedings are a significant factor in reoffending in the military model. These conclusions suggest that the criminal justice model may be the superior model and deradicalization programs may be influential. However, these findings are tentative at best, partially due to the small sample size and lack of variability of key factors within each model. An additional criticism that can be levied at the case studies stems from one of their strengths, namely the diversity of countries included in the sample. If clear results were evident among a diverse sample, this would strengthen conclusions. However, if clear results are not evident, this may not indicate a limited relationship but, instead, that successful and unsuccessful reintegration may be the result of characteristics unique to each case study that are not included in the assessment. This is an issue of ‘apples to oranges.’ One way to address this is before-and-after assessments, or the examination of reoffence rates following a change in model type or programming (‘apples to apples’).²⁹ Table 2 presents such an analysis, focusing on the Israeli and the U.S. examples.

Author	Location	Type of Reoffence	Reoffence Rates	Years of Study	Court Proceedings and Programming	Model Type
Ganor and Falk (2013)	Israel	Reengagement	12.4%	1993-2003	Court convictions and sentencing No programs	Mixed Military and Criminal Justice Model
Walk and Berman (2008)	Israel	Reengagement	7.9%	Prior to 2008	Court convictions and sentencing No programs	Mixed Military and Criminal Justice Model
Carmel et al (2020)	Israel	Reengagement	6.8%	2004-2017	Court convictions and sentencing No programs	Criminal Justice Model

²⁹ There was no case study available that provided information on a within-country shift in court proceedings, so it was not possible to include a before-and-after assessment of this particular characteristic.

Rubin (2008)	United States in Iraq	Reengagement	<1%	2007-2008	No court convictions and sentencing Deradicalization programs	Military Model
Rubin (2008)	United States in Iraq	Reengagement	5-10%	Prior to 2007	No court convictions and sentencing No programs	Military Model

Table 2: Collective study results on reoffence rates within countries.

Israel provides a unique example of a transition between a mixed military model to a criminal justice model.³⁰ Prior to 2004, captured extremists (security prisoners) were processed and detained by the Israeli Military Police.³¹ In 2004, however, they were transferred to the Israel Prison Service (IPS), a branch of the criminal justice system, shifting the practices and policies to which they were exposed. Researchers have documented short-term rates that examine reoffending following release from the pre-2004 model and from the 2004 model. Ganor and Falk report a 12.4 percent reengagement rate predating the 2004 shift in practices.³² Walk and Berman assessed reoffending prior to 2008 thus including individuals processed and detained by the pre-2004 model.³³ They noted that within the first year of release, 7.9 percent of extremists reengaged. Carmel and colleagues focused specifically on 2004 and beyond, isolating the effects of the criminal justice model. Their results were lower than the pre-2008 findings, reporting a one-year reoffence rate of 6.8 percent. This ‘apples to apples’ comparison helps confirm the tenuous findings from the larger sample of case studies; the criminal justice model appears to be more effective at reducing reoffending within countries, at least within the first year of release.³⁴

The last case study examines a before-and-after application of deradicalization programs within the military model. The United States provides a ready example, particularly in its military detention facilities in Iraq. In 2007, the U.S. introduced a series of deradicalization programs for militants detained in military centers across the country. Officials report that prior to the implementation of the programs, reengagement rates ranged between five and ten percent.³⁵ Following implementation in 2007, however, these rates dropped to less than one percent. These results are promising and support the findings from the criminal justice model; deradicalization programs do appear influential in decreasing reoffending rates in the military model.

³⁰ The pre-2004 Israeli model is considered “mixed” because it contained some elements of the criminal justice model, including reactive measures.

³¹ Carmel, Wolfowicz, Hasisi, and Weisburd, 90-91.

³² Ganor and Falk, *De-Radicalization in Israel's Prison System*.

³³ Walk and Berman, *The Recidivism of Israeli Prisoners*.

³⁴ Not all the studies included in this ‘apples to apples’ comparison examined rates beyond the first year or two of release. Therefore, for the purposes of uniform comparison, the numbers included here were restricted to the early years of release, even if an individual study offered additional follow-up years.

³⁵ Rubin, *U.S. Military Reforms its Prisons*.

What does the global research indicate? Despite the limited sample of case studies, there are a few tentative conclusions that can be drawn. First, comparison between countries suggests that the criminal justice model may be more effective at reducing reoffending or, at least, producing consistently low numbers. In further support of the criminal justice model, there are indications that this is also the case if a country transitions from one model to the other, as demonstrated in Israel. Second, the results are not clear regarding the effectiveness of definitive court proceedings on reoffending, suggesting the need for more analysis, particularly within or between countries that have a stark contrast in court proceedings. Third, deradicalization programs are affiliated with a reduction in reoffense rates and this finding is consistent between countries and within countries. Therefore, although conclusions are tentative at best, they do point to the criminal justice model as the stronger of the two models and the importance of deradicalization programs within both models.

The United States as a Case Study

Although tentative, the findings noted above provide the impetus for a more detailed assessment of the role of model type, court proceedings, and programming. The remainder of the chapter will focus specifically on the U.S., an ideal case study with which to achieve a detailed assessment of terrorist recidivism within the two model types. Following 9/11, the country committed a great deal of resources towards developing its counterterrorism strategy and tactics, including expanding on their methods of processing, prosecution, and detainment of captured extremists.³⁶ In addition, the military and criminal justice approaches developed independently of each other, providing a clear separation in structure and practice. A brief recap of the historical development of each model illustrates these characteristics.

Prior to the terrorist attacks on September 11, 2001 (9/11), the criminal justice model was dominant, providing the main framework for state responses to extremist activities. Although there were isolated military responses to terrorism, the military framework remained a less-popular mechanism of counterterrorism, subject to scrutiny and criticism.³⁷ However, perceptions of the military model began to shift in the late 1990s as policymakers and the public questioned the effectiveness of the criminal justice model and its ability to curtail extremist behavior. Support for the military model was bolstered by the 9/11 attacks and, as the U.S. declared a global war on terrorism, the rhetoric shifted, reframing terrorism as an act of war rather than a violation of criminal law.³⁸

As the military model gained popularity, it also became prominent as a means of post-capture proceedings and detainment. Following 9/11, Congress' authorization of the use of military force opened the doorway for the indefinite detainment of alleged extremists captured overseas, suspending considerations of the rule of law and the need to invoke criminal justice proceedings.³⁹ In 2002, the United States opened the Guantanamo (Gitmo) military prison at

³⁶ See, for example, Tembo, *US-UK Counterterrorism after 9/11*.

³⁷ Carter, 65.

³⁸ *Ibid*, 66.

³⁹ See, for example, Grimmett, *Authorization for the Use of Military Force*.

its naval base in Cuba. Captured terrorists were sent there to be housed indefinitely, in most cases without the option of court proceedings, a determination of guilt, a set sentence, or programming.⁴⁰

Although the military model became prominent following 9/11, the criminal justice model continued to operate alongside it, albeit in a lesser role. Additional laws were added to the roster of offenses, including the previously absent terrorist financing and material support laws that became a key method of prosecution.⁴¹ In addition, investigative powers and practices increased, as did inter-agency communication and information sharing. As for the processing and detainment of extremists, the United States continued to rely heavily on its established system of federal and state courts and prisons. It offered a variety of programming to its inmates, including extremists, but refrained from implementing programming that focused on deradicalization.⁴² The criminal justice model, in other words, persisted in a business-as-usual manner, providing a sharp contrast to its military cousin.

In sum, each model of counterterrorism in the U.S. is fully developed yet unique, offering an important point of contrast and an ideal case study. In addition, data on extremist recidivism of U.S. detainees is available through two data collection efforts. Specifically, the Terrorism Recidivism Study (TRS) and the Guantanamo Recidivism Study (GRS) focus on tracking alleged extremists as they are captured/arrested, processed, detained, and released by the United States.⁴³ Comparing the outcomes for individuals included in each database allows for a clear and convincing indication of the effectiveness of each model to serve a deterrent function and reduce recidivism. In addition, the former, which focuses on federal courts and prisons, includes official determinations of guilt and some programming (although not specific to deradicalization) while the latter does not rely on official court proceedings nor programming, thus providing a rich contrast of these factors.⁴⁴

The TRS: The Criminal Justice Model and Recidivism

The TRS documents individuals convicted of extremist-related offenses in the United States following 9/11 through to the summer of 2021. The TRS is a dynamic dataset that is updated annually with new cases of extremism and recidivism. The data are collected from public records, including court proceedings, media outlets, and government documents. There are 736 individuals included in the database over the twenty-one-year period of study, making it one of the largest and longest-standing non-governmental terrorist recidivism databases.

⁴⁰ Ratner, Ray, and Lewis, *Guantanamo*.

⁴¹ Carter, 56-60.

⁴² Mitchell, *Deradicalization*, 101.

⁴³ Hodwitz, *The Terrorism Recidivism Study (TRS)*.

⁴⁴ An astute reader may posit that the two models differ in humane treatment and comparisons should include consideration of this factor. Unfortunately, detainees in both models have presented testimony relating to mistreatment. It is, therefore, difficult to parse out the effects of this factor within either model.

Table 3 summarizes some of the main characteristics of the individuals included in the TRS. Specifically, key demographic characteristics, including age at time of conviction, gender, and race are reported in the table. In addition, metrics of the criminal justice response are recorded, including type of offense, sentence length, facility, and additional punitive measures. These results provide an intriguing indication of who engages in extremism in the United States and how the criminal justice model responds.⁴⁵

Race/Ethnicity	Age	Gender	Group Affiliation	Prior Criminal Record	Type of Offence	Criminal Justice Response
Middle Eastern: 229	Minimum: 17	Male: 673	Yes: 579	Yes: 37	Violent: 230	Incarcerated: 624
Black: 168	Maximum: 77	Female: 58	No: 157	No: 699	Nonviolent financial: 285	Average length of incarceration: 11.5 years
Asian: 140	Average: 35	Unknown: 5			Nonviolent nonfinancial: 215	Average facility: medium/maximum
European white: 102					Unknown: 6	Supervised release: 539
Hispanic or Latinx: 57						Average length of supervised release: 7 years
Other: 40						

Table 3. Characteristics of the TRS sample (n=736).

Regarding recidivism, the data are striking. Four hundred and sixty-three individuals were released between 2001 and 2021. Of those, only 14 recidivated once they were back in the community, suggesting a recidivism rate of approximately 3.2 percent. Also of interest is the nature of the reoffending behavior. Only one individual was confirmed as returning to terrorism; the individual in question traveled to Pakistan where he took part in an attack on a school following release, suggesting a reengagement rate of only 0.02 percent. The remaining recidivists became involved, for the most part, in minor parole violations and petty personal crimes. One person returned to human smuggling, but documents suggest this may be financially motivated instead of political in nature. Thus, not only were recidivism rates surprisingly low, but the type of recidivism was limited in severity.

⁴⁵ The original database included 888 individuals; however, 152 were removed due to death, entrance into the witness protection program, or the overturning of their case. These individuals no longer pose a threat of recidivism or are inaccessible for the purposes of analysis.

The GRS: The Military Model and Recidivism

The GRS records information on individuals captured and processed by the military model and detained at the Gitmo detention center between its opening in 2002 and the summer of 2021. Like the TRS, the GRS relies on public records, court documents, media reports, and other similar sources and is updated annually with new reports of recidivism and reengagement. It is currently the only publicly sourced record of recidivism among Guantanamo detainees.

The database consists of 780 individuals but only 731 are included in the analysis presented in this chapter; the remainder have been excluded because they remain incarcerated at Gitmo or they died while still in custody. The remaining sample of military prisoners offers insights comparable to the TRS; the GRS provides a picture of those who target U.S. interests overseas, how the military model responds to these perceived threats, and the effectiveness of military processing and detainment practices in deterring subsequent offending. Table 4 provides a summary of the first two points: who targets U.S. interests and how the military model responds.

Race/Ethnicity	Age	Group Affiliation	Prior Criminal Record	Type of Offence	Military Response
Middle Eastern: 291	Minimum: 14	Yes: 655	Yes: 75	Violent: 481	Average length of incarceration: 5.5 years before transfer
Black: 79	Maximum: 89	No: 76	No: 656	Nonviolent financial: 25	Released upon transfer: 656
Asian: 328	Average: 29			Nonviolent nonfinancial: 206	
European white: 33				Unknown: 19	

Table 4. Characteristics of the GRS sample (n=731).⁴⁶

Before delving into GRS data on Gitmo recidivism, there is value in examining government reports of this phenomenon, particularly given they may have access to information that is not publicly available. The Director of National Intelligence (DNI) reported that, as of 2019, 729 detainees had been released, of which 124 or 17 percent were confirmed of reengaging in extremist-related behaviors, while another 102 or 14 percent were suspected of re-engaging. These figures paint a somber picture, particularly when compared to the TRS results. However, it is important to note that the DNI metric refers to “the likelihood that such detainees will engage in terrorism or communicate with persons in terrorist organizations.”⁴⁷ The DNI inclusion

⁴⁶ Gender has been omitted since the sample consists solely of male detainees.

⁴⁷ Director of National Intelligence, *Summary of the Reengagement of Detainees*, 1.

criteria, therefore, is quite broad in some respects, counting detainee behavior that may not be considered recidivism by traditional standards, but also narrow in the sense that the DNI is focused specifically on extremist-related reoffending rather than all criminal activity. The GRS and TRS, on the other hand, include reports of both political and apolitical reoffending, but only include behaviors that rise to the level of being subject to criminal prosecution. Keeping this difference in mind, the GRS reports outcomes that vary from the DNI. Specifically, of the 656 detainees that were released from Gitmo with no further detention, 37 or approximately 5.6 percent engaged in criminal behaviors that would warrant prosecution.⁴⁸ Of the 37 recidivists, 24 reengaged in extremist activities, including bombings, training, and leadership roles and 10 were suspected to have reengaged in some manner. The remaining three releases were involved in confirmed or alleged apolitical criminal behavior, including drugs and domestic assault. Therefore, while the U.S. criminal justice system produced 3.2 percent recidivism and 0.02 percent reengagement, the U.S. military system produced 5.6 percent recidivism and 3.6 percent reengagement, and the latter increases to 5.2 percent if suspected reengagement is included in the analysis. Thus, recidivism was nearly twice as high and reengagement was approximately 18 times higher in the GRS than in the TRS.

These cursory results suggest that the criminal justice model may be more effective at deterring extremists from reoffending. However, an astute reader may, at this time, point out that Gitmo detainees represent a different population of offenders, as they are not U.S. citizens, they possess different demographic characteristics, they may be accused of crimes that vary from those processed by the criminal justice system, and they are released in other countries, subject to different methods of surveillance than those released from federal prisons. Here a vocal critic would be correct; it is quite possible that the GRS and TRS represent ‘apples to oranges’, undermining the appropriateness of comparative analysis. Fortunately, this concern can be addressed through a more targeted comparison involving matching the two samples on several key characteristics.

To ensure an appropriate comparison, the TRS sample was modified to better match the GRS sample. Specifically, women and U.S. citizens were removed from the analysis. In addition, only individuals who were deported from the U.S were included, to align their post-release experiences with those of the GRS sample. Finally, the TRS individuals that were convicted of offenses that were not also present in the GRS sample were excluded. These exclusion criteria resulted in a TRS sample of 102 individuals between 2001 and 2021. Only two from this group recidivated following release, suggesting a recidivism rate of approximately two percent. However, one of these was also the individual noted above who reengaged with extremism, attacking a school in Pakistan. Thus, recidivism was almost three times higher and reengagement was three and a half times higher in the GRS when compared to the matched TRS sample.

⁴⁸ The focus will be placed here on those released immediately, given that they were not exposed to additional military and criminal justice proceedings and detention in non-U.S. countries that may have influenced their reoffending outcome.

Reflecting on Outcomes in the United States

Given the scarcity of recidivism among both the GRS and the TRS, conclusions are tentative at best. However, the data do suggest some revealing results. Specifically, in contrast to apolitical offenders, extremist offenders processed by either the military or the criminal justice model in the United States seem less likely to reoffend, reporting rates in the single digits. As for achieving the goal of deterrence, results suggest that the criminal justice model may be the more effective of the two models, particularly in regard to politically oriented recidivism. While both samples recidivated, the TRS reported lower rates and these tended to be minor in nature, reflecting parole violations or personal crimes without political undertones. In contrast, the GRS reported higher rates of recidivism, particularly in relation to extremist-style reengagement. This contrast persisted even when the TRS was modified to better match the GRS in demographics, offense type, and post-release supervision.

Why might the military model be less effective than the criminal justice model? As noted previously, the GRS sample did not benefit from official court proceedings, thus potentially instilling a sense of injustice or illegitimacy of proceedings, further inciting anger. In addition, the lack of a definitive sentence can lead to emotional trauma and anxiety as alleged extremists are caught in a cycle of uncertainty. Thus, the lack of court proceedings can serve as a push factor, increasing animosity towards the state. Pairing this with a lack of programming that serves to diffuse ideological narratives produces a volatile cocktail that can lead to further radicalization. As noted by one Guantanamo detainee: “The United States is the “democratic” country with the most draconian punishment system: in fact, it is a good example of how draconian punishments do not help in stopping crimes. Europe is by far more just and humane, and the rehab programs there work, so the crime rate in Europe is decisively lower than the U.S.”⁴⁹

This chain of events may also be present in the criminal justice model, although likely less so, due to programming and an increased perception of fairness and legitimacy. Federal U.S. courts offer a determination of guilt and set sentence, along with a variety of education and skills-building programs designed to aid in the successful transition back into society. This is in sharp contrast to the pared-down and minimalist approach practiced in many military prisons. There may be other factors at play, but the results presented here suggest that the criminal justice model is the stronger of the two and this may be due, in part, to its system of courts and detainment.

Implications for Good Practices

The research included in this chapter, although preliminary, is instructive. Results from a variety of studies that rely on large data-driven research projects illustrate that recidivism rates among extremist populations are low. Although one single incident of reengagement is one too many, the likelihood that alleged or convicted extremists will recidivate upon release

⁴⁹ Slahi, *Guantánamo Diary*.

is minimal, typically less than ten percent. This is in stark comparison to the recidivism rates recorded in apolitical populations, suggesting that political extremists are unique in their motivations and their behaviors.

Although rates are low, there is value in identifying factors that may decrease these numbers even further. For the most part, the research points to the criminal justice model as the more effective model, capable of producing recidivism rates that undercut those demonstrated by the military model. This is consistent across case studies with few exceptions, indicating that the criminal justice model is better able to deter, influencing would-be offenders' calculations of the costs and benefits of conformity. At face value, this suggests that, whenever possible and/or appropriate, detainees would be better served if processed through the criminal justice model, at least in relation to prosecution and detainment. However, this is a simplistic interpretation of the results presented here as differences in recidivism rates likely reflect the practices employed within each model rather than the model itself. The exact number and nature of these practices remain undefined, but two characteristics found support in the analyses included here.

Firstly, transparent and definitive court proceedings may play a key role in rates of recidivism. Due to a lack of variability in this factor across model types, it is difficult to confirm the influence of this measure on an extremist population; however, case study analysis of the United States supports the supposition that definitive court proceedings and sentencing may be significant. Proceedings of this kind can instill a sense of legitimacy in the detainment process, reducing feelings of injustice and any resulting anger or resentment. In the words of one released Guantanamo detainee, "On Wednesday, America's detention camp at Guantanamo Bay will have been open for 10 years. For seven of them, I was held there without explanation or charge....so long as Guantanamo stays open and innocent men remain there, my thoughts will be with those left behind in that place of suffering and injustice."⁵⁰

Secondly, the availability of programming while in detention appears to be influential in successful reentry. Between- and within-country results reported in this chapter attest to the importance of this characteristic. This may apply to more generalized programming aimed at all offenders but seems to be particularly salient for deradicalization programs. Although the specific criterion of effective programming is beyond the scope of this chapter, the criminological literature offers some insights, suggesting that individualized and culturally appropriate programming options may be the most effective at curbing recidivism and reengagement.

Thirdly, these conclusions, although informative, should be viewed as exploratory, representing a step in an empirical journey that is far from complete. The research presented in this chapter offers contributions to the increasing collective of information regarding model effectiveness, terrorist recidivism, and counterterrorism practices, but it is limited in its reach and scope. Therefore, it should be viewed as propositional rather than prescriptive, presenting a narrative for scholars and practitioners to question, test, and revise within their own regions. The narrative is relatively simple and, thus, ideal for those that seek to expand or counter it.

⁵⁰ Boumediene, *My Guantanamo Nightmare*.

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CHAPTER III

COUNTERING FINANCING OF TERRORISM

Arabinda Acharya

Introduction

Money is the lifeblood of terrorism. Tracking, intercepting and strangling the flow of funds to terrorists therefore is one of the most important aspects of counterterrorism operations. Post-9/11, an intense global willingness to target terrorism generally and terrorist financing particularly produced a number of measures seeking to create dynamic and robust regimes to counter the financing of terrorism. This also envisaged establishment and enforcement of a range of institutional arrangements at the international, regional and national levels. However, years of intense activities by a host of individual states and multilateral agencies including the United Nations, NATO and intergovernmental bodies like the Financial Action Task Force, the Egmont Group and others have not produced sufficient deterrence against financing of terrorism. Groups, notably the Islamic State of Iraq and Syria (ISIS) or Daesh most recently, were able to amass huge wealth despite robust military actions against the terrorist groups and punitive measures prescribed against non-compliance of international measures by the states.

The chapter first details the typology of terrorist financing followed by the measures and initiatives taken by governments and the international community, particularly after 11 September 2001 (9/11) to fight terrorist financing and assesses the progress on this front. As described later, to a great extent these efforts are in the civilian domain derived from age-old anti money laundering (AML) policies and practices which have yielded a level of success albeit slowly and incrementally. Next it examines the role of the military in countering the financing of terrorism (CFT) and argues that despite differences in *modus operandi*, both approaches complement each other and a careful mix of both the strategies could produce optimum outcomes.

Typology of Terrorist Financing

Different terrorist groups operate with various structures and sources of financial support. Some are state-sponsored and financed, while others operate as quasi-states (with regional or territorial control). Still others are decentralized, widely dispersed and largely

self-financing.¹ Terrorists raise money from their domestic supporters as well as from the diaspora spread across the globe. They get funding from individual donors as well as from the money skimmed off from charitable organizations. Money also comes from legitimate businesses. Terrorists set up or subvert political or other front organizations, such as political parties, and non-governmental organizations (NGOs).² Similarly, terrorists break into criminal ventures, such as narco-trafficking, human trafficking, extortion, protection rackets and credit card frauds. There is also involvement in the illicit sale of gold, diamonds, and other precious gems.³ There is almost no method that terrorists have not used to raise money and move this money through a variety of conduits. These sources and conduits are resilient and difficult to detect.⁴

Countering Terrorist Financing

Financial manipulation and money laundering, which are inextricably linked to terrorist financing have long been stigmatized and targeted by many nations, as well as by international and intergovernmental organizations. The United Nations (UN), particularly, possesses a comprehensive range of international initiatives and the largest network for the development of international cooperation against terrorist financing. The examples are 1994 UNGA resolution 49/60 urging member-states to “refrain from organizing, instigating, facilitating, financing, encouraging or tolerating terrorist activities,”⁵ and 1996 Measures to Eliminate International Terrorism (Resolution 51/210) requiring states to take steps to prevent and counteract the financing of terrorism and the movements of funds suspected to be intended for terrorist purposes. While UNSC Resolution 1267 (1999) established a “sanctions committee” to monitor compliance with the prescribed measures by member-states,⁶ Resolution 1299 (1999) urged states to deny safe haven to those who plan, finance or commit terrorist acts and to prevent their territories being used for preparation and financing of acts of terrorism.⁷

The same year, the UN adopted the International Convention for the Suppression of the Financing of Terrorism, requiring member-states to establish appropriate legal regimes to criminalize financing of terrorism and to identify, detect, and freeze funds used to finance terrorist activities. Most importantly, the convention made it clear that terrorist financing could under no circumstances be justified by political, philosophical, ideological, racial, ethnic, religious, or other similar considerations. Together with the 2000 UN Convention against Transnational Organized Crime, 2001, UNSC Resolution 1373, and others that followed, these instruments led to a gradual accumulation of global standards and best practices for countering terrorist financing.

¹ Biersteker, *Targeting Terrorist Finances*, 77.

² Hess, *Substantiating the Nexus Between Diaspora Groups and the Financing of Terrorism*, 50.

³ See, Farah, *Blood from Stones*.

⁴ Roth et al., *Monograph on Terrorist Financing*, 17.

⁵ General Assembly, *Measures to Eliminate International Terrorism*.

⁶ Security Council, *Resolution 1267 (1999)*.

⁷ Security Council, *Resolution 1269 (1999)*.

Even earlier a number of intergovernmental and private initiatives were in place to target financial crime in general. These include the Offshore Group of Banking Supervisors (OGBS), the Financial Action Task Force (FATF) and the Egmont Group of Financial Intelligence Units (FIUs). On its own in 1995, the US began to use sanctions aimed at freezing of assets and prohibition of transfer of goods and services against individuals and organizations named on the list of Specially Designated Terrorists (SDT). The 1996 Anti-terrorism and Effective Death Penalty Act of the US authorized the Secretary of State to designate Foreign Terrorist Organizations (FTOs) to prohibit these entities from conducting financial transactions in the US, in addition to freezing of their assets.⁸

Over the years, many countries have made the financing of terrorism a predicate offense in their respective anti-money laundering (AML) and countering financing of terrorism (CFT) regimes and taken actions to designate terrorist entities and seize their assets.⁹ For example, following 1998 bombings of embassies in Tanzania and Kenya, Washington invoked International Emergency Economic Powers Act (IEEPA) and criminalized transactions with individuals or groups suspected to have links with Al-Qaeda and the Taleban. These collective actions evolved to what Thomas Biersteker *et al* called;

“... a regime where the principles [widely held beliefs about the utility of following the movement of money]; norms [obligations arising under formal (UN) and informal (FATF) initiatives]; rules [the specific regulatory actions to be taken and best practices to be pursued]; and decision-making procedures [whether they are manifest in global, regional or specialist organizations] are institutionalized in multiple fora. Beneath this web of institutions are wide ranges of bilateral, trans-governmental networks on terrorist financing, which have also reinforced and supplemented the regime.”¹⁰

Collection of these institutions and legal instruments and cooperation among states and between institutions is “an immense undertaking” and “no less than the military campaign”¹¹ against terrorism that validates depiction of the financial strategy, as a central component of the global war on terror.¹²

However, the results of these measures have been limited and incremental. To some extent the prevailing moral ambivalence translated into euphemisms such as “one man’s terrorist is another’s freedom fighter” led to the duality in responses to both terrorism and terrorist financing. Countries were divided ideologically over the political motivations of violent organizations and therefore were unwilling to uniformly define terrorism and terrorists,¹³ which resulted in proliferation conventions and treaties dealing with particular

⁸ US Congress, *Antiterrorism and Effective Death Penalty Act of 1996*.

⁹ Truman, *et al*, *Chasing Dirty Money: The Fight against Money Laundering*.

¹⁰ Biersteker, *et al*, *International Initiatives to Combat the Financing of Terrorism*.

¹¹ US Department of the Treasury, *Contributions by the Department of Treasury to the Financial War Against Terrorism*.

¹² Kiser, *Financing Terror*.

¹³ Clunan, *et. al.*, *US and International Response to Terrorist Financing*.

terrorist acts (such as hijackings and political assassinations) rather than terrorism in general and undermined the overall legal regimes to counter terrorist financing. The response of the international community was piecemeal, targeting specific groups such as Al-Qaeda and the Taliban, and authorizing specific actions such as assets freeze, arms embargo and travel bans and the overall responses are “woefully inadequate in dealing with the multi-dimensional nature of the challenge.”¹⁴

Fighting Terrorist Financing: Normative Considerations

There are several aspects of fighting of terrorism that we must consider. One is the tactical aspect, which includes gates and guards, target hardening, and physical security measures. Second is the operational aspect, which includes killing and capturing terrorists, as well as destroying their training camps, support structures, and funding sources. Third is the strategic aspect, which, for example, refers to fighting the overall concepts like independence, nationalism, separatism, and others in order to create an atmosphere that will be hostile to terrorists and its ideological and financial supporters to operate freely.

More specifically, the strategy involves tactical and operational measures to disrupt the individual nodes in the terrorist financial network and strategic measures to change the environment within which terrorists raise and move their funds.¹⁵ The war against terrorist financing encompasses the terrorists themselves and extends to financial intermediaries and facilitators who infuse terrorists with money, material and support.¹⁶ As John Ashcroft, former US Attorney General, put it, “because money enables the terrorist act, those who knowingly finance terrorist organizations are just as dangerous and just as culpable and just as responsible as those who carry out the ultimate acts of terrorist violence.”¹⁷

Punish, Prevent and Encourage

The various measures undertaken by the nations individually and collectively seek to establish punitive and preventive regimes against terrorist financing, though there are incentives to induce cooperation and compliance among the members of the international community.

Punitive measures include criminalization of acts of financing of terrorism and use of sanctions such as freezing of assets, arms embargo, diplomatic restrictions, and individual travel bans. These measures are derived from the coercive regimes the Security Council had developed over the past decades as measures against African warlords and criminal groups,¹⁸ and formalized in the International Convention for Suppression of the Financing of Terrorism (1999), Resolution 1267 (1999), Resolution 1373 (2001) and other subsequent resolutions of

¹⁴ Ward, *The Role of the United Nations Security Council in Combating International Terrorism*.

¹⁵ Greenberg, et. al., *Terrorist Financing, Report of an Independent Task Force*.

¹⁶ Gurule, *International Cooperation in the War on Terrorism: The Organization for Security and Cooperation in Europe*.

¹⁷ “Ashcroft Calls for Disruption of Terrorism Financing.”

¹⁸ Carisch, *Institutionalized Response to 9/11*.

the Security Council, and the 2000 Convention against Transnational Crime. Though use of sanctions has routinely been part of broader war efforts in the past, in the campaign against terrorist financing the emphasis has been on economic instruments.¹⁹

Preventive measures envisage the establishment of regulatory regimes to deter misuse of financial institutions, charities, business enterprises and alternative money remittance systems (i.e., *hawala*). This involves the adoption of global standards and best practices and establishment of specialist institutions such as the financial intelligence units (FIU) to combat money laundering and terrorist financing, as set out by FATF and other agencies discussed earlier. The framework is largely modelled on classic anti-money laundering practices that were considered somewhat effective against criminal money especially with regard to drug syndicates. Regulations on customer due diligence (CDD) and reporting of suspicious transactions or activities are designed to limit the access of criminals and terrorists to the financial system and alert the authorities when they attempt to do so. Individuals and institutions that fail to implement the provisions, particularly with respect to the CDD and reporting requirements, are subject to punishment. Enforcement measures such as confiscation, investigation, prosecution and punishment target criminals and terrorists, who, despite prevention efforts, manage to misuse the financial system.²⁰

Incentives include capacity building and technical assistance programmes administered by the UN, the International Monetary Fund (IMF) and the World Bank and other intergovernmental and regional organizations and by individual countries, notably the U.S. Country-specific incentives include preferential trade measures, favourable loans and removal of existing sanctions as rewards for cooperation in the war against terrorism.²¹

The ultimate objectives of these measures are to remove vulnerabilities in the global financial system and raise the cost and risks for both the terrorists and the criminals to raise, move or store funds using regular or alternative financial sources and systems. This infrastructure also provides important positive externalities with regard to other transnational concerns such as organized crime, illegal arms trade and human trafficking.²² It is useful in blocking the appropriation of public funds by corrupt officials or politically exposed persons (PEP), implementing targeted financial sanctions and even curtailing tax evasion.²³

Assessing Outcomes

It is evident that almost all these measures fall under the realm of the civilian with little if any role for the military. Arguably, these measures have yielded substantive positive outcomes albeit few setbacks. As indicated by statements by various US departments, the fight against terrorist financing recorded many early and quick successes. Washington

¹⁹ Hufbauer, et. al., *Using Sanctions to Fight Terrorism*.

²⁰ Reuter, et. al., *Chasing Dirty Money: The Fight against Money Laundering*.

²¹ Hufbauer, et. al., *Using Sanctions to Fight Terrorism*.

²² O'Neill, *Conference Report in Responding to Terrorism: What Role for the United Nations*.

²³ Biersteker, et al, *Taking Stock of Efforts to Counter the Financing of Terrorism and Recommendations for the Way Forward*.

claimed that the “Action Plan to Combat the Financing of Terrorism” formulated in October 2001 was immensely successful, with more than 200 countries and jurisdictions having taken steps to enforce the sanctions and international standards and to freeze terrorist assets. There has been increasing information sharing among countries and enhanced efforts by financial supervisors to guard against the abuse of the financial sector by terrorists. Accounts of suspected terrorists and terrorist financiers were frozen worldwide and terrorist related assets seized by authorities globally.²⁴ Several financing channels that once funnelled millions of dollars to terrorists have been dismantled. “Potential donors are being more cautious about giving money to organizations where they fear the money might wind up in the hands of terrorists.”²⁵ The death or arrest of key fundraisers and facilitators has further limited sources of money for terrorists.

More importantly, greater regulatory scrutiny over financial systems around the world has made it possible to identify those who might support terrorists in future.²⁶ Terrorist groups “are feeling the pinch and do not have the same easy access to funds they once did.”²⁷ Most of the groups lost their complex network of sponsors.²⁸ The measures against terrorist financing have dissuaded sympathizers and supporters, including charitable organizations, from doling out money as openly as they used to do before. This has decreased the amount of money available to the terrorists, increased the costs of collection and made it more difficult for them to move money. In many cases communication and logistical difficulties have forced local operatives to improvise and fend for themselves.²⁹

In effect, terrorist financing has become a patchwork of autonomous moneymen and systems that do not have the luxury of using streamlined financial infrastructures.³⁰ ³¹As a result, funding terrorism has become “riskier, more costly, and more time-consuming.”³² As the funding methods are constantly evolving, the efficiency of the newer typologies are less than optimal as terrorists do not get enough time to master one method before they move to another.³³ This, together with the burden of operating more covertly has eroded the ability of the groups to conduct attacks, as overall operational efficiency is lost.³⁴ This fragmented financial structure; it is argued, is unlikely to be capable of supporting large-scale operation.³⁵

²⁴ Gurule, *Update on Tracking the Financial Assets of Terrorists: One Year Later*.

²⁵ US Department of the Treasury, *Progress in the War on Terrorist Financing*.

²⁶ US Department of the Treasury, *Contribution by the Department of the Treasury to the Financial War on Terrorism: Fact Sheet*.

²⁷ Levey, *Testimony Before the Senate Committee on Banking, Housing and Urban Affairs*.

²⁸ Napoleoni, *The Evolution of Terrorist Financing Since 9/11: How the New Generation of Jihadists Fund Themselves*.

²⁹ Greenberg, et. al., *Update on the Global Campaign Against Terrorist Financing*.

³⁰ Kiser, *Financing Terror: An Analysis and Simulation for Affecting Al-Qaeda's Financial Infrastructure*.

³¹ OECD, *Money Laundering and Terrorist Financing Awareness Handbook for Tax Examiners and Tax Auditors*.

³² Giraldo, et al, *Terrorist Financing: Explaining Government Response*.

³³ FATF, *Financing of the Terrorist Organisation Islamic State in Iraq and the Levant*.

³⁴ U.S. Senate, *Countering Terrorist Financing: Progress and Priorities*.

³⁵ Kiser, *Financing Terror*.

Many others, however, argue that it is not clear how effective these measures have been in disrupting terrorist activities, particularly financing. According to some analysts, international efforts against terrorist financing, while impressive, have been largely superficial.³⁶ The fact that groups like Al-Qaeda and subsequently Daesh have access to considerable financial and other resources, suggests that the campaign is yielding sharply diminishing returns.³⁷ Terrorists have responded by rapidly adapting to increased regulations and enforcement, shifting their financial activities from highly regulated centres to areas of the world that are relatively less regulated. Loretta Napoleoni claims that the financial regulations under the US Patriot Act simply shifted the epicentre of global money laundering from the US to Europe.³⁸ According to a UN report, Al-Qaeda shifted much of its financial activity to areas in Africa, the Middle East and Southeast Asia where the authorities lacked the resources or the resolve to closely regulate such activity.³⁹ Others argue that terrorists like Daesh now rely increasingly on self-financing activities such as crime to generate revenue and cash couriers to move money.⁴⁰

It is also claimed that the pace of recruitment has increased and new training camps are being set up. Money available to radical educational institutions appears to have remained constant or even increased.⁴¹ Similarly, as specified in a 2014 report of the FATF, charitable organisations (broadly, Non-profit Organizations - NPOs) are still being exploited, despite stringent regulations and oversight.⁴² Speculation is that Taleban, on its takeover of Afghanistan after US withdrawal is eyeing on 3 trillion-dollar mining and gemstone reserves,⁴³ besides the narcotics trade, to fill its coffers that is inevitably getting rapidly empty.

Countering Financing of Terrorism and Transformation in Terrorists' Behaviour

More importantly, terrorist attacks have become more numerous and widespread particularly after September 2001. This is attributed to the emergence of “homegrown or local jihadists,” or “improvised terrorists,” and more importantly, the phenomenon of “foreign terrorists” of the Daesh era.⁴⁴ Before September 2001, the world faced a few small, highly integrated transnational organizations; today, the terrorist web resembles clusters of decentralized, loosely connected and often self-financed systems like money gathered through family and friends, their own income from jobs, through legitimate businesses, or

³⁶ Clunan, *US and International Response to Terrorist Financing*.

³⁷ Lee, *Terrorist Financing: The U.S. and International Response*.

³⁸ Napoleoni, *The Evolution of Terrorist Financing Since 9/11: How the New Generation of Jihadists Fund Themselves*.

³⁹ *Ibid.*

⁴⁰ United States Government Accountability Office, *Terrorist Financing: U.S. Agencies Should Systematically Assess Terrorists' Use of Alternative Financing Mechanisms*.

⁴¹ Ottaway, *U.S. Eyes Money Trails of Saudi-Backed Charities*.

⁴² The nature of involvement of NPOs in terrorist financing includes, diversion of funds; affiliation with a terrorist entity; abuse of programming; support for recruitment; and false representation. This report examined as many as 102 NPOs in 14 countries in all the continents. See, FATF, *Risk of Terrorist Abuse in Non-Profit Organisations*.

⁴³ Gupta, *Chinese envoy and Jaish commander separately call on Taliban leadership*.

⁴⁴ FATF, *Financing of the Terrorist Organisation Islamic State in Iraq and the Levant*.

from petty crimes.⁴⁵ This autonomy has also eliminated the need both to store and move large amounts of funds. Attacks are now cheaper, money for the same being raised and used locally.⁴⁶ Thus, as Walter Reich put it, to imply “that terrorists can no longer afford to mount attacks would be a mistake.”⁴⁷

Overall, as critics argue, as part of the global war on terror, terrorist financing efforts are based on “exaggeration, misinformation, and disinformation” and nothing more than mere collection of intelligence without much utility.⁴⁸ The initiatives on this front have not only been ineffective, but have converted the world’s financial system into a “global espionage apparatus.”⁴⁹

New Dynamics at Play

Artificial Intelligence and Ransomware

In addition to the above, terrorists now exploit advancements in computer technology like artificial intelligence (AI) and access to hacking technologies. There is evidence of increasing technical competency and capability for network-based attacks and growing number of hackers in the online community.⁵⁰ Opportunity for online interaction and training has compensated terrorists for the loss of physical space for such activities on the ground. New generation social networking tools such as Facebook, Twitter, Orkut, Second Life and Telegram, among others, provide platforms not only to share information and expertise but also to practice it in virtual space.⁵¹

Hacking tools like WannaCry have the potential to reduce the opportunity cost for terrorist attacks. Use of weapons of “mass disruption” like ransomware as against weapons of “mass destruction” (CBRN weapons) will enable terrorists to cause large-scale damage (loss of data and equipment), chaos (in hospitals and other public utilities) and fear. Imagine the impact if terrorist groups like Al-Qaeda or Daesh were involved in the 2017 WannaCry attack.⁵² For terrorists it’s a win-win tactic as they can achieve almost similar objectives and without firing a shot or exploding a bomb. Additionally, terrorists may even be able to get away with some money to fund their future activities.⁵³

Cryptocurrencies

Though growing in popularity, this is a bigger threat as it enables individuals and/or institutions to transfer money in an anonymized and untraceable manner which is what the terrorists want.⁵⁴ Governments can ban bitcoin, but that doesn’t stop the currency from

⁴⁵ Napoleoni, *The Evolution of Terrorist Financing Since 9/11*.

⁴⁶ FATF, *Emerging Terrorist Financing Risks*.

⁴⁷ Hamilton, *State of the Struggle Against Global Terrorism*.

⁴⁸ Roth, et al., *Monograph*.

⁴⁹ Naylor, *Satanic Purses: Money, Myth and Misinformation in the War on Terror*.

⁵⁰ Weimann, *Cyberterrorism: How real is he Threat?*

⁵¹ Acharya, et al, *Cyberterrorism and Biotechnology: When ISIS meets CRISPR*.

⁵² Acharya, et. al., *Internet of Things, Ransomware and Terrorism*.

⁵³ *Ibid*.

⁵⁴ Wang, et. al., *Evaluation of Potential Cryptocurrency Development Ability in Terrorist Financing*.

existing because in reality to stop bitcoin, the government will have to stop every computer in the world which is a node, that is impossible. At best governments can ban retail usage of the currency for everyday commercial usage, but they can't stop the black market.⁵⁵ Other tools like Linden Dollar, Stored value cards, and E-currency (e-Gold) have already proven to be rather difficult to manage.⁵⁶

Artificial Intelligence

One of the biggest challenges for the governments fighting terrorism and extremism has been radical propaganda which has now become almost impossible to manage due to social media tools. Over the years and especially after 9/11, radicalization strategies have evolved rapidly responding to law-enforcement responses – from face-to-face to online interactions. This is most likely to have a dramatic transformation with the use of AI.⁵⁷

One example is the automated chat bots (propaganda bots, messaging bots) designed by terrorist/extremist groups to spread propaganda. For example, a new person who is looking for interpretations of religious text can be auto-indoctrinated through AI based chat bots which answer the person's questions through a radical interpretation without the need of human intervention. Or in simpler use cases, AI technology could accomplish the same objective by redirecting the individual to web sites/messaging boards with extremist content. These chat bots can be designed to mimic human behaviour of empathy and can be used to manipulate concerned individuals.⁵⁸

Terrorists can also use AI to create new content (factual and/or fake) which has higher engagement levels than regular content to spread in traditional distribution channels such as Facebook groups/WhatsApp and others which can help increase polarization around a specific topic of controversy.⁵⁹ Besides, groups like Daesh have already used drones and elementary AI in attacks.⁶⁰

The Pandemic

The pandemic unleashed by Coronavirus (SARS-CoV-2, commonly Covid-19) has more wide-ranging and pervasive effects on the world, its inhabitants, and its ecosystems than the terrorist attacks on 9 September 2001 in the US.⁶¹ It has changed life patterns with requirements like social distancing, stay at home, online shopping, cashless payments and workplace requirements like work or study from home,⁶² besides indefinite closures of most business and

⁵⁵ Manheim, et. al., *Terrorist Use of Cryptocurrencies: Technical and Organizational Barriers and Future Threats*.

⁵⁶ European Central Bank, *Virtual Currency Schemes*.

⁵⁷ United Nations, *Algorithms and Terrorism: The Malicious Use of Artificial Intelligence for Terrorist Purposes*.

⁵⁸ Dholakia, *Emotional AI: Empathy in chatbot*; Marcellino et. al., *Counter-radicalization Bot Research: Using Social Bots to Fight Violent Extremism*.

⁵⁹ United Nations, *Countering Terrorism Online with Artificial Intelligence*.

⁶⁰ Ware, *Terrorist Groups, Artificial Intelligence, and Killer Drones*.

⁶¹ United Nations, *Impact of Covid-19 On Violent Extremism and Terrorism*.

⁶² Jordan, et. al., *How to protect yourself from cyberattacks when working from home during COVID-19*.

economic activities.⁶³ Critical business assets and functions are exposed to more opportunistic and targeted cyberattacks by criminal organizations and rogue states. Extremist and terrorist groups are using the pandemic especially in respect of their propaganda and fundraising efforts.⁶⁴

On the other hand, heavy policing to ensure that the citizens are strictly adhering to the guidelines imposed by the government has taken a toll for terrorist organizations with reduced opportunities for recruitment, training, fundraising and media coverage.⁶⁵ Although the possibility of violent attacks by the terrorist groups cannot still be ruled out, these are definitely reduced in numbers. Though the possibility of use of Coronavirus as a bio-weapon is being discussed, these remain as implausible as ever.⁶⁶ Nevertheless, many groups have weaponized the panic and chaos unleashed by the pandemic to emphasize their argument about establishing an Islamic state and urging its supporters for help to sustain the Caliphate with the same level of human, material and financial resources as before.⁶⁷

Net Assessment

As the above assessments demonstrated, despite an array of measures against terrorism and terrorist financing, a fully articulated and sustained response against the operational, logistical and financial side of terrorist networks eludes the international community even 20 years after 9/11. This is not to discount the initial successes in overall counterterrorism efforts including killing and capture of terrorist leaders and financiers, locating and freezing of terrorist assets and forcing terrorists to use riskier methods for their financial operations. However, terrorists are able to adapt to the measures quickly thereby continuing to access significant financial and other resources. Jihadi strategists and theoreticians have come up with new roadmaps and operational concepts to help the movement to survive and operate in the much less permissive security environment of the post-September 2001 era.⁶⁸

On the other hand, most counterterrorism efforts have been and continue to be uncoordinated, limited, individualistic, and even on a case-to-case basis.⁶⁹ Overall, the environment in which terrorists make, store, move and use money remains all too permissive, while the international efforts to constrict this environment remains lacking.⁷⁰

Do we then go military?

Though countering terrorist financing is considered a non-military tool, the significance of the involvement of the military and quasi-military agencies in these operations cannot be underestimated. For example, before 9/11, the principal agencies dealing with criminal and terrorist money were embedded in respective countries' military establishments.

⁶³ Simonovich, *Why COVID-19 is making utilities more vulnerable to cyberattack - and what to do about it.*

⁶⁴ United Nations, *COVID sparks resurgence of ISIL terrorists, threatening international peace and security, Security Council hears.*

⁶⁵ United Nations, *Impact of Covid-19 On Violent Extremism and Terrorism.*

⁶⁶ Dehghani, et.al., *Could SARS-CoV-2 or COVID-19 Be a Biological Weapon?*

⁶⁷ Binding, *Coronavirus: IS could exploit COVID-19 pandemic to carry out terror attacks.*⁷⁷

⁶⁸ Black, *Al-Suri's Adaptation of Fourth Generation Warfare Doctrine.*

⁶⁹ Lesser, *Coalition Dynamics in the War Against Terrorism.*

⁷⁰ Levitt, *Stemming the Flow of Terrorist Financing: Practical and Conceptual Challenges.*

Another aspect that makes this important is the increasing lack of distinction between terrorism and warfare. Thus, defense forces fighting in Colombia against FARC militants or in Afghanistan against the Taliban must necessarily undertake counter-narcotic operations to eradicate cocaine or opium production which are a major source of income for the respective groups.

There could also be multiple instances or possibilities where the civil, the police or constabulary services might be incapable to conduct investigations, secure evidence and arrest the suspects for their involvement in financing of terrorism, especially during an all-out armed conflict.⁷¹ In certain geographical areas, like ungoverned territories in Pakistan's Federally Administered Tribal Areas (FATA)⁷² or in failing or failed states with little if any governance,⁷³ it could be practically impossible for civil authorities to stop these activities due to operational constraints. In the Philippines for example, almost all counterterrorism operations are vested in the hands of the military due mainly to the nature of the terrorist actors and the terrain where they operate. Specifically, the operations against the Abu Sayyaf Group (ASG) which combines elements of terrorism and criminality and operates in ungoverned islands and the surrounding waters was entirely led by the military which has produced high levels of attrition involving leadership, safe havens and funding activities. For example, in 2006 OPLAN Ultimatum, the security forces not only killed members of both ASG and Jemaah Islamiyah (JI) including the leader of ASG but also found a motherload of financial information from the terrorists' hideout which enabled the agencies to substantially debilitate the money network of both the groups.⁷⁴ In other cases, the military could be first responders to a terrorist attack through the possibility of the military having a deliberate counter financing mandate as with the North Atlantic Treaty Organization (NATO)⁷⁵ and many other militaries cannot be ruled out.⁷⁶

As Dean, Thompson and Keatinge argued, one of the plausible methods for countering terrorist financing is to strike and weed out the main source itself. If the authorities are truly to starve terrorists of funds, the source needs to be eliminated or donors dissuaded as strongly as possible,⁷⁷ along with the recipients themselves. Also, as the operations against the FARC, Daesh, LTTE and many other groups have demonstrated, territorial control gives the terrorists a great degree of latitude, flexibility and autonomy in financial activities. It is, therefore, logical to dispossess the terrorist entities from their physical space which is necessarily a military function. In this sense, the military plays a decisive role in curbing terror groups' access to funds. With this background, it is now proposed to briefly analyse the

⁷¹ Ginkel, *Prosecuting Foreign Terrorist Fighters: What Role for the Military?*.

⁷² Acharya, et. al., *Making Money in the Mayhem: Funding Taliban Insurrection in the Tribal Areas of Pakistan*.

⁷³ Korteweg, *Black Holes: On Terrorist Sanctuaries and Governmental Weakness*.

⁷⁴ Acharya, *RP Troops Tracking Jemaah Islamiya Bombers in Jolo*.

⁷⁵ Santamato, *The New NATO Policy Guidelines on Counterterrorism: Analysis, Assessments, and Actions*.

⁷⁶ Azevedo, et. al., *Network vs. Network: Countering Crime-Terror by Combining the Strengths of Law Enforcement, Military and Academia*.

⁷⁷ Dean, et al, *Draining the Ocean to Catch one Type of Fish: Evaluating the Effectiveness of the Global Counter-Terrorism Financing Regime*.

financial dynamics of few groups that were targets of military attrition, especially targeting of their financial networks and other logistics that were the key to the success of overall counterterrorism operations.

Case Studies on the Role of the Military to Counter-Terrorist Financing ***Liberation Tigers of Tamil Elam (LTTE) – Sri Lanka***

The defeat of the Liberation Tigers of Tamil Elam (LTTE) in Sri Lanka highlights the distinctive role of the military in counter-terrorist financing operations along with other measures like diplomacy. While the ground forces were making painful advances to reclaim territory from LTTE's control, its navy and the air force, equipped with intelligence provided by some friendly countries, targeted the supply infrastructure of the group.⁷⁸ Between March and October 2007, the Sri Lankan defense forces were able to destroy as many as nine LTTE merchant vessels which were the mainstay of the group's supply setup.⁷⁹ Sri Lankan fighter jets also destroyed the groups warehouses and more importantly small and fast suicide gunboats with which the LTTE was able to exercise effective sea-control in Jaffna Sea.⁸⁰ These military actions also destroyed LTTE's lucrative illegal arms and human trafficking operations, major sources of its income.⁸¹ As a result, the group was not in a position to recoup the loss of its weapons and armaments in ground combat, which undermined its resistance and the ability to prolong the fight.⁸² Despite polarized reception by some countries due to rather disproportionate civilian casualties, it was clear that with targeted military actions the Sri Lankan Army was able to obliterate LTTE relatively (in terms of previous military campaigns) easily by destroying its sources of finance and supply chain which was sustaining the group's fight so far.

Islamic State of Syria and Iraq (Daesh)

The main strength of the so-called Islamic State (Daesh) was control over resource-rich territory in Syria and Iraq. It was harnessing oil and natural gas reservoirs in these areas and selling the same in black market through local middlemen and smugglers.⁸³ Other sources of its income comprised looting and robbery, kidnapping and extortion, illicit taxation of goods and cash that transit its territory, smuggling of cultural artefacts, besides donations and fund raising through the Internet.⁸⁴ As mentioned earlier, territorial possession gave a great degree of flexibility and stability to the group in terms of its finances, making it the most cash-rich group by far with an annual turnover of \$2 billion.⁸⁵

⁷⁸ Acharya, *Ending the LTTE: Recipe for Counter-terrorism*.

⁷⁹ Layton, *How Sri Lanka Won the War*.

⁸⁰ Patranobis, *What led to the LTTE's defeat?*

⁸¹ The Mackenzie Institute, *Funding Terror: The Liberation Tigers of Tamil Eelam And Their Criminal Activities In Canada And The Western World*.

⁸² Fair, *Urban Battle Fields of South Asia*.

⁸³ FATF, *Financing of the Terrorist Organization, Islamic State of Iraq and the Levant*.

⁸⁴ *Ibid.*

⁸⁵ Zee5, *Richest Terrorist Organisations of the World*.

But the fact that Daesh was operating in an identifiable space became the cause of its decline as well. Intense and coordinated military action dented the sources of income of the group in Syria and Iraq.⁸⁶ U.S. airstrikes in Syria destroyed some of the refineries controlled by Daesh. Another airstrike in Mosul, Iraq destroyed a bulk cash distribution site where Daesh had stashed huge amounts of money amounting to millions of dollars amassed from their illegal activities. The loss of Qayyara field near Mosul added to their setback.⁸⁷ The oil rich province of Deir Ezzor was crippled by the air operations of the Russians, who were stationed in Latakia Airbase.⁸⁸ These actions broke the backbone of the group so much so that it was unable to pay salaries to its members or employees which was one of its key attractions or to maintain facilities like schools and hospitals that it flaunted as achievements of Daesh.⁸⁹

According to reports, Daesh fighters earned between \$400-\$1200 per month, plus a \$50 stipend for their wives and \$25 for each child. After the loss of Deir Ezzor, the fighters' salaries were slashed by as much as 50%, resulting in an increase of desertion rate and further dwindling of their pool of fighters. Some of the defectors joined rival militant groups, whereas foreign fighters and mercenaries, either went missing or returned to their home states.⁹⁰ Thus, dealing with financing of terrorism may have an impact on the foreign terrorist fighters having financial incentives?

Subsequently, Daesh experienced consecutive defeats and were confined to small areas and the losses in Deir Ezzor and Battle of Baghuz Fawqani marked the near end of the territories it controlled in Syria.⁹¹ All these led to the loss of legitimacy as the group, with the declaration of the long cherished Islamic State, Daesh had flaunted its ability to run a government. The group was reduced from being a formidable fighting force to a much smaller and scattered outfit. Then came the collapse.

The Taleban (Afghanistan)

Afghanistan presents a very different dynamic where narcotics related activities for funding terrorist financing are intertwined with livelihood issues of local farmers. Ironically, as an agricultural activity, the puppy cultivation doesn't yield as much income for the farmers in Afghanistan as its by-product – heroin (processed or otherwise) gets for the nefarious middlemen like the processors, transporters and sellers which are often in cohorts with violent political organizations like the Taleban. However, the farmers have very little options to curb it due to climatic conditions and inexperience, and lack of access to cultivate substitution crops. Consequently, they fall victim to organized crime gangs and multiple violent groups in a country which has been experiencing destabilization and insecurity for decades.

⁸⁶ FATF, *Financing of the Terrorist Organization*.

⁸⁷ Kalin, *Oil fires cast black cloud over Iraqi town retaken from Islamic State*.

⁸⁸ Solomon, et. al., *Inside ISIS Inc. The journey of a barrel of Oil*.

⁸⁹ Economic Times, *ISIS losing fighters to rival groups after pay cuts*.

⁹⁰ *Ibid*.

⁹¹ Hartogs, *ISIS cuts fighters' salaries due to 'exceptional circumstances*.

To be sure, the pre-9/11 Taleban regime exploited the entire chain of narcotics trade in Afghanistan, particularly at the production of heroin and its transportation and distribution stages.⁹² It also directly taxed poppy cultivation.⁹³ Even though in July 2000 the Taleban leader Mullah Mohammed Omar prohibited poppy cultivation, the administration managed to profit from the resultant opium scarcity, which led to a sharp increase in prices in 2001 in the international market.⁹⁴

During the decade-long fight against the U.S., NATO and Afghan forces the Taleban continued to dabble in narcotics trade⁹⁵ controlling cultivation, production and transportation of the opium.⁹⁶ With *de facto* territorial control especially in Helmand and Kandahar provinces, Taleban levied tax on opium cultivation at 10 percent of the value of the produce.⁹⁷ According to an estimate of the United Nations Office on Drugs and Crime (UNODC) in 2009, the Taleban earned around \$155 million in opiate trade.⁹⁸ In 2017, the UNDOC reported cultivation of 328,000 hectares of opium poppies in Afghanistan, following which United States Forces-Afghanistan (USFOR-A) conducted arial strikes against the “drug labs” which as claimed by Washington, crippled Taleban’s “revenue generation enterprise” denying the group up to \$46 million in direct revenue in that year alone.⁹⁹ However, despite these operations, over the last two decades, poppy cultivation has actually grown and was up by 37 percent in 2020 than the previous year with farm-gate value of \$350 million that the farmers get. When converted in to heroin the value multiplies manifold, the proceeds of which goes to criminal groups and to the Taleban.¹⁰⁰

With the withdrawal of the U.S led Coalition Forces and NATO from Afghanistan and the Taleban taking over the *de facto* control of the country, there is a distinct possibility that the regime could go back to its old practices on narcotics to overcome the big gap in their overall revenue now that it needs to sustain its governance in the country. A 2021 *Financial Times* report put the Taleban revenue from drug related activity from one province – Nimroz - at \$0.3 million from poppy cultivation, \$0.1 million from Morphine production and \$2.7million from methamphetamine smuggling.¹⁰¹ Now, with the control of border posts to and from neighbouring Tajikistan, Uzbekistan, Turkmenistan, Iran, and Pakistan, the Taleban can facilitate the import of the chemicals required to produce methamphetamine.¹⁰²

However, drugs may not be as significant a source of funding for the Taleban as has been projected which had led to a “distorted understanding of the economy and the insurgency.”¹⁰³

⁹² Roth, et al., *Monograph on Terrorist Financing*.

⁹³ Hutchinson, *Testimony Before the House Government Reform Committee's Subcommittee on Criminal Justice*.

⁹⁴ *Ibid.*

⁹⁵ McGirk, *Terrorism Harvest*.

⁹⁶ Azami, *Afghanistan: How do the Taliban make money?*.

⁹⁷ *Ibid.*

⁹⁸ UNDOC, *The Global Afghan Opium Trade: A Threat Assessment*.

⁹⁹ US Department of Defense, Department of Defense briefing by Major General Hecker via teleconference from Kabul.

¹⁰⁰ UNDOC, *Afghanistan Opium Survey 2020*.

¹⁰¹ Findlay, *Taliban Finances Swelled by Proceeds of Afghanistan's Shadow Economy*.

¹⁰² O'Donnell, *The Taliban Are Breaking Bad.*

¹⁰³ Findlay, *Taliban Finances Swelled by Proceeds of Afghanistan's Shadow Economy*.

Overall Taleban revenue comprises many activities such as legal and illegal taxation, legal crops, people smuggling, land deals, mining and development assistance. Despite wide-scale military operations to curtail Taleban's sources of income, the group has taken control of mining sites and extorted money from ongoing legal and illegal mining operations.¹⁰⁴ According to one estimate, it has received more than \$10 million a year from 25-30 illegal mining operations in southern Helmand province.¹⁰⁵

On its own, the current regime has declared to make Afghanistan a "narcotics-free country" hence forward, but that is easier said than done. With international isolation preventing foreign aid to come in and no viable crop-substitution options, the regime may still fall upon drug-related activities.

Dealing with the Taleban as the ruling entity now will be entirely difficult from the past when it was being dealt as a terrorist or an insurgent group. Denying the Taleban, the revenues from these sources are just not possible without a recourse to military instruments especially, as a rogue regime, the current Afghan government is not likely to respect CFT rules, regulations and standards imposed by the UN and other intergovernmental agencies like FATF. Unfortunately, as there is no military force worth the name in Afghanistan after the withdrawal of U.S. and NATO forces, it remains uncertain how the international community will deal with the challenges vis-à-vis the Taleban.

Revolutionary Armed Forces of Colombia (FARC)

FARC was formed during the Cold War inspired by the ideology of Marxism-Leninism. Their primary source of income was drug (Coca) cultivation and trade. FARC was in control of territory where it levied taxes on farmers who were involved in the drug cultivation and production. In return, it was providing the farmers armed protection. According to Mcdermott, the group's earning from different sources was up to \$580 million.¹⁰⁶ The other sources of earning were from extortions and kidnappings.¹⁰⁷ The guerrillas also earned money from illegal gold mines.¹⁰⁸

Nevertheless, the cocaine trade was the financial bedrock of their activities. In the beginning, FARC received massive support from the impoverished local populace. The group earned a lot of goodwill by building schools, health centres, bridges, etc. The Colombian Army, under the codename of Joint Task Force Omega, moved against the sources of funding with the assistance provided by the U.S. Drug Enforcement Agency (DEA). Neighbouring states like Peru and Brazil also played a decisive role in weeding out FARC from their soil using military means. With Plan Colombia, the U.S. further helped strengthen the Colombian state and its defensive capabilities.

¹⁰⁴ Els, *How Afghanistan's \$1 trillion mining wealth sold the war.*

¹⁰⁵ *Ibid.*

¹⁰⁶ Mcdermott, *The FARC's Riches: Up to \$580 Million in Annual Income.*

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*

In 2008, FARC leader Raul Reyes was killed in the bombing of a FARC camp in Ecuador by Colombian warplanes. The Colombian military with the active participation of American DEA also destroyed FARC-run drug labs, apprehended farmers involved in drug trade and destroyed coca crops. In 2011, Alfonso Cano, a senior leader of FARC was killed in a bombing raid. This was the time when the FARC showed signs of fatigue, with their resources on the verge of depletion. Many former senior FARC leaders abdicated their posts and either surrendered or joined hands with the Colombian government. Thus by 2014, they were mostly incapable of waging long war and FARC's capability mostly resorted to small scale ambushes against isolated army units and police patrols using homemade weapons. In 2016, the group shunned its tactics of using violence and signed a peace treaty with the government and started disarming themselves. However, a number of disillusioned armed rebels did not take part in the demobilization process and deserted FARC.¹⁰⁹ Many of them continued with drug trafficking, though in far smaller scale than when the group was at its peak.¹¹⁰

Terrorism in Sahel and Operation Barkhane

Operation Barkhane is the largest overseas military operation of France with an annual budget of nearly 600 million Euros.¹¹¹ Arguably the French have achieved major military successes. There has been a significant presence of terrorists in the Sahel region of Africa, especially Al-Qaeda in Islamic Maghreb (AQIM), Nusrat-al Islam and Boko Haram.¹¹² The main sources of income of these groups are from illicit trafficking, including drugs, arms, extortion, and donation. Operation Barkhane, ongoing since 2014, aims at helping the governments in the region to maintain control of their territories and prevent the region from becoming a haven for terrorist groups. Most of the operations are on the ground, with limited air activity.¹¹³

However, the successes and role of military operations by France and its African Allies and United Nations Multidimensional Integrated Stabilization Mission in Mali (MINSUMA) to counter terrorist financing are ambivalent. Previous operations aimed at crippling the groups' financial activities by destroying their illicit cocaine labs and arms depot have been a success. This has resulted in AQIM nearly ceasing its operations in Algeria, its birthplace, due to lack of money.¹¹⁴ But the group has repositioned itself by expanding its operations to the countries in Central and Western Africa, by taking advantage of the fragile local governments in these states. Importantly, the group has shifted its sources of income to other conventional and unconventional means like extortion and ransom, which has recently helped the group receive more than \$50 million.¹¹⁵ The group is also steadily branching out towards cash couriers, hawala banking, cryptocurrencies and shell companies which has provided them with a stable source of income, as these are painstaking to trace and eliminate.¹¹⁶

¹⁰⁹ Ospina, *Chapter 6 Colombia and the FARC: From Military Victory to Ambivalent Political Reintegration?*.

¹¹⁰ Bohacek, *FARC deserters put Colombia's peace process at risk*.

¹¹¹ Gravitas Desk, *French troops face grim reality in Mali*.

¹¹² Hearing before the Subcommittee on Counterterrorism and Intelligence of The Committee on Homeland Security.

¹¹³ Tull, *Operation Barkhane and the Future of Intervention in the Sahel*.

¹¹⁴ Vernile, *The influence in North Africa of AQIM*.

¹¹⁵ Cifuentes, *The Sahel and terrorist financing: diversity and financial system opportunities*.

¹¹⁶ *Ibid.*

Moreover, the Sahel region having a porous and rough geographical terrain has made it increasingly difficult for the French Armed Forces to commence kinetic operations in the zone. Analysts have blamed the overdependence on ground operations, rather than commencing air operations for the failure to curb these sources, which fund these groups. Operation Barkhane has been widely compared to the American operations in Afghanistan which has resulted in a catch-22 situation. The fragile peace is amenable to collapse¹¹⁷ as France declared an end to the West African Barkhane military operation.¹¹⁸

Thus, as Ganer sums it up, to fight an enemy that uses multiple measures, a government needs the same ability to employ multiple responses. No single security entity (military, police, gendarmerie) possesses that full scope of operational strengths.¹¹⁹ Targeting terrorist financing, as is the case with terrorism itself, therefore requires both tactical military operations to disrupt the individual nodes (terrorists and their financiers) and strategic means to change the environment within which terrorists raise and move their resources.

Countering Financing of Terrorism is both Military and Non-military

Throughout the years, armed forces have conducted many decapitation operations often dealing mortal blows to their terrorist adversaries. These include capturing or killing their leaders and destroying their supply networks and sources of finances. However, as Hoffman argues, decapitation strategies do not necessarily bring the total fall of the terrorist groups especially in respect of religiously inspired entities like Al-Qaeda and Daesh.¹²⁰ Earlier groups tended to disintegrate once they lost their leaders at the top as most of these groups were hierarchical in structure. However, faced with the loss of leadership, newbie leaders found alternative ways to keep the operations going by becoming networks with decentralized command and control structures and logistics including financing.¹²¹ As a result, an obscure, and complex environment emerged, which is the current challenge faced by security agencies.¹²² Moreover, as the world economy expands and integrates, creating vast new opportunities for business, the technology at the disposal of criminals and terrorists are increasing in magnitude.¹²³ Meeting these challenges head-on must be part of an overall campaign plan if the global war on terrorism and terrorist financing is ultimately to be won.¹²⁴

Law enforcement and military segments bring the specialized operational and tactical skills most closely associated with the terrorist groups *modus operandi*. Both the military and law enforcement which would've captured materials belonging to the terrorists provide information and reveal the inner workings of terrorist activities.¹²⁵ However, this skillset is

¹¹⁷ Shurkin, et. al., *What if France Ended Operation Barkhane?*

¹¹⁸ Salaün, et al, *France ends West African Barkhane military operation.*

¹¹⁹ Ganor, *The Counter-Terrorism Puzzle: A Guide for Decision Makers.*

¹²⁰ Hoffman, *The Myth of Grass-Roots Terrorism; Why Osama Bin Laden Still Matters.*

¹²¹ Acharya, et. al., *Nizam la Tanzim (System not Organization): Do Organizations Matter in Terrorism Today? A Study of November 2008 Mumbai Attacks.*

¹²² Dishman, *Terrorists and Criminal Dynamics: A Look Beyond the Horizon.*

¹²³ Summers, *The Regional and Global Challenge of Tax Evasion, Corruption and Money Laundering.*

¹²⁴ Thachuk, *Terrorism's Financial Lifeline: Can It be Severed?.*

¹²⁵ Azevedo, et. al., *Network vs. Network.*

significantly enhanced by the addition of system-level measures such as global standards on CFT incorporating rules and regulations to enforce best practices in due diligence, financial forensics, regulation of charitable organisations, designations of terrorists and their financial supporters, a combination of which could make it extremely difficult for the terrorists to make and move money.

This chapter argued that CFT endeavours have failed to produce optimum outcome due to ambivalence on the part of the individual states not only on the issue of who is a terrorist or what constitutes a terrorist act, but also on principles of sovereignty and non-interference. Though military actions produced tangible results, loopholes in implementations of measures and failure to adhere to global standards against terrorist financing by the states ultimately undermined the overall sustainability of these operations.

Fighting terrorist financing is a global public good as it improves international security and the integrity of the global financial system. In this fight, the creation and enforcement of new laws and regulatory regimes is an immense undertaking in its scope and in terms of the costs involved. At the same time fighting groups like Al-Qaeda and Daesh militarily is necessary. Both complement each other.

Role of NATO

Though some analysts believe that the CFT is not in the tool kit of the military. NATO as a military organization has assembled a formidable plan of action to deal with terrorist financing. This is based on the understanding that a comprehensive approach is necessary to fight a threat which is becoming increasingly globalized and complex with terrorists harnessing the cyberspace¹²⁶ and renewing their interests to acquire weapons of mass destruction (WMD) capabilities.¹²⁷ Besides, with criminal nexus, terrorists have been able to shun institutional support or state sponsorship which became riskier anyway particularly after post-9/11 CFT initiatives described earlier.¹²⁸

NATO members agree that “terrorism is no longer an operational or tactical dimension of asymmetric warfare; it has become a ‘direct threat to the citizens of NATO countries and to international stability and prosperity, more broadly.’¹²⁹ It was under such considerations that the 2012 NATO’s Policy Guidelines on Counter-terrorism incorporated a more wholesome approach to fight terrorism including terrorist financing.¹³⁰ One of the pillars of the new strategy – “pursue” aims “to put an end to sources of terrorist financing by carrying out inquiries, freezing assets, and impeding money transfers.”¹³¹ With Afghanistan rapidly descending into chaos and lawlessness, NATO will have to remain engaged with the international community to target the terrorists and their financial infrastructures.

¹²⁶ Cloherty, *Al-Qaeda video calls for ‘electronic jihad.*

¹²⁷ Acharya, *Is the West prepared for an Islamic State attack?*

¹²⁸ Europol, TE-SAT 2011, *EU Terrorism Situation and Trend Report.*

¹²⁹ NATO, *Active Engagement, Modern Defence: Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organization.*

¹³⁰ *NATO’s Policy Guidelines on Counter-terrorism: Aware, Capable and Engaged for a Safer Future.*

¹³¹ *Ibid.*

Conclusion

In the *Art of War*, Sun Tzu advocated the destruction of an enemy's stores with fire. His tactics in essence were meant to sever the enemy's supplies and thus cause its downfall even without direct military engagement.

Arguably, a successful counter-terrorist financing campaign with military and non-military elements has the potential not only to terminate terrorist cash flow and dismantle their financial networks but also to force the terrorists to change their behaviour so as to use costlier and high-risk means that make them susceptible to detection and destruction.

Ultimately, however, the success depends on how the overall fight is conducted. Defeating these groups requires, apart from killing and capture strategies, countering their ideology and depriving their ability to amass resources. Kinetic aspects of counterterrorism tend to be short-term - military strikes peter out and coalitions disappear as soon as the threat seems to be losing its steam, whereas the impact of counter-ideology and counter-financing measures are long-term and sustaining. Targeting the integrity of the terrorists who are collecting the money to fuel their motives than simply killing and capturing them or seizing their assets is a far more effective strategy.¹³²

Attacking terrorists and their financial support structures, while winning or sustaining the support of the population, requires the application of military, law enforcement, and intelligence actions along with political and diplomatic instruments. All of these must be utilized simultaneously and with unity of effort at both national and international levels to produce optimal outcomes in the long term.

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¹³² Keatinge, et. al., *Draining the Ocean to Catch one Type of Fish*.

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CHAPTER IV

GENDER SPECIFIC COUNTERTERRORISM POLICIES: DEVELOPING GOOD PRACTICES IN RESPONSE TO THE FOREIGN TERRORIST FIGHTERS

Zeynep Sütalan

Introduction

Gender specific counterterrorism¹ policies refer to the policies that are formulated and implemented via prioritizing gender differences in efforts to prevent and respond to the terrorist threat and acts. Underlining that gender² cannot be reduced to ‘women’, and is a socially constructed definition of being men and women including power relations³, this article is designed to cover what is widely referred as the prosecution, rehabilitation and reintegration (PRR)⁴ of the women associated with terrorism in reference to the good practices⁵. Within this framework, the primary focus of the article is the issue of returning foreign terrorist fighters (FTFs)⁶ and the women associated with the Daesh terrorist organization and its affiliates.

¹ NATO defines ‘counterterrorism’ as “all preventive, defensive and offensive measures taken to reduce the vulnerability of forces, individuals and property against terrorist threats and/or acts, and to respond to terrorist acts”. See NATO Standardization Office (NSO), *NATO Glossary of Terms and Definitions*, 35.

² According to the Office of the Special Adviser on Gender Issues and Advancement of Women (OSAG I), which services the United Nations Security Council on the area of Women, and Peace and Security, gender “refers to the social attributes and opportunities associated with being male and female and the relationships between women and men and girls and boys, as well as the relations between women and those between men. These attributes, opportunities and relationships are socially constructed and are learned through socialization processes. They are context/ time-specific and changeable. Gender determines what is expected, allowed and valued in a woman or a man in a given context. In most societies there are differences and inequalities between women and men in responsibilities assigned, activities undertaken, access to and control over resources, as well as decision-making opportunities. Gender is part of the broader socio-cultural context. Other important criteria for socio-cultural analysis include class, race, poverty level, ethnic group and age”. See in UN Women *Concepts and Definitions*.

³ For gender’s relation to power, and how gender analysis can be used to trace different forms of power, see Donnelly, *Demystifying Gender Analysis*.

⁴ In relation to the criticality of the issue of the repatriation of the FTFs, PRR has also been referred as PRRR, meaning Prosecution, Repatriation, Rehabilitation and Reintegration.

⁵ It is possible to define good practices as: “[...] a non-binding policy guideline and general framework that would catalyse harmonization and standardization of CT practices in line with multilateralism and strategic cooperation.” See Hisarlıoğlu and Yalcinkaya, *Conceptual Framework*, 20.

⁶ UN defines FTFs as: “individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict”. See in S/RES/2178 (2014). However, the definition of FTFs has been criticized for being ambiguous and leading to state obligations which are too broad and lacking precision. For discussions of the controversies about the definition of FTFs and related human rights and concerns as well as state obligations, see OSCE/ODIHR, *Guidelines for Addressing the Threats and Challenges of Foreign Terrorist Fighters*, 21-28.

Much ink has been spilled on the criticality of the issue of the ‘returnees’, both in terms of the security threat it poses to their countries of origin, but also on the ‘fate’ of the women and children held in camps in Syria and Iraq following the end of the Daesh control over territories in Syria. This article, in addition to the reiteration of the need for a timely and effective response which should be age and gender-specific, argues that the responsibility to respond to the women (and children) associated with or suspected of having links with Daesh rests upon the shoulders of the international community as a whole as well as the individual nations concerned (meaning nations who have nationals who are associated/affiliated with Daesh). Despite the calls to the nations by the United Nations (UN) for the immediate repatriation of their nationals from the camps in Syria, there is still a great bulk of uncertainty regarding the ‘time’. It is still unknown how long it will take the nations to respond to the calls by the UN for repatriation. Therefore, in the meantime, the international community under the leadership of the UN has to take necessary measures to meet the needs of those people in the detention camps who are to be repatriated. Those measures should be age and gender-specific including the security, physical and psychological needs, ideally within the framework of an internationally established temporary protection regime protected by an international peacekeeping force.

Governments of the nations most concerned seem to run down the clock all the time they are not taking their nationals back. It is fair to say that the rationale to keep the nationals associated with Daesh out of a country so that they would no longer pose a threat from inside is a short-sighted calculation. Besides, there are allegations of smuggling in and out of the camps in addition to the rape, torture, human rights abuse and violence taking place within the camps. Hence, the time is playing against the international community complicating the situation and making it more difficult to respond.

This article tries to highlight the criticality of the need to develop gender-responsive Counterterrorism policies through focusing on the gender dimension of responses to the FTFs. No doubt, the requirement for gender-responsive CT policies is not limited to the issue of FTFs, but it is via the acuteness of the threat and the challenges of responding to this threat that compelled the individual nations and the international community to revise their approaches to CT, particularly the neglected gender dimension of the present terrorist threat and the response lacking a gender-sensitive approach. The issue of minors is an important part of the responses to the FTFs, especially in cases of repatriation and follow-up rehabilitation and reintegration, and necessitates a different nuanced approach legally, politically, socially and psychologically. Despite some references to children, the whole issue about minors is left out of the scope of this article. However, it is fair to note that there are efforts to address the gender dimension of minors’ involvement in terrorism in relation to the different impact of terrorism on boys and girls.⁷ Against this background, first of all, the situation in relation to the FTFs (male or female) in Daesh, based on the available data concerning the returnees from and detainees in Syria and Iraq is described. Then, women’s differing roles in Daesh is briefly discussed. Why and how to tailor the PRR response is the crux of the discussions. Reflections about military’s role in gender-responsive PRR are also included.

⁷ See UNODC, *Handbook on Children Recruited and Exploited by Terrorist and Violent Extremist Groups*.

Gender Dimension of the Foreign Terrorist Fighters (FTFs)

In 2018, the International Centre for the Study of Radicalisation (ICSR) published a report titled as: *From Daesh to Diaspora: Tracing the Women and Minors of Islamic State*. According to this report, out of 80 countries (excluding Syria and Iraq), 41,490 individuals travelled to Syria and Iraq to join Daesh, and of those individuals, 13 % (4,761 individuals) were women. Of those women who travelled to Syria and Iraq to join Daesh, only 256 were recorded as returnees, corresponding to the four percent of total returnees “accounting for up to 5% of the women who travelled to Syria and Iraq”⁸. Since then, the report has remained one of the most cited, if not the single, open-source reference to the numbers of FTFs in general and women associated with FTFs and female FTFs in the case of Daesh.⁹ The dataset compiled by the authors and utilized in the report was updated by the same authors based on the available information between July 2018 and July 2019. Cook and Vale updated the global figures from 44,279 to 52,808 for the number of total foreign terrorist fighters, from 6,797 to 6,902 for women and from 6,173 to 6,577 for minors affiliated with Daesh. They also concluded: “By July 2019, up to 609 women of those who travelled had been recorded as returned, comprising up to eight percent of all returnees, or nine percent of women who travelled. However, these figures may not accurately capture the true picture.”¹⁰ Still, obtaining accurate information about the number of FTFs, let alone sex-disaggregated data, is a problem.¹¹ As underlined by the UN Security Council Counter-terrorism Committee Executive Directorate (CTED): “Because the systematic collection of gender-disaggregated data is still not the norm, it remains very difficult to track developments; understand the challenges; implement tailored, gender-sensitive policy responses.”¹² At the end of the day, reporting by the nations on female FTFs or women associated with male FTFs has not reached the desired level. Although this might stem from several reasons, one of them about the female FTFs and women affiliated with Daesh might be the prevalent gendered perception that women traveling to conflict zones have been seen as followers of male FTFs rather than agents¹³ with deliberate choices to join certain terrorist organizations.¹⁴

⁸ Cook and Vale, *From Daesh to Diaspora*, 3.

⁹ For instance, see CTED, *Gender Dimensions of the Response to Returning Foreign Terrorist Fighters*, OSCE, *Understanding the Role of Gender*, 24.

¹⁰ Cook and Vale, *From Daesh to 'Diaspora' II*, 31. The dataset compiled by Cook and Vale is comprised of the numbers of minor (Daesh) affiliates (includes travelled and born in theatre, infants (confirmed born in theatre), female (Daesh) affiliates, total (Daesh) affiliates, minor returnees, female returnees, and total returnees. These statistics includes figures from 83 countries. See Ibid: 35-38.

¹¹ Turkey reported that since the outbreak of the Syrian Civil War in 2011, Turkey has deported 8,585 foreign terrorist fighters from 102 countries. See Republic of Turkey Ministry of Interior, “2011 Yılından Günümüze, 102 Farklı Uyuşturucu 8.585 Yabancı Terörist Savaşçı Sınır Dışı Edildi”. For the European context, Renard and Coolsaet underlines that governments’ capability to collect information from the camps and prisons in Syria is limited and have to rely on other actors in addition to opting for dealing with the sensitive matter with discretion. See in Renard and Coolsaet, *From bad to worse: The Fate of European Foreign Fighters and Families Detained in Syria after the Turkish Offensive*, 4-5.

¹² CTED, *Analytical Brief*, 2.

¹³ About the agency of women in terrorism and counterterrorism, see Sütalan, *Good Practices in Integrating a Gender Perspective into Countering Terrorism*, 141-150.

¹⁴ See Baroud, *Female Foreign Terrorist Fighters: Data and Analysis*, 30-32.

When Daesh lost control of territories in Syria, some of its terrorists (and affiliates) relocated to other conflict zones, some died, some managed to return to their home countries through legal or illegal means and some, predominantly women and children were kept in camps for refugees and Internally Displaced Persons (IDPs) in Syria and Iraq. Among those camps, it has been the al-Hol/al-Hawl/al-Hawl camp which is the most well-known, because it appeared on the news, articles and reports due to the number of people residing, inhumane conditions, allegations of violence and human rights abuses. Being built to house 10,000 people, it was reported that there are 75,000 people¹⁵ in the al-Hol camp of which “43 per cent are Syrian nationals, 42 per cent are Iraqi nationals and 15 per cent are foreign nationals”¹⁶. When Daesh was deprived of its last stronghold in Baghouz by the US-led coalition forces, most of the women and children fleeing the fighting took shelter in the camps. An additional area, known as “foreigner’s annex” was constructed to detain over 11,000 women and children separately from the general population of al-Hol camp.¹⁷ Besides, it was estimated that by October 2020, there were 13,500 ‘foreign’, meaning neither Syrian nor Iraqi, women and children in the Syrian camps.¹⁸

As underlined by the International Crisis Group (ICG) for the women in Al-Hol camp¹⁹, the women in Daesh are not a “monolithic group” with different backgrounds, with different motivations and affiliations.²⁰ Some wilfully joined the terrorist organization and became militant. Some were coerced, some were deceived, some simply followed family members, and some were groomed or recruited as minors.²¹ What is important here is to save ourselves from the gender-stereotypes, which are prevalent in the popular view of women in Daesh as ‘jihadi brides’ or ‘baby factories’. Such view not only denies agency to women in their decisions to join a terrorist organization, but also ignores women performing roles other than ‘wives’ of the ‘terrorists’. As underlined by Brown, “terrorism is personal and political, and gendered”²² and women might have personal and political reasons to join terrorist organizations as men do. Besides, women can play different roles in terrorist organizations, ranging from combat roles to support roles, strategic roles to tactical roles, depending on the context and the type of the terrorist organization. And in Daesh, women have enjoyed differing social status and played different roles.

“Some worked in the group’s administrative and media apparatus, or served as police enforcers, logisticians, recruiters, or propagandists with far-reaching reputations as jihadi poets. Some worked within their professions, for example, as doctors or teachers. Others were wives, mothers and housekeepers, tasked with raising future fighters. Across and within these categories, some remained

¹⁵ From 2019 to 2020, these estimates varied between 60,000 to 75,000 in different sources.

¹⁶ UN News, ‘Foreign children’ in overwhelmed Syrian camp need urgent international help.

¹⁷ International Crisis Group (ICG), *Women and Children First: Repatriating the Westerners Affiliated with ISIS*, 3.

¹⁸ Renard and Coolsaet, *From bad to worse*, 4.

¹⁹ For the activism of Daesh women in the camps, see Vale, *Women in Islamic State from Caliphate to Camps*.

²⁰ ICG, *Women and Children First*, 5.

²¹ Ibid, 5.

²² Brown, *Once a Terrorist, Always a Terrorist? How to Respond to the Women of Daesh*, 3.

committed to the ISIS project, while others grew disillusioned with its brutality, rejected its authority and sought to escape. Those women who challenged their fighter husbands or the group's authority were often imprisoned, physically abused, prosecuted in the group's local Sharia courts, or had their children taken away to punish their disobedience."²³

According to Interpol, based on the reports of the member countries, of women who join Daesh in Syria and Iraq, "34 per cent were recruiters, 24 per cent were facilitators, 21 percent were financiers, and 21 per cent were involved in propaganda"²⁴. Despite the "less operational roles" women occupied in the Daesh at the beginning, according to Davis, starting with December 2016, the terrorist organization shifted its official stance about women's involvement in combat and began supporting women's engagement in defensive jihad. By July 2017, Daesh called women to prepare for fighting in jihad.²⁵ The possibility that women might have been trained as suicide bombers since then should be added to the risk assessment about the possible engagement of women in Daesh in different type of terrorist activity.²⁶

Repatriation First: Highest Priority to Women and Children

UN calls for the immediate repatriation of women and children suspected of links to Daesh from detention camps in Syria and Iraq due to the deteriorating conditions paving the way for further radicalization. Having issued letters to the governments of the 57 states that are believed to have nationals in the camps, UN human rights experts underline:

*"Thousands of people held in the camps are exposed to violence, exploitation, abuse and deprivation in conditions and treatment that may well amount to torture or other cruel, inhuman or degrading treatment or punishment under international law, with no effective remedy at their disposal. Unknown number have already died because of their conditions of detention."*²⁷

Not all states responded to these calls immediately, some countries like Finland, France, Germany, UK, US, Canada, Belgium and Norway have taken back limited numbers of nationals as orphans, pledging to continue. Countries in Europe are in dire straits in deciding to allow the return of the individuals who went to Syria and Iraq to join Daesh, including women who married Daesh terrorists or children born to Daesh affiliated parents. In Norway, the right-wing Progress Party resigned from the coalition upon the decision of the Cabinet to allow a Norwegian woman to return to Norway from the al-Hol camp with her two children so that one of her children could get medical treatment.²⁸ Repatriation issue caused rift in the coalition in Finland, too. The Finnish Foreign Minister of Green Party was 'for' speedy

²³ ICG, *Women and Children First*, 5-6.

²⁴ Baroud, *Female Foreign Terrorist Fighters*, 31.

²⁵ Davis, *The Future of the Islamic State's Women: Assessing Their Potential Threat*, 3. For more about the shift in Daesh position towards women's combat roles, see Winter and Margolin, *The Mujahidat Dilemma: Female Combatants and the Islamic State*, 23-28.

²⁶ Davis, *The Future of Islamic State's Women*, 4.

²⁷ Syria: *UN experts urge 57 States to repatriate women and children from squalid camps*.

²⁸ Deutsche Welle, *Norway government collapses over IS spouse repatriation spat*.

repatriation of children from the al-Hol camp and the way he pushed for it within his ministry and the way of handling the situation was asked for investigation by the constitutional committee.²⁹ Decisions for repatriation are generally made on case-by-case basis, despite the efforts to plan the repatriation and follow-up processes of rehabilitation and reintegration, stable and systematic national programmes are still lacking.³⁰

Approach to the issue of repatriation in the Western Balkans differs from the European Union (EU). Countries in the Western Balkans are pursuing a more active policy in bringing back FTFs and their families. “For example, 110 individuals in Kosovo and 25 in Bosnia and Herzegovina (mainly women and children), have already been brought back home in a single operation; Albania and North Macedonia, with five and three repatriated individuals respectively are currently working on initiatives to return all remaining nationals from Syrian camps.”³¹ It is fair to note that worldwide repatriation processes have been stalled due to the restraints and restrictions because of the Covid-19 pandemic. Radicalisation Awareness Network (RAN) underscores that EU has been responding to the challenges posed by the returning FTFs by relying on the present programmes designed for individuals in homegrown radicalisation or minors in need of protection with the exception of a few newly created institutions and procedures whereas Western Balkans states have been generating new procedures and institutions specifically for the returnees.³²

Against this background, Kazakhstan was praised by the international community for its efforts of repatriation of its citizens from Syria and its efforts for rehabilitation. Fionnuala Ní Aoláin, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism deemed the repatriation efforts of Kazakhstan as a humanitarian response to the desperate living conditions of women, children and men in the detention camps as well as a positive implementation of the national obligations stemming from the UNSCR 2178.³³

According to the Kazakh officials, the country has repatriated more than 700 Kazakh nationals from Syria, including 33 Daesh terrorist fighters, 187 women and 490 children. The returnees are placed in the Aktau camp upon their arrival with no links to the media, public and even their relatives where they go through medical tests and receive medical treatment or surgeries if they require. The reintegration process is expected to last for years under the strict control of local authorities and security services. Kazakh government designated the Ministry of Education as the leading body and contracted 17 rehabilitation centres which includes psychologists, psychiatrists, medical workers, nurses, social workers, theologians, teachers, and lawyers putting together the returnees with their families and extended community members. Although Kazakhstan did well with the humanitarian

²⁹ Kauranen, *Finland's foreign minister faces probe over Syria repatriations*.

³⁰ Radicalisation Awareness Network (RAN), *Repatriated foreign terrorist fighters and their families: European experiences and lessons for P/CVE*, 2021, 4.

³¹ Ibid.

³² Ibid.

³³ Ní Aoláin, *Time to Bring Women and Children Home from Iraq and Syria*.

repatriation issue, experts underline that it is still early to talk about the effectiveness of the efforts by the nation. Apart from the fate of the rehabilitation and reintegration efforts, there are concerns underscored by Ní Aoláin stemming from the domestic national laws on terrorism and extremism (because it is widely defined), which may result in discrimination against vulnerable groups.³⁴

Gender Dimension of Prosecution of Terrorism and Terrorism-related Offences

Women are increasingly being arrested for terrorism-related offences in the recent years³⁵, but it has been claimed that women escape prosecution processes or get softer sentences compared to their male counterparts.³⁶ Present research demonstrate that there is gender disparity in the criminal justice sector, which exists at different pillars of the criminal justice system and different stages of the criminal justice processes. The starting point is the criminalization of terrorist offences. There comes in the importance of the awareness on the different roles played by women in terrorism. What we know as of today is that women are predominantly performing ‘support roles’ in transnational terrorist networks especially the ones based on religious extremist ideologies as in the case of Daesh. These support roles can be defined as functional roles performed to help planning, preparation or perpetration of terrorist acts by providing logistical and financial support or assisting in recruitment. Therefore, it is highly important to criminalize such roles. In some national legislations, acts other than conducting terrorist act is not criminalized. This turns out to be one of the reasons why women associated with terrorism escape prosecution.

Once their engagement with terrorism is regarded as a security threat and their acts are criminalized in legislation, women convicted of terrorist or terrorism-related offences are getting lenient sentences because their criminal intent is thought to be tempered by emotional drivers or misguided beliefs.³⁷ These kind of gender-stereotypes are also exploited to escape prosecution by the female terrorist suspects to escape prosecution by building the defence on the argument of ‘being duped’.³⁸ Therefore, it is important to note that gender-stereotypes based on the victimhood of women create blind spots that works in favour of the women who are not only victims in their association with terrorism, paving the way for re-radicalization and further recruitment.

Recently, in the case of women returnees, another type of gender bias has reflected itself in charging some of these women with “parental abduction of minors and neglect of the duty of care and education towards their children”³⁹ in some cases including charges of having

³⁴ UN News, *Repatriation of extremist fighters and families to Kazakhstan*.

³⁵ Across Europe, women accounted for 22% of arrestees suspected of jihadist terrorism in 2018, as compared to 16 % in 2017 and 26 % in 2016. See in Europol, *EU Terrorism Situation and Trend Report (TESAT)* 30.

³⁶ For more, see Doerner, Demuth, *Gender and Sentencing in the Federal Courts*, 242-269; Alexander and Turkington, *Treatment of Terrorist*, 24-29; Hodwitz, *Prosecution of Women Associated with Terrorism*, 24-26.

³⁷ For the detailed analysis on the gender dimension of criminal justice responses to terrorism including gender dimension of terrorism offences, investigation and prosecution of terrorism cases, imprisonment, criminal investigations and prosecutions of Sexual and Gender-based Violence (SGBV) by the terrorist groups, and access to justice and remedies for victims, see UNODC, *Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism*.

³⁸ Schmidt, *Duped: Examining Gender Stereotypes in Disengagement and Deradicalization Practices*, 1-24.

³⁹ CTED, *Analytical Brief*, 4.

exposed children to danger by traveling together with them to the conflict zone in Syria and Iraq. On the other hand, available data and open-source information does not indicate such charges applied to men. “The practice of bringing charges relating to parental roles against mothers, but not fathers, reflects a clear gender bias.”⁴⁰

UN calls to nations to criminalize the financing, planning, preparation or perpetration of terrorist acts or supporting terrorist acts and then prosecute accordingly.⁴¹ Today, in relation to the prosecution of the returnees of Daesh, men or women, one of the most critical problems turn out to be the lack of evidence or the difficulties in evidence obtaining since the criminal act took place in another country, which was far away and in a continuous conflict. EU, for instance, acknowledged the importance of getting access to and using battlefield information in investigations and prosecutions in the context of the FTFs. EU Counterterrorism Coordinator recommended Eurojust to be the best place for collecting examples of cases in which battlefield information has been used in civilian courts.⁴² According to the 2020 Report by Eurojust, last few years witnesses the use of such evidence in criminal proceedings against FTFs.⁴³ Although obtaining battlefield evidence⁴⁴ is the responsibility of the trained civilian criminal justice actors, there are cases that civilian criminal justice may not be able to gather such evidence as in the cases of conflicts and high-risk situations, in which the military may be given the authority to perform that duty.⁴⁵ Exceptional though it should be considered, the information and evidence collected by the military in consistence with international law can be used as evidence in court. This information and evidence might be in different forms such as “physical objects (e.g., hard copy documents, cell ‘phones or weapons), and those of immaterial objects (e.g., statements from witness and suspects, electronic data and forensic information), as well as those of a testimonial nature (e.g., statements from witness

⁴⁰ Ibid.

⁴¹ S/RES/1373 (2001); S/RES/2178 (2014); S/RES/2396 (2017).

⁴² Eurojust, *Eurojust Memorandum on Battlefield Evidence*.

⁴³ Ibid.

⁴⁴ “Battlefield evidence can be considered as proof, similar to any other type of evidence, in criminal proceedings. Judicial authorities in ten EU countries report that, since 2018, they have increasingly received and used battlefield information in court proceedings-irrespective of whether the information came from national and/or foreign military forces, or from NGOs and UN entities. The evidence consists of both electronic data and physical items, such as mobile phone data, credit cards. Other examples are situational reports, letters describing potential terrorist plots, witness statements and administrative documents such as payroll roster, a list of patients in a hospital, or a will.” See in Eurojust, *Battlefield evidence increasingly used to prosecute foreign terrorist fighters in the EU*.

⁴⁵ CTED, *Guidelines to facilitate the use and admissibility as evidence in national criminal courts of information collected, handled, preserved and shared by the military to prosecute terrorist offences*, 11. On the other hand, UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism raises her concerns about the protection of human rights including fair trial and points out the risks that exceptional approaches to CT reflected in encouraging states to use battlefield evidence in the trial of FTFs. She underlines: “States that can deliver justice in accordance with international human rights law therefore have a responsibility to prosecute individuals against whom there is sufficient evidence of criminal behaviour, and sanction them appropriately through fair trials that comply with due process. Yet the necessary accountability for serious violations of international law will only be meaningful if delivered in compliance with international law.” See OHCHR, *Position of The United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism on the Use of “Battlefield or Military Produced Evidence in the Context of Investigations or Trials Involving Terrorism Offences*.

and suspects)⁴⁶. Global Counterterrorism Forum (GCTF) highlights that it is possible to gather information in various forms that could be relevant for prosecutions including “forensic information such as fingerprints on IEDs retrieved on the battlefield, information and evidence gathered at sites such as mass graves, and information on membership of individuals to terrorist organizations and the scope of the networks they operate in”⁴⁷. In line with the criticality of the issue and the current nature of the armed conflicts and terrorism, cooperation and information sharing turns out to be vital among the nations, foreign military forces, UN entities and other international and regional organizations including NATO. For increasing and improving collective CT efforts, Allies agreed on adopting NATO Battlefield Evidence Policy and NATO Practical Framework for Technical Exploitation during NATO Defence Ministers Conference on 22-23 October 2020. The rationale was the fact that during the NATO-led missions and operations, NATO troops are obtaining information and material be it in the form of improvised explosive devices (IEDs) or electronic devices in line with the mission objectives to support military tasks. Therefore, it was thought that “this information and material may also support law enforcement purposes and legal proceedings as evidence drawn from the battlefield”⁴⁸.

Besides the difficulties in the prosecution of returnees stemming from the lack of evidence, gender dimension of the issue necessitates additional emphasis. Evidence collection for women in Daesh has not been prioritized. This is mainly because these women have been perceived less of a threat.⁴⁹ Therefore, obtaining sufficient and admissible evidence is critical for overcoming the challenges in investigation and prosecution of women returnees. For this, different types of evidence “including forensic evidence from the crime scene and any items found there, information from public authorities and businesses, and the results of searches of persons, vehicles, homes and business premises”⁵⁰ is needed. By this way, it will be possible to identify if these women are victims, perpetrators or both. Those women could have been subjected to sexual and gender-based violence (SGBV)⁵¹ within the terrorist group or they might have been involved, willingly or unwillingly, SGBV acts of the terrorist group as a tactic to the individuals out of the terrorist organization. Therefore, it is critical

⁴⁶ CTED, *Guidelines*, 6. CTED also underlines the difference between evidence and information by stating: “The term evidence is used to describe information that complies with the legal rules of evidence and is used in judicial proceedings to prove or disprove the alleged crime. For example, a document retrieved by the military in the conflict zone is “information”. The same document can become “evidence”, however, if it complies with legal rules of evidence and is admitted in a judicial proceeding.” See *Ibid*, 6.

⁴⁷ GCTF, *Abuja Recommendations on the Collection, Use and Sharing of Evidence for Purposes of Criminal Prosecution of Terrorist Subjects*, 17.

⁴⁸ NATO, *NATO Allies agree Policy on Battlefield Evidence from operational theatres to boost efforts against terrorism*.

⁴⁹ Davis, *The Future of the Islamic State’s Women*, 6.

⁵⁰ UNODC, *Handbook on Gender Dimensions*, 61.

⁵¹ Acts of SGBV includes rape, other forms of sexual assault, sexual slavery, forced marriage and forced abortion. Terrorist organizations may use SGBV as a tactic for achieving strategic and ideological goals. “Gender-based violence also includes the infliction of violence against women who do not conform to rules regarding gender roles that terrorist groups seek to enforce, as well as the use of violence against men and women accused of homosexuality.” UNODC, *Handbook on Gender Dimensions*, 127. For more about the criminal investigations and prosecutions of the SGBV perpetrated by the terrorist groups, see *Ibid*, 127-169.

that the intelligence and evidence collectors, civilian or military, have gender awareness bringing in the importance of gender awareness training for the practitioners working in the CT environment.

Gender Dimension of Rehabilitation and Reintegration

Europol's Terrorism Situation and Trend Report of 2021 states: "In recent years, Europe has suffered several attacks perpetrated by recently released convicts."⁵² This single quote underscores the importance of the effective rehabilitation and reintegration programs for former terrorists. What needs to be underlined here is that the effectiveness of such programs necessitates integration of gender perspectives. There are studies that refer to good practices of rehabilitation and reintegration like the *Aarhus* Model of Denmark (with a focus on de-radicalization, community engagement) and Austrian Initiative of *Derad* (with a focus on rehabilitation in prisons) which include experiences with returning FTFs and reported to be effective.⁵³ However, there are not such programs (or well known) tailored to women in addressing the current returning FTFs problem. Gender-responsive rehabilitation and reintegration (R&R)⁵⁴ programs⁵⁵ which are tailored according to the needs of the women and men as well as girls and boys and which do ensure the protection of their rights in each and every stage is a prerequisite in order to eliminate the terrorist threat including the prevention of recidivism and further terrorist recruitment.

While developing gender-responsive R&R programs, it is critical to bear in mind the historical global experiences and lessons learned from similar processes such as the past or continuing disarmament, demobilization and reintegration (DDR) programmes. DDR has been viewed as a key component of post-conflict reconstruction strategy. DDR "usually follows a peace process and peace agreement. As such, there has been a process that acknowledges and legitimates the grievance of an armed group. This is not the case with the terrorist groups. There has been no peace process, and these individuals are not seen to have a legitimate grievance."⁵⁶ Experience with DDR programmes have shown that when they are not gender-sensitive or gender-responsive, they do not work for women or they are not

⁵² Europol, *European Union Terrorism Situation and Trend Report*, 55.

⁵³ Neumann, *Countering Violent Extremism and Radicalization that Lead to Terrorism*.

⁵⁴ OSCE defines Rehabilitation and Reintegration (R&R) Programmes as "programmes that target individuals radicalized to violence (including but not limited to terrorist offenders) and sometimes also their families, as well as those who have not entered the prison system but who may demonstrate some level of support for violent extremism, including those who have returned from territory held by Islamic State in Iraq and the Levant (ISIL)-Da'esh. R&R programmes may take place within prisons, outside custodial settings, in communities, or as part of probation services. Programmes may offer educational and vocational training, counselling, employment opportunities, and ideological re-education." See in OSCE, *Non-Custodial Rehabilitation and Reintegration in Preventing and Countering Violent Extremism and Radicalization That Lead to Terrorism*.

⁵⁵ Rehabilitation and Reintegration programs and processes with nuances are also referred as Disengagement, Rehabilitation and Reintegration (DRR) as well as Disengagement, Deradicalization, Rehabilitation and Reintegration (DDRR).

⁵⁶ Davidian, *Lessons Learned from Disarmament, Demobilization and Reintegration (DDR) Contexts for Reintegrating Female Members of Terrorist Groups*, 24.

embraced by women.⁵⁷ In Nepal, after a decade long war between the government security forces and the Maoists, peace agreement was signed in 2006 between the warring parties. The war was known for its high-level female participation which was officially recorded around 30-40 percent. However, the DDR process in Nepal lacked the understanding of women's roles in the Maoist People's Liberation Army (PLA), especially their roles as combatants and how these roles shaped those women and their sense of empowerment. Women as visible combatants became invisible and faced stigmatization upon their return to their communities. "For many Maoist women, their lack of skills, access to capital, credit or land pushed them back into poverty they knew before the war, which many had joined the war to escape in the first place."⁵⁸ Apart from the DDR experiences, the Nigerian experience with Boko Haram displays that similar problems apply to the CT context. It was reported that some women who survived Boko Haram and went through de-radicalization programmes go back to the terrorist organization, because they faced social marginalization, stigmatization and they neither have security nor minimum economic standards to pursue a life in dignity.⁵⁹ Therefore, analysing social status and power of women before and after they are part of an armed group in DDR or a terrorist group in PRR/DRR is essential to provide them with suitable skills for their reintegration into the society. It is also important to keep in mind that effectiveness of the reintegration policies is dependent on the elimination of the socio-economic, political conditions as well as discriminations and injustices that are conducive to breeding violent extremism that leads to terrorism.

UN Development Programme (UNDP) and International Civil Society Action Network (ICAN) conducted a global study to "respond to a pressing need for action-oriented research that improves our understanding of women's roles in reintegration and rehabilitation processes, and the work of women-led organizations in supporting these processes"⁶⁰ in context of preventing violent extremism (PVE). The study underlines recent and ongoing examples like the Indonesia and C-SAVE (Civil Society Against Violent Extremism), Kenya and AWAPSA (Advocacy for Women in Peace and Security Africa) and Uganda and KIWEPI (Kitgum Women's Peace Initiative). C-SAVE and the Indonesian case is about government and civil society cooperation in developing gender-sensitive rehabilitation and reintegration programs. The Kenyan case with AWAPSA targets fostering trust between the local police and the female returnees (escaped or arrested) of Al-Shabaab for ensuring their effective integration. Ugandan KIWEPI works with community leaders to sensitize them to the needs of women and girl returnees from Lord Resistance Army (LRA) and address their stigmatization. KIWEPI advocated for these women and girl's legal rights and their access to justice by mediating land dispute cases, facilitating community dialogues, and establishing village savings and loan associations to promote livelihoods for women and

⁵⁷ For the gendered critiques of DDR, see Mazurana, et. al., *Gender and Disarmament, Demobilization, and Reintegration*, 442-455.

⁵⁸ Goswami, *UNSCR 1325 and Female Ex-Combatants-Case Study of the Maoist Women of Nepal*, 10.

⁵⁹ Matfess, *Rescued and Deradicalised Women Are Returning to Boko Haram. Why?*.

⁶⁰ UNDP-ICAN, *Global Study*.

men.⁶¹ All these examples shows us how complex rehabilitation and reintegration processes are because they need to include different actors from different sectors identification of which may differ contextually, but what is critical it is to engage women's organization in P/CVE and CT.

Military's Role and Responsibility in Gender-Responsive Counterterrorism

The approach to CT has significantly changed over time, especially in the last two decades in line with the changes in the operational environment, society and technology. In the first decade of the twenty first century, the operational experiences in Afghanistan and Iraq underlined the need for a comprehensive approach to CT, which is underscored as the “whole of government approach”. Such approach meant integration and orchestration of all the instruments of national power to address terrorism. These instruments included the use of military power as and when required, but also included the use of diplomacy, financial tools, development and aid programs, strategic communications as well as law enforcement operations. Starting with the second decade of the twenty-first century, the need for supporting “whole of government approach” with “whole of society approach” came to the fore. This meant the participation of diverse stakeholders in CT beyond government including private sector and civil society. Within this framework, where and how military fits into this comprehensive picture is time and context-bound and not independent from change. The role of military in countering terrorism⁶² is different across the world, which is defined by several factors such as the nature of the terrorist threat, whether it is domestic or international, whether there is a military intervention, the lethality of the terrorist attacks conducted by the terrorist organization, the threat that the terrorist organization pose to the state and society.⁶³ From a comprehensive approach perspective, military's role in CT should be in support as one of the actors in the overall campaign. Still, the scope of the “support role” may change from context to context such as national to international depending on the scope and nature of the threat and what is needed as a response.

When it comes to the question of what role military can play in gender-responsive CT, the role military can play starts with developing and internalizing the awareness of the gender aspect of the terrorist threat and analysis, which should be based on the rise of women in terrorism and the different roles women play in terrorism. This awareness should be fed into intelligence gathering and analysis (through gender-sensitive early warning indicators) as well as individual and collective training in the military. Such awareness will also enable to accurately define potential perpetrators and victims, which is vital to avoid adverse gendered consequences of the CT measures. Messaging the value of gender perspectives and gender analysis in operations (including CT) in terms of international legal responsibility and operationally effectiveness arguments is important as well as

⁶¹ UNDP- ICAN, *Invisible Women*.

⁶² For the role of military, and the discussion about hard power and soft power and how to go for an integrated approach, see Harley, *Hard Power, Soft Power and Smart Power*, 25-42.

⁶³ Also see Lovelace, Jr., *Foreword*, 7-8.

including it in commander's intent and mission objectives. Last, but not the least, making gender analysis⁶⁴ in each and every stage of operational planning and execution as an integral component of standard procedures is essential.

Conclusion

Since terrorism is gendered, the response to terrorism requires gender perspectives in understanding and analysing the threat. The efficiency of the response to the terrorism threat also requires gender-sensitive and gender-responsive policies. This article tries to highlight the gender dimension of the FTF phenomenon, which posits acute threat to the world nations and the need for gender-responsive policies and programs in response to the FTFs covering the areas of prosecution, rehabilitation and reintegration (PRR). How to formulate gender-sensitive CT policies including the FTFs has been discussed in several global and regional platforms, and some of the guidelines are present to implement good practices.⁶⁵ Among them can be counted the need to avoid gender stereotypes in assessing varying roles women play in terrorism, recognizing that both women and men can be victims or perpetrators of violent terrorist acts, acknowledging that these women and men should go through the necessary processes in accordance with their deeds including prosecution and receive support and treatment when necessary, ensuring that these women and men have access to age and gender-sensitive rehabilitation and reintegration accompanying their sentences in prison, or after imprisonment or instead of imprisonment, providing necessary and appropriate gender training for the professionals who are dealing with terrorists in the criminal justice sector, military, and social services.

Still, evidence- based research shows the scarcity of implemented good practices in the case of gender-sensitive responding to the FTFs. The situation can be evaluated as slightly better, but not efficient in P/CVE, developments in progress in CT, and lessons learned in DDR. The emphasis on the contextuality when dealing with the gender dimension of terrorism and thus developing gender-sensitive responses to terrorism should not eradicate the fact that there are shared key principles and guidelines. Similarly, it is underlined that CT, P/CVE and DDR are different agendas, but the right stance should not see these different agendas as mutually exclusive. Rather, we should be after draw drawing lessons learned from these different agendas and contexts as key principles that can guide us in developing gender-responsive good practices in CT, P/CVE and DDR. As underlined throughout the article, the need for gender-responsive PRR is not limited to the FTF phenomenon, but should be adopted in different contexts where terrorism is a problem.

⁶⁴ For the discussions to how to do gender analysis in CT context, see Stone, *Executive Summary*, 4-7; Donnelly, *Conducting A Gender Analysis*, 14-16; Johansson, *Gender Analysis in the Military*, 17-19.

⁶⁵ See OSCE, *Guidelines*; GCTF, *Good Practices on Women and Countering Violent Extremism*; GCTF, *Addendum to the GCTF Good Practices on Women and Countering Violent Extremism*; RAN, *Repatriated foreign terrorist fighters*; RAN, *Challenges and Solutions When Working with Families of Foreign Terrorist Fighters*.

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CHAPTER V

PREVENTION IS BETTER THAN THE CURE Addressing the Threat of Terrorism with Biological Weapons

Jean Pascal Zanders

Introduction

Biological weapons (BW) in the hands of terrorists could potentially cause countless casualties in an epidemic beyond control. However, this worst nightmare scenario has never happened. A critical reason is the complexity of the armament dynamic – acquisition of appropriate pathogen strains, their cultivation and production, storage – and dissemination. Each step poses complex scientific and technical challenges. Each step poses considerable risks to whoever manipulates such pathogens, whether to develop and produce them or to spread them among the target population. There are other disease agents that pose less of a threat to humans or ones that can infect animals and plants. And terrorists may target the food chain anywhere between the farm and consumer. Human loss would be much less in such alternative scenarios.

From the perspective of the armament dynamic, the threat of terrorism with infectious disease appears much lower. Breaking down the development and acquisition process into its constituent steps contributes to the realisation that an error made at one stage will be carried over to the next stage and accumulates with any previous errors. This helps to explain why all major BW acquisition attempts by terrorist entities have so far ended in failure. A second explanation resides in the question terrorists must ask themselves: what marginal benefits may BW offer over other weaponry in pursuing their objectives? Given the risks, complexities, and uncertainties about the outcome, they may conclude that any potential gains may not be worth the while.¹

However, reassuring such a conclusion might be, the possibility of a major incident can never be excluded. Knowledge about the armament process and its different stages offers multiple opportunities to increase the barriers to terrorist or criminal acquisition of BW. In addition, many of those counterterrorism measures will also contribute to the reduction of risks related to accidental release of harmful pathogens.

¹ Zanders, *Internal dynamics of a terrorist entity*.

NATO countered the military threat posed by chemical, biological, radiological or nuclear (CBRN) weapons during the Cold War. Soon after the terrorist strikes against New York and Washington in September 2001 and the mail-delivered anthrax spores shortly thereafter, it took the steps to address the possibility of terrorism with CBRN agents. Since then, it has gradually expanded the institutions and procedures to build capacities to defend and protect against such agents and provide assistance in case of a major terrorist threat or incident, or disaster involving CBRN materials in a member state or one of the partner countries. The pandemic spread of the Severe Acute Respiratory Syndrome - Corona Virus 2 (SARS-COV-2) and its worldwide social and economic disruption has renewed concerns within the political and military structures of the Alliance about possible state or non-state actor interest in BW. The outbreak has also demonstrated NATO's capacity to respond to requests by members and partner countries for emergency assistance.²

This chapter looks at the contribution of the 1972 Biological and Toxin Weapons Convention (BTWC), a global disarmament treaty, and associated actions by the international community to the prevention of terrorism with BW. Because states party to the BTWC have the obligation to transpose the treaty prohibitions into domestic legislation and regulations, they play the primary role in the prevention of terrorism with BW.

As all NATO members are also parties to the BTWC, the chapter considers how NATO's strategy of deterrence and defence against terrorism with BW, and its support and assistance programmes correspond with the BTWC obligations and policies agreed by the parties to the convention. Besides the provisions outlining the core prohibitions, this chapter will consider two articles in depth, namely Article IV on transposing the international obligations into domestic laws and regulations, and Article VII on emergency assistance if a state party faces a threat in consequence of a treaty violation, including a BW attack.

Biological weapons and their control

BW comprise a broad group of agents, ranging from incapacitants to highly lethal pathogens and toxins. Biological agents include bacteria, viruses, rickettsiae and fungi. Toxins are poisons produced by living organisms, such as animals (e.g. venom), plants (e.g. ricin) and microbial organisms (e.g. botulinum toxin). Biological agents can be deployed not just against humans, but also against animals and plants.

Advances in the life sciences have altered threat perceptions beyond the traditional agents found in nature. Microbial organisms can be genetically manipulated to increase their infectivity or lethality, or to become more resistant to medication, including antibiotics and vaccines, and other therapies. Similarly, they can be made more tolerant to environmental stress factors, which may enhance their stability for storage or during dissemination. Moreover, the evolving understanding of disease from pathogen-based invasion of an organism to complex sub-cellular biochemical processes opens up new conceptual approaches to biological warfare. This includes

² Ifitimie, *The implications of COVID-19 for NATO's counter-bioterrorism*, 52-53.

genetic manipulation of the immune system, exploitation of particular genetic factors, or the mobilisation of biochemical molecules (e.g. proteins, nucleic acids, etc.) to interfere with life processes. Finally, scientific and technological progress are also transforming aspects such as the conduct of research (e.g. computer-assisted design of biomolecules, collaborative cloud computing); production processes (e.g. additive printing, modular production processes); data generation, storage and (digital) transmission; and agent dissemination techniques (e.g. aerosolisation or drug delivery vehicles). Convergence of different subject areas, such as chemistry, biology, informatics, physics, nanotechnology, robotics, artificial intelligence and other disciplines, greatly contribute to the recent advances and seem set to accelerate progress even further.³ Of course, many of those advances also benefit BW defences and countermeasures like detection or individual and collective protection.

As soon as science confirmed that pathogens cause disease, the international community moved to outlaw BW. Thus, the 1925 Geneva Protocol did not just ban the use in armed conflict of chemical weapons (CW) but extended the prohibition to bacterial methods of warfare.⁴ The BTWC went further and ordered the destruction of existing BW stockpiles or their conversion to peaceful purposes. It furthermore outlaws the development, production and stockpiling of BW. As such it is a disarmament treaty: its end goal is zero weapons. Its provisions apply equally to all states, irrespective of their size or relative power status.⁵ Both treaties are still in force and reinforce in different ways the norm against BW. Regarding toxins, the Chemical Weapons Convention (CWC) also plays a role in the prevention of their use by non-state entities, but its provisions are less central to the present chapter.

The 1925 Geneva Protocol

Although the Geneva Protocol belongs to the laws of war and therefore remains silent on BW acquisition and possession, it nevertheless supports the global prohibition in three significant ways.

First, several states not party to the BTWC signed up to the Protocol and have therefore accepted at least one legal constraint on the legitimacy of BW. The United Nations (UN) General Assembly has since the mid-1960s adopted several resolutions supporting the Protocol, meaning that its prohibition has entered international customary law. Since its adoption, no state has ever violated the Geneva Protocol regarding BW. This does not mean that BW were never used. Rather, in the few instances BW were deployed, either the perpetrating or the victim state were not party to the international agreement. Also, the extension of the prohibition from international wars to internal armed conflicts is relatively recent and followed Iraq's extensive chemical warfare against its Kurdish population towards the end of the 1980–88 Gulf War.

³ Brockmann, Bauer and Boulanin, *BIO PLUS X*, 4-40.

⁴ Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare.

⁵ UN Office for Disarmament Affairs, *Biological Weapons Convention*.

Second, as a direct consequence of Iraq's use of CW against Iran and the Kurds, the UN General Assembly in 1987 and the Security Council in 1988 adopted resolutions handing the UN Secretary-General (UNSG) the authority to investigate violations of the Geneva Protocol. Today, the UN Office for Disarmament Affairs (UNODA) maintains a roster of national experts and conducts training exercises.⁶ In support of the UNSG Investigative Mechanism, parties to the BTWC are working towards creating an international network of reference laboratories to analyse samples in case of alleged biological warfare.

Third, the 1998 Rome Statute that established the International Criminal Court considers the use of biological and toxin weapons in international or internal armed conflicts as one of the 'serious violations of the laws and customs applicable in international armed conflict' for which individual persons can be held accountable following an amendment to that effect adopted on 17 December 2017.⁷ Initially, Article 8 only addressed chemical weapon use. The phrasing of Article 8, paragraphs 2(b)(xviii) and (f)(xiv) about international and internal armed conflicts respectively draws on the terminology of the Geneva Protocol.⁸

The 1972 Biological and Toxin Weapons Convention

Central to the elimination and prevention of the re-emergence of BW is the BTWC. The treaty opened for signature on 10 April 1972 and entered into force on 26 March 1975. With 183 states parties at the time of writing, the treaty is the third most successful weapon control agreement after the CWC and the Nuclear Non-Proliferation Treaty, which have respectively 193 and 191 parties. Although the agreement make no reference to terrorism, three articles are of particular relevance to the prevention of terrorism with biological or toxin agents.⁹

- **Article I** carries not only the core prohibition against this class of weapons, it also defines them. States parties cannot develop, produce, stockpile, or otherwise acquire or retain biological agents toxins. This ban is framed under the so-called General Purpose Criterion (GPC). As it is impossible to outlaw the biological agents or toxins – they occur naturally – work with them is banned unless it can be justified for prophylactic, protective or other peaceful purposes. Through the GPC the BTWC applies to any biological agent or toxin irrespective of production method or whether they occur naturally, were engineered genetically, or created synthetically. Types and quantities of agent also play a role in the justification. The prohibition applies in war and in peacetime and is extended to weapons, equipment or means of delivery designed for using BW for hostile purposes or in armed conflict.
- **Article III** proscribes the transfer to any recipient whatsoever, directly or indirectly, agents, toxins, weapons, equipment or means of delivery listed

⁶ UN Office for Disarmament Affairs, *Secretary-General's Mechanism*.

⁷ UN Treaty Collection, *Amendment to article 8 of the Rome Statute*.

⁸ Rome Statute of the International Criminal Court.

⁹ UN Office for Disarmament Affairs, *Biological Weapons Convention*, Eighth Review Conference, *Additional agreements reached by previous Review Conferences*.

in Article I. Even though the BTWC predates concerns about terrorism with BW, states parties have interpreted the phrase ‘*any recipient whatsoever*’ to include non-state actors such as terrorists or criminals.

- **Article IV** instructs states parties to take any necessary measures to prohibit and prevent the activities outlawed under in Article I of the Convention on its territory, or any territory under its jurisdiction or control anywhere. This article lays the foundation for national preventive action against non-state actors interested in BW.

The combination of these three articles creates the framework for states parties to prevent terrorism with BW. No state can possess BW or undertake activities that contribute to their development, production or stockpiling (Article I). Furthermore, they cannot transfer any biological agent or technology to another state or other recipients if these may contribute to a BW armament programme (Article III). And finally, states must transpose these prohibitions into domestic laws and regulations so that they apply also to natural and legal persons. With the right legal instruments, governments can prevent non-state actors from acquiring and using BW and prosecute and punish them should they violate the law.

National requirements to counter terrorism with BW

BTWC Article IV thus demands that states parties take any necessary measures to prevent activities on its territory they are prohibited from undertaking under international law. This includes legislation, regulations and any other administrative, judicial, or other instrument. Through the review conference process parties to the convention have agreed that besides anyone operating on any territory under their control, these measures should also apply to actions taken anywhere by natural or legal persons possessing their nationality. They thus introduced the principle of extraterritoriality into the BTWC regime.¹⁰

After the 9/11 terrorist attacks and the subsequent mail-delivered anthrax spores in 2001, states parties became much more concerned with this domestic responsibility for preventing terrorism with BW. In the summer of that same year multilateral negotiations to equip the BTWC with a legally-binding protocol that would have introduced verification measures and established an international organisation ended abruptly over US objections to the draft text. In December, Washington sought to terminate the negotiating body’s mandate, which led to the suspension of the 5th Review Conference for one year. In 2002 parties reached a compromise to organise meetings between review conferences – the so-called intersessional process – that would meet each year as the Meeting of Experts (MX) in the summer and as the Meeting of States Parties towards the end of the calendar year. Such intersessional technical and political meetings continue until today. Subsequent review conferences have determined the annual topics and the 6th Review Conference in 2006 also decided on establishing a 3-person Implementation Support Unit (ISU) to accompany the new process.

¹⁰ Eighth Review Conference, 7-10.

Although states parties seem to have accepted that only review conferences have decision-making authority (if only because the consensus principle prevents any decision otherwise), the meetings on the level of national experts and the subsequent political consideration of their recommendations has advanced the strengthening of national implementation measures. Because the process of strengthening the BTWC through multilateral negotiations proves extremely arduous, the focus on actionable measures to be undertaken by individual states avoids diplomatic haggling as they require only common understandings and agreements on their utility for achieving the treaty objectives. Moreover, states are free to take initiatives to promote those goals. Through extensive bilateral or interregional assistance programmes, the quality and level of harmonisation of national regulatory measures has improved considerably. Some assistance programmes have also provided training and capacity building to ensure long-term qualitative implementation of the new regulatory frameworks or financed the acquisition of different types of technology supporting those activities. Having comparable legislative frameworks reduces the opportunities for terrorist or criminal entities to exploit loopholes. Maximising the number of states with adequate legislative frameworks limits the space in which they can develop and acquire BW or from which they can plot and launch BW attacks.

Also, due to the 9/11 terrorist attacks, the UN Security Council (UNSC) adopted several resolutions related to the prevention of terrorism in the early 2000s. Resolution 1540 (2004) specifically targets the transfer of CBRN weapons, and their underlying dual-use technologies, to non-state actors, including terrorist or criminal entities.¹¹ Respecting BW the resolution language echoes the obligations in BTWC Article IV but made national measures mandatory for all UN members, including the ones not yet party to the convention. States must report and update the status of their national measures according to a detailed matrix developed by the 1540 Committee, which oversees implementation of the requirements.¹² The 1540 Committee also facilitates assistance offers and requests. Another significant outcome of this resolution was that many UN organisations and specialised agencies, and other international organisations got involved in the effort and have thus become additional sources of specialised assistance and capacity building in their respective areas of competences.

The next sections discuss in detail how states may, individually and together, counter terrorist threats with BW through national regulatory frameworks informed by the BTWC and UNSC resolution 1540. These frameworks address the criminalisation and penalisation of proscribed activities, technology transfers both international and domestic, and have increasingly clarified responsibilities of companies, research institutes and universities, as well as of individuals. Together they form part of a multi-layered and multi-sectoral approach to countering the BW threat by non-state actors.

¹¹ United Nations Security Council, *Non-proliferation of weapons of mass destruction*, Resolution 1540.

¹² 1540 Committee, *National Implementation: 1540 Matrices*.

The national regulatory framework

How states have constructed their regulatory frameworks to address terrorism with BW may differ in many substantive respects. First, they have adopted their respective measures under their constitution. Second, states have taken different regulatory approaches. Sometimes, they developed separate legislation for each one of the major international disarmament or arms control treaties. In other cases, they adopted a single law covering all four CBRN weapon categories. And some states adapted existing legislation to meet the new international security demands. Third, the local research and economic activities involving the life sciences and associated activities may vary considerably, making a uniform approach to the challenges all but impractical. One task of the 1540 Committee and goals of assistance programmes is to determine and ensure that irrespective of a country's approach and specific needs, all basic elements are present in legal texts and regulations and enforceable in practice.

Without entering into too much detail, the general areas of regulation are prohibition, criminalisation and penalisation, and technology transfer control.

Prohibition

The BW prohibition is at the heart of the whole regulatory regime. It derives from BTWC Article I to never in any circumstances develop, produce, stockpile, or otherwise acquire or retain BW. This prohibition extends to weapons, specialised equipment and delivery systems. The convention also defines BW based on the GPC: if biological agents or toxins are used for purposes not prohibited by the international treaty, and provided that the nature of the agents and quantities are consistent with such purposes, then they are not considered BW.

In line with BTWC Article III and UNSC Resolution 1540, assistance with acquiring BW by other states or non-state entities also falls under the prohibitions. This applies to setting up weapon programmes or transferring materials or technologies that may contribute to a BW programme.

Criminalisation and penalisation

To enforce a prohibition a crime needs to be defined. The BTWC does not lay out how to enforce the prohibition, nor does it specify which specific measures states parties should adopt. However, having the BW prohibition in the domestic legal framework does not yet make a violation a precise criminal offence. It might be prosecuted under other aspects of the national penal code concerning, for instance, warfare offences, health endangerment or environmental hazards. To make the violation more distinctive, specific laws and supplementary regulations must identify which acts breach the prohibition and determine the circumstances under which such an act constitutes a transgression.

Through the agreements and understandings reached at review conferences, states parties have clarified that the criminal offence should apply to any legal or natural person – including ones of foreign nationality – operating within their territory, under their jurisdiction or under their control anywhere. They have furthermore specified that such a criminal offence should

also apply to any breach by natural or legal persons having a state party's nationality abroad, in so far as such extraterritorial jurisdiction is constitutionally possible and in conformity with international law.¹³

Penalisation complements criminalisation by defining the level of punishment – mostly in terms of fines and imprisonment but may in certain countries also include capital punishment – an actor may suffer for violating the law.¹⁴

Holding natural and legal persons to account depends on a country's ability and willingness to enforce criminal and penal law. If implemented effectively, the combination of both types of legislation may contribute to the deterrence and prevention of terrorist acts with BW. However, criminal and penal law usually address violations after terrorists or criminals committed them. In the worst circumstance, this means after people suffered injury or death following an actual terrorist event.

Application of the GPC in national legislation

Prevention of terrorism with BW is more complicated from a legal perspective because many preparations do not involve a crime per se. Certain materials or technologies used to prepare the biological device may have dual-use purposes, complicating determination of criminal intent.

This problem states may resolve by including the GPC into domestic law. Drawing on the principle in BTWC Article I, it then becomes incumbent on a person, company or institution to justify the possession of biological agents or toxins and their manipulation. Under the GPC any disease-causing entity or toxin is a BW by definition; only when used for one of the few legitimate purposes (as identified in BTWC Article I) they are not viewed as a BW.

Thus, for example, a most distinguished biologist may have the authorisation to manipulate potentially lethal pathogens in a laboratory licensed and certified by the government for legitimate purposes (e.g. as defined in the research grant application). However, this same person, despite all of his or her qualifications, would be challenged to justify similar work or possession of similar materials and technologies in a home laboratory. Similarly, few people would be prosecuted for possessing castor beans despite their potential for extracting ricin; yet when they accumulate quantities of those beans beyond any reasonable legitimate purpose, law enforcement may intervene before such persons can cause any deliberate harm. Germany, for instance, put a couple with links to Daesh on trial on suspicion of preparing acts of terrorism in June 2019. The US Central Intelligence Agency apparently tipped off German authorities after having monitored a large online purchase of 3,300 castor beans.¹⁵ The Düsseldorf regional court sentenced the husband to 10 years imprisonment; the case against his wife is the subject of different proceedings.¹⁶ The case illustrates how law enforcement can act preventively.

¹³ Eighth Review Conference, 8, paras, 36-37.

¹⁴ In several countries, the concepts of criminal and penal law may be quasi or fully synonymous.

¹⁵ Deutsche Welle, *Ricin attack plot trial*.

¹⁶ Deutsche Welle, *Germany: IS sympathizer jailed 10 years*.

The special case of hoaxes

Bearing in mind that the principal purpose of terrorism is to terrorise the population at large or decision makers in particular and BW are just an instrument towards such a goal, one must consider the role of hoaxes. In a BW hoax, no pathogen or toxin is involved. However, the perpetrator of a hoax took several steps to make a target audience believe it has been exposed to such an agent. So authorities must implement precautionary measures, which include isolation of potential victims and premises, detection and preventive decontamination. These activities demand the expenditure of resources by public authorities and may have economic or financial consequences for the targeted entity.

Countries may therefore have to consider imposing criminal liability for the preparation and execution of BW hoaxes. In and of themselves they represent acts of terrorism. Without specific characterisation of hoaxes as a crime, the incidents may fall outside criminal and penal laws related to BW offences because do not involve the preparation, possession or dissemination of biological agents or toxins.

Controlling technology transfers

When the BTWC entered into force in 1975, terrorism was a significant security concern in several countries but had not yet reached the level of a major international threat to be countered by both national and multinational law enforcement and military intervention. While the core prohibition of Article I proscribed any acquisition of BW and toxins, the treaty left it to states parties to address any potential terrorist or criminal threats with such agents through domestic legislative initiatives as mandated by Article IV. The only provision referring to actors other than states is Article III when proscribing BW-relevant technology transfers to ‘any recipient whatsoever’. When the threat of terrorism with non-conventional weaponry became more tangible, especially after the release of chemical nerve agents in Japan by the extremist religious cult Aum Shinrikyo in the mid-1990s, states parties clarified that the phrase ‘any recipient whatsoever’ also refers to actors on the international or sub-national levels, and later more precisely to individuals or sub-national groups.

Since the mid-1980s, especially industrialised countries organised themselves in an informal arrangement to prevent the proliferation of chemical agents and their precursors to certain countries. These included most notably Iran and Iraq, then in the midst of their war of attrition during which Iraq had begun to rely extensively on chemical warfare to avoid defeat. The Australia Group, a name inspired by that country’s embassy in Paris where the meetings then took place, gradually expanded the control list with toxic chemicals and their precursors and later added additional control lists that include biological agents and dual-use types of equipment relevant to research, development, and production. However, initially the arrangement focussed primarily on country-to-country technology transfers. All NATO members participate in the Australia Group except for Albania, Montenegro, and North Macedonia.

More important for the present discussion was that the Australia Group became controversial to developing countries who accused the western states of erecting trade barriers in violation of Article X of the BTWC and Article XI of the nascent CWC (both of which promote international cooperation and encourage scientific and technological exchanges for peaceful purposes). Australia Group members justified the arrangement's continued functioning by referring to the non-proliferation clauses in both treaties.

Especially after the 9/11 terrorist attacks in 2001 parties to the BTWC became increasingly preoccupied with the potential transfer of microbial agents and toxins to non-state actors, both domestic and transnational. In consequence, they adopted understandings under Article IV that national implementation should cover not only international exports but also internal transfers in line with the obligation in Article III. They confirmed their expanded understanding of 'any recipient whatsoever' to cover terrorist and criminal entities.

Despite the controversial relationship between export controls and the promotion of scientific and technology exchanges under the disarmament treaties, many countries outside the Australia Group now accept the control lists as a standard for their national implementation.

In this way, dual-use transfer controls – a concept covering the more traditional notion of export controls and internal transfers – have become an integral part of the BTWC regime, which initially essentially focussed on weapon elimination and prevention of (re)armament.

Contribution of UNSC Resolution 1540

Even though constraining BW-suitable technology transfers to terrorists under the BTWC had begun in the 1990s, the adoption of resolution 1540 on 28 April 2004 as one of several UNSC decisions countering terrorism after 9/11 added urgency.¹⁷ In contrast to the glacial pace of decision-making in the BTWC, the effects of resolution 1540 were immediate for all UN members.

Concerning BW, the language by and large followed that in the BTWC but added much more detail to the notion of technology transfer controls. Paragraph 3 obligates states 'take and enforce effective measures to establish ***domestic controls*** to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery' (emphasis added). To achieve this objective, states must not only 'develop and maintain appropriate effective border controls and law enforcement efforts' (para. 3(c)), they need also to

Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations (para. 3(d)).

¹⁷ United Nations Security Council, *Non-proliferation of weapons of mass destruction*, Resolution 1540.

Although not treaty-specific, this paragraph expands greatly on the understandings reached by the BTWC states parties. It enumerates the different steps of technology transactions, and therefore various actor categories.

It is worth recalling that the 5th Review Conference of the BTWC in 2001 had to be suspended for one year after the United States terminated the negotiations on a legally-binding protocol and tried to cancel the mandate of the negotiating body, the Ad Hoc Group. In 2002, states agreed on an annual work programme between review conferences, which eventually would stimulate national implementation of the BTWC. Meanwhile, however, they had not updated their understandings of the treaty provisions, thereby allowing UNSC Resolution 1540 to plot the course for future action.

Resolution 1540 also has less ambiguity about the obligation than agreements and understandings reached at BTWC review conferences, which interpret or clarify treaty provisions but do not alter them. With the UNSC having acted under Chapter VII of the UN Charter, states must carry out the decisions in the resolution both domestically and through any international agencies of which they are members. Furthermore, the resolution created the 1540 Committee as a UNSC body to oversee implementation of the resolution. States must submit reports to the committee detailing the legislative and other measures they have taken (or plan to take) to implement the resolution. To assist with this task, the 1540 Committee has developed a matrix with detailed questions that not only states must complete but also helps them to identify gaps in their regulatory framework. It also runs an internet-based platform for assistance requests and offers.¹⁸

Capturing other forms of technology transfers

While many people will associate technology transfers mostly with trade – legal or illegal, such as smuggling – or international cooperation and assistance, the current organisation of research or manufacturing means that technology transfers can take on multiple forms. To give a few examples. Scientists based in different countries conduct their research in ‘the cloud’ – a set of servers located outside their respective research institutes that host shared software and databases so they can collectively work on the same research or development project. Each work component is a technology in its own right – data, methodology or process, knowledge, expertise. Any participant can potentially transfer such technology to his own computer and apply it for different purposes. Similarly, a life scientist may order a DNA sequence of a certain (synthetic) microbial agent, which is obtained as digital data via internet communication. Upon receipt, the researcher can produce a physical copy via additive manufacturing (3D printing) for use in a laboratory. Molecules, and hence potential microbial forms, the scientist may design using a computer or may research the genetic modifications with a potential of altering key characteristics. Such studies many countries conduct routinely as part of future threat identification and assessment or biodefence research programmes, or more broadly for the design of new types of medication and vaccines.

¹⁸ 1540 Committee, *Assistance: General Information*.

Such activities may furthermore take place in companies and organisations having subsidiaries in different countries or continents. In other words, technology (e.g. data) may never leave the company, yet cross borders in fractions of seconds. Technology transfers can even take on totally different forms when considering business mergers and acquisitions, divestiture of business activities, friendly or hostile takeovers and corporate breakups. The technology transfers are always massive. Indeed, the expectation of such massive technology transfers informs many business decisions.

While those technology transfer types (and many other ones) potentially entail significant security risks, they share that the economic actor pursuing the transaction has the intent of acquiring or parting with a technology in question. However, companies and research institutes may have to contend with undesired technology transfers, such as theft or industrial and government-initiated espionage. While such acts may involve tangible technologies, they may target propriety information or research, production, process and product data. Hacking may be one method used today.

A final dimension of technology transfers pertinent to this chapter concerns the movement of human capital, or more specifically education, knowledge, skills and expertise. After the Cold War NATO and the European Union set up several programmes to ensure meaningful and legitimate employment of scientists, engineers and technicians in their home countries to avoid their departure to countries of significant proliferation concern, while securing CBRN production and storage facilities in the former Soviet Union and Warsaw Treaty Organisation members. Several of these programmes are still ongoing like the US Nunn–Lugar Cooperative Threat Reduction Programme; the International Science and Technology Centre first in Moscow and presently in Nur-Sultan, Kazakhstan and its sister organisation, the Science and Technology Centre in Ukraine in Kyiv; and the G-7 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

Today, the problem presents itself differently: academics and university scientists and technicians are a highly mobile professional group that moves frequently to different national or international institutions. They take with them important intangible technology in the form of their research projects, results and processes. A variation are students who today have many more opportunities of studying and graduating abroad and will eventually return home with advanced skill sets and expertise. The notorious cases of Dr Rahib Rashid Taha, a UK-educated microbiologist who headed Iraq's BW programme, or Dr Abdul Qadeer Khan, who studied nuclear physics and metallurgical engineering in Germany, The Netherlands and Belgium and then developed Pakistan's nuclear bomb and ran an international proliferation network, are cases in point. Universities face challenges of having to vet candidate foreign students interested in disciplines or specialisations that may be proliferation sensitive from a CBRN perspective.

These examples, taken together, demonstrate that the prevention of access to certain technologies – both tangible and intangible – is no longer the sole responsibility of government agencies but also of any economic actor involved in their development, production and

transfer. Any actor category concerned, including individual companies, professionals and scientists, has to adopt a culture of responsibility.

This is where risk management procedures in any installation working with CBRN materials come into place, as well as regulations and practices aimed at safeguarding public health and the environment, transport safety, and so on. Specifically in the fields of biotechnology and the life sciences, this may entail a complex of measures to prevent unauthorised persons from gaining access to certain locations or materials (known as biosecurity) or accidents, such as the inadvertent release of pathogens in the environment (biosafety).

Together with the international treaties, national laws and regulations, these workplace precautions contribute to preventing terrorists or criminals from obtaining biological materials or toxins. The core point is that multi-level, multidisciplinary and multi-sectorial engagement greatly diminishes the chances of a major terrorist incident with an infective or toxin agent.

NATO members and domestic terrorism with BW

Most, if not all Alliance members consider a terrorism-inspired BW incident as a criminal rather than military emergency. In most NATO countries the military cannot constitutionally or by law play a role in domestic emergencies, unless such a role consists of logistical support or humanitarian aid. In several states, civil defence units will back up first responders in large-scale incidents or disasters before authorities may call upon the military. These may also have post-incident detection and decontamination capacities. Some countries also have (reserve) force components with domestic responsibilities to be drawn upon by federal, state or regional authorities in case of emergencies. Other members operate national paramilitary police forces (*Gendarmerie*), who as a military unit would be responsible for infrastructure protection and maintaining domestic order in an international conflict threatening the homeland, but otherwise function as a national police force not under military command.

In consequence, non-military emergency response and law enforcement agencies will be the first to arrive at the scene and deploy their activities according to predetermined protocols and priorities. As the flooding disasters in Germany, Belgium and The Netherlands in July 2021 or the hunt for a right-wing extremist military marksman in Belgium two months earlier have demonstrated, NATO partners may provide military assets in support of emergency or security operations on a purely bilateral basis.

To summarise, military responses to terrorist incidents with BW may vary considerably among NATO members depending on the roles the respective ministries of defence can legally play in domestic emergencies. The role of NATO as a whole in domestic emergencies may therefore be limited and the scope for NATO action or coordination is therefore close to non-existent. Even when considering the joint training of specialist CBRN defence units, there is high probability that in several NATO members their involvement may be narrow, and then restricted to post-incident stages only.

Recognising that its contributions to collective security against external threats may be limited in cases of domestic terrorism, NATO's overall approach to BW prevention shares the view that individual member states bear responsibility for preventing terrorism with BW and preparing against BW attacks.¹⁹ In this sense, NATO comes close to the view held under the BTWC that the primary level for prevention and preparedness against terrorism with BW lies with national governments and agencies.

NATO, emergency assistance, peacekeeping and the BTWC

NATO may also face terrorist strikes with BW in overseas missions. Since the early 1990s the Alliance has committed military forces to peacekeeping and -enforcement operations, initially in its immediate vicinity, but later also in Africa and Asia, and provided support for military contingents by individual NATO members in such operations. The BTWC foresees in Article VII the international provision of emergency assistance upon request by a state party should it face a threat due to a treaty violation or BW use, including by terrorists, against it. It is not inconceivable that such scenarios might affect overseas deployments commanded or coordinated by NATO.

This section first provides a summary overview of NATO instruments, introduces BTWC Article VII, and then outlines a scenario that has emerged from a series of tabletop exercises in which NATO's standard operational procedures might go against the objectives of a peacekeeping mission and exacerbate an evolving local security situation.

Overview of NATO preparations against terrorism with BW

Against a direct biological threat against NATO units or a member state, the Alliance has taken steps to enhance BW defence capacities. Following the Prague Summit in November 2002, NATO set up the Multinational CBRN Defence Battalion under operational control by the Supreme Allied Commander Europe, which can be deployed within five to twenty days.²⁰ It formally became operational 18 months later. The battalion comprises units and subunits from member states assigned for a fixed period. Command rotates every six months among participating NATO states. Among its capacities are a biological detection capability and a deployable analytical laboratory, which allow for in-theatre reconnaissance operations and mobile sample collection and analysis for NATO commanders. The multi-nation unit also comprises companies able to decontaminate personnel, equipment or areas at different levels of requirement.²¹ NATO members also took supplementary initiatives to improve situational awareness, response capabilities and preparedness to respond terrorist incidents.

Earlier, in 1998 NATO had already set up the Euro-Atlantic Disaster Response Coordination Centre (EADRCC) as a civil emergency response system for member and partner countries. The EADRCC is permanently operational. Its primary task is to coordinate requests and

¹⁹ Alleslev, *Biological Threats: Technological Progress and The Spectre of Bioterrorism*, 12.

²⁰ Supreme Headquarters Allied Powers Europe, *NATO Multinational Chemical, Biological, Radiological and Nuclear Defence Battalion*.

²¹ NATO Review, *Boosting NATO's CBRN capabilities*.

offers for assistance in both natural or human-made disasters. In case of a request, members and partners decide individually whether to come to the aid of the requesting state based on information received from the EADRCC. It has, for example, coordinated requests and offers of international assistance during the COVID-19 pandemic and facilitated the transfer of urgent medical supplies to requesting states. In international crises or situations defined under Article 5 of the NATO Charter on collective defence the EADRCC may coordinate assistance. Regarding international disaster relief operations, it will cooperate closely with the United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA), which retains the primary coordination function, and the European Union (EU). Finally, the EADRCC also regularly conducts training and capacity-building events for NATO members and partner countries to build national resilience and improve disaster preparedness.²²

NATO also set up a CBRN Reachback process to provide commanders, their staffs and deployed forces with timely coordinated and authoritative advice on CBRN issues, drawing on remote expert sources of information. A staff of eight personnel operates the Reachback cell, located in Vyškov, Czech Republic. It prepares detailed technical analyses for military planners and decision makers using a multinational network of experts and offers training support to major NATO exercises.²³ The NATO Centre of Excellence for Military Medicine in Budapest, Hungary monitors developments in medicine and updates recommendations regarding medical countermeasures.²⁴

Specifically, regarding terrorism with BW, a group of experts appointed by the NATO Secretary-General on 31 March 2020 looked into options to address present and future challenges. The COVID-19 pandemic focussed attention again on possible terrorist threats with BW, which the Alliance may seek to counter through deterrence and defence that entails thwarting terrorist acquisition of BW capacities, looking for early warning indicators, following up on intelligence, and protecting society and critical infrastructure in NATO members and partner countries.²⁵

Emergency assistance under the BTWC

BTWC Article VII belongs to the treaty's more obscure provisions. It reads as follows: Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of a violation of the Convention.

Since the treaty's entry into force in 1975, states parties hardly looked at the one-paragraph article. Up to the 7th Review Conference (2011) the only additional understandings and agreements concerned general implementation procedures and possible roles of international

²² NATO, *Euro-Atlantic Disaster Response Coordination Centre*.

²³ Joint Chemical, Biological, Radiological, and Nuclear Defence Centre of Excellence, *Reachback*.

²⁴ Alleslev, 12.

²⁵ Ifimie, 53-55.

organisations, including the World Health Organisation (WHO), the World Organisation for Animal Health (OIE) and the Food and Agricultural Organisation (FAO), and coordination functions for the UN. Attention to the article increased markedly at the 7th Review Conference, a consequence of a heightened perceived worldwide risk from emerging and re-emerging diseases, fears of outbreaks resulting from biosecurity and -safety lapses in high-containment laboratories, concerns about scientific and technological advances in the life sciences that could be misused for hostile purposes, potential terrorist or criminal interest in highly contagious pathogens, and so on. The Ebola outbreak in West Africa between 2013–2016 and subsequent evaluation of the international response raised concerns among the BTWC states parties about how the international community might respond to a deliberate disease outbreak, whether due to an act of war or terrorism. In anticipation of the 9th Review Conference (2022), states parties have looked at the article in light of the global response to the COVID-19 pandemic. These trends have led to an affirmation of the humanitarian dimension of Article VII. Military assistance (in terms of military intervention in response to aggression with BW) states parties have now ruled out as an option.

Much less understood is how Article VII can be activated. There are no procedures; there has been no determination who should be involved. Which are the (possible) roles for the BTWC ISU, the treaty's three depositary states (Russia, United Kingdom and United States), the UNSG Investigative Mechanism, or the UNSC remains unanswered. It should be added that some actors or tools are of more recent origin and were not envisaged during the treaty negotiation.²⁶

Peacekeeping and terrorist operations involving BW

In 2016 and 2018 the *Foundation for Strategic Research* (Paris, France) organised three two-day tabletop exercises (TTX) simulating the triggering of Article VII. The scenarios unfolded in a region on a hypothetical continent suffering latent conflict that always had the potential of flaring up with cross-border and continent-wide implications. An unusual disease outbreak of sufficient epidemic concern triggered regional and international humanitarian relief. (Whereas the first two exercises looked at an Ebola-type of outbreak, the third exercise involved an anthrax outbreak among cattle herds to determine whether participants considered that Article VII also applied to BW attacks against livestock or agricultural produce.) After a passage of time, when a major multinational response operation was already underway, serious indications emerged that the epidemic might have had an unnatural origin. The state on whose territory the outbreak was first observed thereupon activated Article VII. This time lapse between the first discovery of the infection and receiving indication of possible deliberate intent behind the outbreak, which may be weeks or months, is an important factor when envisaging possible Article VII activation because the international community may already respond to contain the outbreak.

²⁶ For a detailed background to BTWC Article VII, see Zanders, *The Meaning of 'Emergency Assistance*.

The scenarios unfolded in different stages, each consisting of a briefing, breakout session, and evaluation. Each one of the three breakout groups represented a different country on the continent (a victim state, a presumed aggressor, and a neutral/mediator state). The stages covered initial responses to an unusual disease outbreak, reactions when information emerged hinting at a possible deliberate attack, and consideration of procedures to follow to trigger Article VII. The third TTX also had a stage in which subsections of each break group with a specific mandate consulted with each other in line with procedure developed under BTWC Article V in the hope of resolving the crisis. During the plenary evaluation sessions, participants discussed the implications of their respective assessments and decisions and identified issues for further consideration. The exercises ended when the UNSC was about to decide on the request for emergency assistance and therefore did not include the organisation and delivery of the humanitarian assistance.

Because subsequent TTXs took earlier findings into account, each scenario tested different issues. The detailed findings are available from the TTX reports.²⁷ Among the most important issues relevant to the present chapter that came to the fore are:

- Once a state party to the BTWC triggers Article VII, the matter is in the hands of the UNSC. BTWC states parties are no longer in control of the process and even do not have an instrument to end the emergency. The TTXs revealed that the procedure to trigger the process required higher predictability. Moreover, triggering the procedure has a significant impact on humanitarian operations already underway.
- Triggering Article VII in the context of a disease outbreak implies BW use (by a state or non-state actor). Considering that the scenarios played out in an already volatile region, participants became extremely concerned about rising tensions and possible conflict escalation. Because of the evolving emergency, participants were united in their view that containing and reversing the spread should take precedence. They expressed concern that invoking Article VII to request emergency assistance may prevent the continuation of humanitarian assistance and the provision of assistance specifically under that same BTWC provision. In all three TTXs conflict mitigation became a major preoccupation of participants.
- International organisations, such as the WHO, FAO, OIE and other UN bodies, are left outside the Article VII procedure. Its activation may seriously interrupt or complicate their activities to contain the outbreak.
- All three TTXs came across the demand for supporting evidence when triggering Article VII. The BTWC, however, has no institutional framework to launch an investigation of alleged use. Available mechanisms – the UN-

²⁷ Zanders, Nexon and Trapp, *Report of the (First) Tabletop Exercise*; Zanders, Nexon and Trapp, *Report of the (Second) Tabletop Exercise*; Zanders, Nexon and Trapp, *Report of the (Third) Tabletop Exercise*.

SG's mechanism, the Interpol resources, the procedures run by the FAO, OIE or WHO – all exist outside the disarmament treaty. It is also not clear whether collected data can be shared among partner organisations or with BTWC states parties. The possibility that a factual investigation may identify the perpetrator(s) may also compromise the need for perceived neutrality among all parties to a conflict to function in a conflict zone.

- The dearth of quantitative information, the uncertainties about speed and range of the epidemic, and the demands to have the allegation of the deliberate nature of the outbreak confirmed contributed significantly to the reluctance to trigger Article VII.
- Participants recognised the need for formal communication channels to request or exchange information. They also saw the need for procedures to interact with the media.

Two additional exercises were conducted in 2019 and 2021 at the NATO School Oberammergau (Germany) as a half-day interactive learning session during the annual NATO Biological Warfare Defence Awareness Course. The classes consisted of military personnel from NATO and partner countries ranging from non-commissioned officers to mid-level officers and some civilian government officials. They received an introduction to the BTWC and its Article VII. The exercise itself was limited to two short stages comprising syndicate work and plenary reporting and discussion. The aforementioned TTXs mentioned multinational peacekeeping forces in the region but they played no active role in the scenarios.

At the NATO School, course participants became part of the peacekeeping mission in a hypothetical continent. A NATO-coordinated force had been keeping the peace in the border region for a while and engaged with the local population to bring the local communities together. The outbreak of a plague-like disease not indigenous to the country expanded over several weeks. Despite frictions, the local government established communication channels with neighbouring countries and regional organisations to appraise them of measures taken to curb the spread, including quarantine and border closures, and coordinate assistance. The international community – both governmental and non-governmental – meanwhile set up an international humanitarian operation to treat patients, contain the epidemic and investigate its source. Some 3-4 weeks after first detection, DNA sequencing suggested deliberate introduction. The victim country decided to launch an international humanitarian assistance request under BTWC Article VII to mobilise larger and more specialised resources. This step sent a shock through the multinational assistance teams already in place because invocation of the BTWC suggests a biological attack, an act of war. At this stage, the deliberate nature of the act had not yet been confirmed nor had any perpetrator been identified.

Syndicates represented different levels of command in the field and at NATO headquarters. The peacekeeping units never became party to hostilities but observed the health crisis, which was unfolding outside their immediate area of operations. In other words, the peacekeepers were not the target of the biological attack. In the two sessions, they discussed the measures they would recommend to their respective commanders to protect themselves against the epidemic (considering the outbreak was unusual and therefore unexpected) and the additional measures they would take once the possible deliberate release of a biological agent became known. Both class exercises assumed that any such deployment would have considered the possibility of a BW incident and troops would have had operational procedures and equipment available to address such emergencies even before they arise. Military personnel would furthermore have been vaccinated before their deployment against indigenous diseases and the most important threat agents. Units at the appropriate levels would have prophylactic measures, medication, and protective and detection equipment at their disposal if BW threats were to materialise.

For the most part, the exercises played out along the general lines described in the section on NATO preparations against BW use. One outcome, however, ran counter to efforts by all actors in the earlier TTXs to avoid conflict escalation. The principal reason was that to request NATO command deployment of higher levels of BW protection materiel and medical countermeasures, the peacekeeping units had to move to higher states of alert, which included the primacy to protect military personnel. This affected base protection, led to cancellation of patrols, and curtailing of interactions with the local population both on and off base. Communication with both sides in the border friction all but ceased, perhaps when it was most needed. At the same time, the course participants ran into uncertainties about adequate intelligence about the unfolding crisis. They activated communications with the NATO CBRN Reachback cell in Vyškov, contacted the government hosting the peacekeeping mission, and international non-governmental organisations participating in the international relief operation. They also had a certain sense that the principal UN agencies might not be forthcoming with pertinent information, especially not regarding the possible deliberate origin of the epidemic and possible perpetrators. This lack of situational intelligence added to their uncertainties about whether to recommend elevating the threat status to their superiors to obtain additional protective, detection and diagnostics equipment, or NATO BW expert teams.

This outcome came as a surprise, at least to people trying to understand and model the dynamics of implementing a provision in a disarmament treaty. Even while the NATO School exercises ran only for half a day, there may be value in exploring the scenario outcome further to understand the full spectrum of issues that may result from appealing for and organising international humanitarian assistance in response to a presumed BW attack. These include military operations to support peace and security in fragile regions.

Conclusions

This chapter has discussed the prevention and mitigation of terrorism with BW from the perspective of the international norm against BW, the BTWC. This disarmament treaty requires parties to take on the national level legislative measures that prevent any non-state actor from acquiring biological materials and any other equipment or technologies that might contribute to the development, production or any other form of acquisition of BW. National laws and regulations also identify responsibilities of companies, research establishments and even individuals. Nationals of a state party or companies and institutions operating on the territory of a state party cannot assist anybody else with a BW programme. The legislative measures also address the physical protection of infrastructure and personnel and other facets of bio-risk management, and awareness of security risks, present or future, that may result from their commercial or research activities.

NATO as an international politico-military Alliance has since the 1990s and especially after 9/11 terrorist attacks set up several bodies and procedures to prevent, deter and respond to terrorist incidents with BW in a broader context of addressing CBRN threats and responses to natural or human-made disasters in member and partner countries. However, specifically regarding domestic terrorism NATO posits that preparedness and response are primarily a national responsibility. All 30 Alliance members are party to the BTWC, meaning that under the terms of the convention they must implement the various obligations to prevent the misuse of the life sciences and biotechnology for hostile purposes, and take the necessary measures to prevent unauthorised access to pathogens, equipment, and other dual-use technologies. In this respect, the NATO position and the BTWC obligations are congruent.

NATO has opened up its assets to support international peacekeeping and emergency responses, the latter in possible coordination with amongst others the UN OCHA and EU. A relationship with BTWC Article VII is undefined. However, TTXs run to understand the consequences of triggering this provision have identified a possible scenario in which NATO procedures for force protection may run counter to national and regional efforts to prioritise humanitarian assistance in circumstances that could escalate a simmering conflict and thus let the epidemic spiral out of control. It is worth recalling that in the exercise the possible BW attack was not directed against the peacekeeping contingent. There may be value in validating the scenario and assess procedures against possible unintended consequences in different settings.

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CHAPTER VI

ACTUALLY, WE DO NEGOTIATE WITH TERRORISTS: GOOD PRACTICES IN RECENT ATTEMPTED NEGOTIATED SETTLEMENTS WITH TERRORIST GROUPS

Stephen Harley

Introduction

Dr Harmonie Toros notes in her 2015 NATO COE-DAT paper, “Terrorism, Counterterrorism and Conflict Resolution: Building Bridges”, that:

‘For decades, conflicts involving terrorist violence were considered beyond the realm of conflict resolution practices such as conflict prevention, peace-making through negotiations and dialogue, and peace-building and reconciliation.’¹

For the remainder of the paper, she argues strongly against that position and the work of Toros and other academics including Borgo, Haspeslagh, Horgan, Marsden, Renner, Spencer and Taylor amongst many others has advanced understanding of negotiated settlement as a concept within counterterrorism.

In addition, in the intervening period since 2015 there have been a number of examples of the viability of this approach, such as the 2016 peace agreement with the FARC in Colombia, the continuing process of disarmament and then the complete cessation of activities by ETA in Spain, and the al-Shabaab focused High & Low Level Defections programmes in Somalia. However, other terrorist groups, notably Da’esh and its ally in Nigeria, Boko Haram, along with many of elements of the global al-Qaida franchise, be they in Afghanistan, Yemen or elsewhere, appear to remain irreconcilable in their own eyes and, more importantly, the eyes of governments, security forces and other institutions. The recent circumstances surrounding the unilateral negotiations between the United States of America and the Afghan Taliban - but not the Government of the Islamic Republic of Afghanistan (GIROA) - present further points for discussion of what good practices in negotiating a settlement with terrorists and other violent armed groups look like.

This chapter, therefore, provides a timely review of the place of activities along the continuum of conflict resolution, including shaping, negotiated settlement, longer term reconciliation and the post-conflict rehabilitation of groups and individual fighters. The

¹ Toros, *Terrorism, Counterterrorism and Conflict Resolution*, 4.

chapter identifies ten broad thematic areas which have shown promise or experienced setbacks, related to the specified case studies in the period 2015 to the present. The ten themes are:

- Shaping the environment
- The dangers of proscription, labelling & villainisation
- Defections
- Secrecy during negotiations
- Inclusion in negotiations
- Remote negotiations
- The potential roles for the international community (individual nations & international organisations)
- The next steps after the settlement
- Setbacks
- Missed opportunities

A number of broader research questions run throughout the ten points for discussion and the chapter as a whole:

- When and why do terrorist groups enter into negotiations?
- When and why do governments and other institutions enter into negotiations?
- What are the threats to negotiated settlement and how can they be mitigated against in order to ensure the chances of enduring, peaceful resolutions?

By addressing these questions, this chapter aims to produce an updated and enhanced understanding of good practice in negotiated settlement to terrorist campaigns.

Conceptual Framework

This chapter takes the form of a series of comparative case studies of good practice along the spectrum of conflict resolution and negotiated settlement. It approaches these case studies using Bennett & Elman's "Qualitative Research: Recently Developments in Case Study Methods" (2006) as a guide, the key points of which are briefly laid out in this section. One of the fundamental decisions to be made when using case studies is whether to use a 'within-case' or 'cross-case comparison' approach.² This article makes use of the latter. This decision is worthy of further discussion.

While a single, longer case study can yield a depth of insight beyond cross-case comparisons³, this chapter is unusual in that it is, in some ways, an update to the previous COE DAT publication, "Terrorism, Counterterrorism and Conflict Resolution: Building Bridges" (2015) and has been written with both the consent of and inputs from the

² Bennett & Elman, *Qualitative Research*, 473.

³ *Ibid*, 459.

author, Dr Harmonie Toros. That publication used multiple case studies, and so does this one: one difference is the timescale for this chapter, 2015 and beyond. The case studies referenced is another.

It is also worthy of note that many of the examples of negotiated settlement in counterterrorism that were referenced in the 2015 publication have continued to develop, notably Northern Ireland. No example in either the 2015 publication or this article can be considered to be completely resolved and, by Bennett & Elman's own admission, a single case study often excludes other possibilities⁴. Since the broad field of negotiated settlement in counterterrorism is still in its gestation, both as an activity and in the academic study of the field, it has been decided to use multiple case studies which yield multiple possible 'good practice' approaches. The good practices identified are a tool box, not a single, prescriptive 'fix'.

However, regardless of whether a within-case or case-comparison approach is used, key elements defined by Bennett & Elman are '*Process Tracking*' and '*Path Selection*' to which each of the individual case studies were subjected. In brief, 'Process Tracking' fixes the case study in time, with a beginning and an end and no obvious break in between. In each case study chosen this aligns perfectly with the broader timescale of this chapter. There should be a relevant evidence base which either excludes or, at minimum, addresses alternative explanations, and confirmation bias should be guarded against throughout. Then 'Path Selection' is applied. What was the so-called 'open period', which in this chapter means pre-negotiations, not pre-settlement? What was the critical juncture? What constraints have there been upon the actors involved throughout the period? Have those constraints increased or decreased? As progress was made what structures have evolved and how have they been maintained? Have changes occurred?

This then provides a structure for the discussion of a number of case studies -the Colombian FARC, the Afghan Taliban, Northern Ireland and Somalia's al-Shabaab and others- and brief '*counter case studies*' of terrorism campaigns that have not seen tangible forms of negotiation or settlement, such as Afghanistan, Iraq/Syria, Nigeria and Yemen. This then allows the good practices identified in each to be brought together for comparison with the ten broad themes and conclusions to be drawn.

Finally, a declaration of self-interest on the part of the author, who was the Project Coordinator of the UK's programme to support the Somali government's High Level Defections programme between 2014-2018: in order to ensure the integrity of the analysis, only secondary sources - other members of the programme, including high level defectors - and third party sources - academics and journalists - are used wherever possible, rather than personal anecdote. As will be seen, the assessment of the role of defections is by no means self-congratulatory or 'sugar coated', despite the author's personal involvement.

⁴ Ibid, 459-462.

Literature Review & Definitions

This chapter sets itself the task of providing an update to Dr Harmonie Toros's work for NATO COE DAT so it is logical that the Literature Review begins by summarising the key points of her 2015 paper.

A key premise of the 2015 paper is that terrorism has to be viewed within the context of a broader conflict and that, as a result, violence is a strategy adopted at a particular time by the terrorist group. If violence is a strategy then there must be alternative strategies available to the terrorist group, and it must not be assumed that all of the group wish to resort to extreme violent acts to further their cause. Toros also notes that within the terrorist group there are also internal divides and factions that may be more inclined to specific violent or non-violent strategies: the same is equally true of the institutions that engage in counterterrorism. The two also interact, with counterterrorism activities prompting a change in the terrorist group, which then prompts a change in counterterrorism in a constant cycle.

Toros suggests ways of breaking this cycle, primarily through three sub-components within conflict resolution: conflict prevention or 'before the violence starts' (author's own terminology); peace-making or 'while the violence is ongoing'; and peacebuilding, or 'when the violence has ended'. At the same time, she also notes that all the terms are contested. Conflict prevention is essentially the prevention of violence while other approaches are explored. Peace-making in turn is contradictory because of the uniform position of governments that 'we don't negotiate with terrorists': but the recent evidence shows that 'we', whoever 'we' may be, do in virtually every circumstance. Peacebuilding, given its longer-term nature and its many potential manifestations, is sometimes portrayed as being a peace that suits institutions but does not necessarily address the real - and often legitimate - grievances that prompted the use of terrorism and lie at the root of the broader conflict.

Another challenge is assessing, quantitatively or qualitatively, which 'phase' a society is in. One attempt to provide such an assessment is the Global Peace Index, which 'measures the state of peace across the level of Societal Safety and Security, the extent of Ongoing Domestic and International Conflict, and the degree of Militarisation.'⁵ But even this tool has its limitations, which the Global Peace Index itself recognises, heavily qualifying its results.⁵ These are just the most relevant challenges: there are many others.

The 2015 paper uses a number of case studies as diverse as the Sudtyrol in the early and mid-twentieth century, Fallujah in 2014, the Good Friday Agreement in 1998, the general issues around labelling, proscription and villainisation and, finally, Mindanao in the Philippines. This chapter returns in particular to Northern Ireland and the implementation of the Good Friday Agreement in the face of spoiler activities by actors such as the Real IRA and Loyalist extremists, external events such as Brexit and the ongoing implications of subjects as seemingly trivial as language choice and marking historic anniversaries.

⁵ *Global Peace Index*.

At the same time, other academics were also focusing on the issues around negotiated settlements with terrorist groups. Audrey Kurth Cronin, for example, has written variously on the broad conditions of how terrorist groups ‘end’, and specifically about elements such as the effects - and the questionable effectiveness - of ‘decapitation’, the broader circumstances around when and why terrorist groups and governments enter the disengagement process and why such efforts succeed or fail, amongst others.⁶ She summarised her key observations in a 2010 USIP paper:

‘The longer a terrorist group has been in existence, the more likely it is to engage in negotiations. Even so, only about 18 percent of terrorist groups engage in talks on strategic issues at all.

When groups do enter talks, the most common pattern is for negotiations to drag on, with the conflict occupying a middle ground between a stable cease-fire and high levels of violence.

Negotiations do not necessarily result in a cessation of the violence: about half of the groups that have entered negotiations in recent years have continued to be active in their violence as the talks unfolded, typically at a lower level of intensity or frequency.

A wide range of variables can determine the efficacy of negotiations. A crucial element in the success or failure of such talks is the ability of policymakers to devise a plan in advance for what will happen when violence does again occur.

Those policymakers who are able to unite with their nonstate negotiating partners in condemning violence are more likely to sustain talks and make progress.

Talks with some global affiliates of al-Qaeda, as well as some smaller factions of the Taliban, may hold promise.

Talks should not be seen as a “silver bullet” but rather as a way to manage and channel the violence over the long term, a process that often contributes to the decline of groups or their demise, along with other factors.’⁷

This chapter will return to the penultimate point, related to potential negotiations with al-Qaida franchises or linked groups such as Somalia’s al-Shabaab and the Afghan Taliban in detail with reference to the tenth theme, Missed Opportunities.

Concurrently Taylor, Borgo and Horgan were exploring the same broader issues but with more focus on the individual terrorist within the terrorist group as a whole. Horgan first presented this process model for becoming a terrorist in *The Psychology of Terrorism* (2005) and summarises his conclusions in 2009 in *Walking Away from Terrorism*:

⁶ Cronin, *How Terrorism Ends*.

⁷ Cronin, *When Should We Talk to Terrorists?*, 1.

‘Initially becoming involved in a terrorist organisation

‘Continuing that involvement, which for the most part brings with it an engagement in terrorist activity and events

‘And finally, disengaging.’⁸

He then explored the dynamics of engagement and disengagement further in 2006, identifying the personal factors, the setting/surrounding events and the social, political and/or organisational context that push and pull an individual into terrorism and which can subsequently be critical elements in pushing and pulling the individual back out again.

Borgo & Horgan explored the issues further in their 2009 collection, *Leaving Terrorism Behind*, focusing on individual and collective disengagement leading to an ultimate negotiated settlement, as well as the issues around amnesties, which this chapter will return to during the discussion of Next Steps. The collection concludes with a helpful summary of their key observations about disengagement:

‘Promoting collective disengagement from terrorism may help end terrorist campaigns.

Disrupting the process of violent radicalisation early in a terrorist career

Individual disengagement may reduce the number of active terrorists and the size of terrorist groups.

Defectors from terrorist groups may serve as credible opinion builders against violent radicalisation and terrorism.

Defectors from terrorist groups may provide valuable intelligence and testify in court against other terrorists.

With no exit option but death or life in prison, terrorists may continue even if they realise that their struggle is lost.’⁹

These are observations that this chapter will return to with specific reference to the Somali defections’ effort as part of the discussion of Shaping the Environment. A broader point for Borgo & Horgan was that negotiated settlement and its component elements of individual and collective disengagement are just one part of a broader counterterrorism strategy, echoing Toros and supporting Kurth Cronin’s view that it is not a ‘silver bullet’ and will not succeed in isolation.

Horgan then returned once again to the subject in *Walking Away from Terrorism*, examining the individual within the collective terrorist group whole, exploring in more detail the latter stages of the earlier process, which he now redefined as: “*Pre-radicalisation - Radicalisation - Pre-involvement searching - Violent radicalisation - Remaining Involved and Engaged - Disengagement - De-radicalisation*”¹⁰.

⁸ Borgo, *Walking away from Terrorism*, 142.

⁹ Ibid, 247-9.

¹⁰ Horgan, *Walking Away from Terrorism*, 152-3.

A number of academic works have been published since 2015 which have developed understanding of negotiated settlement, notably Haspeslagh's "*Proscribing Peace: How Listing Armed Groups as Terrorists Hurts Negotiations*" (2021) and Marsden's "*Reintegrating Extremists: Deradicalisation and Desistance*" (2017), along with numerous individual academic articles and accounts of the process of negotiating a settlement with a terrorist group.

Haspeslagh explores in detail how the proscribing of groups as 'terrorists' and the terminology used can result in significant constraints on the possibility of negotiated settlement, in some cases precluding engagement because that would involve breaking the law and talking to terrorists. She even references how her own field research in Colombia and the simple act of buying coffees for members of the FARC during an interview was a possible breach of national and international law¹¹. This, too, has knock-on effects for academic research as ethics committees reject attempts to study terrorist groups for the same reasons. She even notes how proscription has been welcomed by some groups as awarding status to the group on a global stage, providing a further risk. Haspeslagh concludes that when dealing with terrorism, the act and the actor should be separated to allow the space for negotiation.¹²

Marsden, on the other hand, goes further into the end phases of Horgan's 2009 process and explores the numerous complexities around reintegration, deradicalisation and desistance.¹³ This is indicative of the shift in focus in the period since 2015 towards Preventing & Countering Violent Extremism (P/CVE). The discipline was initially ill-defined which the UN was still struggling to provide some clarity on in 2018¹⁴ and that seemed to fix counterterrorism's focus on a hard core of active terrorists, leaving the remainder of the terrorist group - support networks, sympathisers, fundraisers and so on - and the rest of society to come under P/CVE. However, this lack of definitional clarity did not stop the appearance of numerous publications and even the establishment of a non-NATO Centre of Excellence, Hedayah, in Abu Dhabi, UAE in 2013. The Hedayah COE in P/CVE has published extensively on a range of related subjects including region-specific research briefs, case studies such as an analysis of the effects of mining on P/CVE in Africa (2017) and P/CVE Strategic Communication (2018) and counter narrative guides (2017-2018) as well as hosting numerous workshops and online events. Similarly, RUSI amongst many others has published extensively around P/CVE, particularly on its work in East Africa as part of the UN's Strengthening Resilience against Violent Extremism (STRIVE) including two volumes of Lessons Learned (2017 & 2020).

However, while P/CVE has been the subject of much activity and publication, there are consistent issues with the emerging discipline. Programme design and measurement is one, which Khalil & Zeuthen of RUSI attempted to address in Whitehall Paper 2/16 Countering Violent Extremism and Risk Reduction: A Guide to Programme Design and Evaluation (2016). The numerous structural challenges in the P/CVE/deradicalisation/reintegration/reconciliation nebula are detailed by Marsden. But one overarching, consistent and jarring

¹¹ Haspeslagh, *Proscribing Peace*, 206.

¹² *Ibid*, 211-2.

¹³ For a fuller discussion of de-radicalisation in particular, see Marinov, this volume.

¹⁴ UNOCT, *Reference Guide*.

note was typified in March 2019 by Marc Sageman at a European Institute for Peace workshop in Bruxelles, Belgium. No evidence-based support for effectiveness of ‘deradicalisation’ program... Many are based on the wrong premises.¹⁵

In summary, P/CVE and the broader issue of addressing the ‘book-ends’ of terrorism - disrupting the process of radicalisation and then deradicalising terrorists, post-involvement - has been a contentious issue in the period 2015 until the present. An organisation like COE-DAT or perhaps even NATO as a whole may be capable of addressing this in the future, but that is beyond the scope of this chapter.

At the higher level, and as much of the literature demonstrates, the elements of firstly the individual and the collective and secondly the prelude to and the actual settlement and then the aftermath within negotiated settlement of a terrorist campaign often remain disjointed. These are issues that this chapter will return to consistently.

In summary, there is now a recognition, in the academic literature at least, that negotiation with terrorist groups is both a reality, albeit an unpalatable one for some, and that it is something to be actively pursued, albeit discreetly. But it remains a metaphorical minefield through which governments, security forces and other institutions sometimes choose to run across while wearing large, clown-style shoes, rather than tip-toeing delicately through.

Analysis

In this section we return to the ten observations on the most recent developments in negotiation settlements with terrorist groups, noting the existing and developing understanding of the approach in the previous Literature Review.

Shaping the environment

Shaping the environment for negotiated settlement by coercing or engaging with terrorists, re-shaping the institutions of the state to meet the evolving challenge and socialising the concepts of negotiated settlement with the populace before finally convincing all but the most extreme parties of the necessity of a negotiated settlement has proven to be a necessity.

There are many ways to bring terrorists to the negotiating table, but the most commonly assumed efficacious means to achieve this seems to be by killing members of the terrorist group - in the minds of governments at least. However, as Betz notes, terrorist groups are now built to resist this approach: they are, as he notes, survivable, scalable and flexible¹⁶. The leaders of many terrorist groups have been killed: al-Qaida’s Osama Bin Ladin in 2011, al-Shabaab’s Godane in 2014, Boko Haram’s Abubakar Shekau in 2021, for example. But all of those groups continue to function. As far back as 2009, Audrey Kurth Cronin explored the broad futility of ‘decapitation’, yet the approach continues, even as the ever-present risk of civilian casualties becomes more and more apparent¹⁷.

¹⁵ EIP, *Move Slow and Mend Things*.

¹⁶ Betz, *Carnage and Connectivity: Landmarks in the Decline of Conventional Military Power*, 183-4.

¹⁷ CNN, *We Want Justice*.

There are other ways to shape the environment for a negotiated settlement, however: strategic communications proved effective in Colombia¹⁸ and, as the next section will demonstrate, an adjustment in language can be equally effective in preparing the terrorist group, the institutions of government and the wider population for a negotiated settlement.

The dangers of proscription & labelling

With specific reference to the FARC in Columbia, Haspeslagh (2021) has noted that proscription and labelling are a common feature of counterterrorism, and that these can rapidly morph into villainisation of the terrorist group by politicians and commentators¹⁹. This ultimately limits potential negotiations and the chances of a successful negotiated settlement. It would, therefore, be good practice to avoid this.



Images 1 & 2: Examples of the villainisation of Muslims by the right-wing UK news media

In the United Kingdom (UK), for example, some elements of the news media have vigorously linked terrorist groups that claim Islamic credentials to the broader Muslim community in the UK: this has stoked Islamophobia, isolated the very communities that may offer the best opportunities to prevent or counter radicalisation and fuelled the rise of far-right groups such as Britain First, The Base and others²⁰.

¹⁸ BBC, *Colombia Army Erects Christmas Tree*.

¹⁹ Haspeslagh, *Proscribing peace: How Listing Armed Groups as Terrorists Hurts Negotiations*.

²⁰ BBC News, *Racism fuelling far-right threat in UK*; Matthews, *Framing alleged Islamist plots*.

Even at the time of writing, the use of terms such as ‘Northern Ireland’ versus ‘the North’ or Londonderry versus Derry/Doire (Irish Gaelic), the UK/Loyalist and the Irish/Republican preferences respectively, are highly contentious²¹, demonstrating that language remains a source of dispute long after ‘the shooting’ has concluded. Haspeslagh sums up the issue succinctly by emphasising the need for ‘a linguistic ceasefire’ in parallel to the ending of the use of violence by both the terrorist group and the institutions of government.

Defections

As previously noted, ‘shaping’ a terrorist group for a negotiated settlement is often misconstrued by the more kinetically-inclined in the counterterrorism space as meaning ‘killing them to the table’: drone strikes, air strikes, Special Forces strikes, decapitation operations, shows of force on the streets of a nation’s cities. However, within shaping the environment, defections also present a means of damaging the combat effectiveness and morale of the terrorist group as well as providing valuable and up-to-date intelligence and ultimately damaging the public perception of the adversary with local and international audiences. However, this is a delicate process, which needs to be carefully managed. The case of the Federal Government of Somalia’s High Level Defections (HLD) programme is highly indicative of this.

It is a matter of public record that the UK supported a capability to provide support to the Somali government’s HLD programme from December 2014 to June 2018, ultimately ending the effort not because of any inherent flaws in the programme but as a result of risk aversion prompted by media exposure of similar activities of different UK contractors in another theatre (Syria)²². At the same time, the UK and Denmark have supported a low-level Defector Rehabilitation Centre (DRC) in Mogadishu while Germany, via the International Organisation for Migration (IOM) has supported parallel DRCs in Kismayo and Baidoa, and UNICEF has supported an effort focused on former child combatants via a local NGO, the Elman Peace & Human Rights Centre (Elman PHRC). This section focuses on the HLD programme but the other efforts provide equally valuable insights into good practices in the encouraging of defections to facilitate an ultimate negotiated settlement with a terrorist group.

²¹ FT, *Words are a minefield on the island of Ireland*.

²² BBC Panorama, *UK foreign aid money ‘diverted to extremists’ in Syria*.

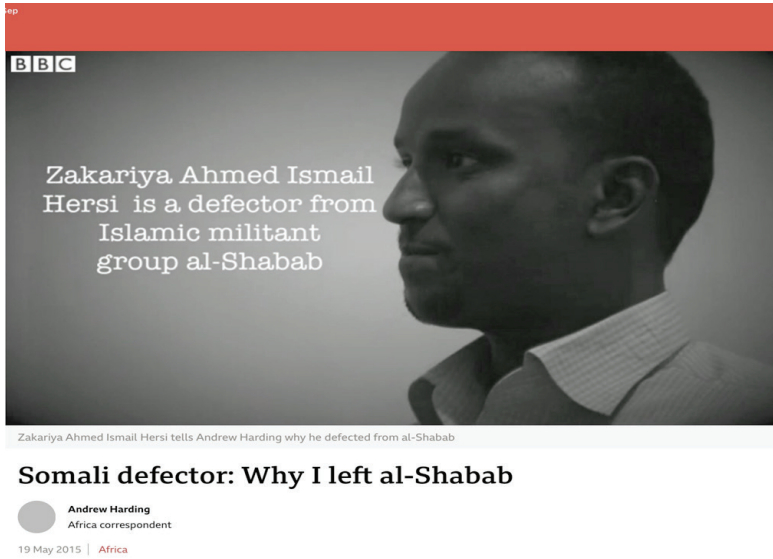


Image 3: Zakariya speaks to the BBC about the circumstances of his defection from al-Shabaab.

The Somali HLD programme was successful in achieving its objectives, resulting in 53 mid- to high-level defections from al-Shabaab, including figures such as Zakariya, the former Head of Intelligence in the group’s *Jabha* (Army) Intelligence branch and Robowe, the former Deputy Emir of the group. With the numbers came significant media exploitation²³- which in turn prompted further defections and shifted perceptions of al-Shabaab from being a homogeneous, highly capable and potent threat to being a group riven by factionalism, incompetence and vulnerability.

The experience of the UK-funded HLD programme offers many valuable lessons, which are evident in the project’s final self-evaluation²⁴. The HLD programme was cyclical rather than linear: a leader would defect, but then immediately became an ‘Outreacher’, engaging with those still within the group whom he felt would be likely defectors in turn. Those defectors would then become Outreachers, and the web spread.

Defectors were given a choice: to speak to the media (which three did) or to become Outreachers (which the remainder did). But the HLD Final Report notes that this should not have been a choice: all defectors should have had their defection announced, even if only in the vaguest terms (role and location but not name or clan, for example). This was a major missed opportunity.

The HLD programme required significant international assistance and oversight to ensure financial and ethical transparency and to steer the programme through the inevitable obstructions that are rife within the Somali political/security space. Events such as the

²³ BBC News, *Somali defector*; AFP, *Exclusive: Somalia lures defectors*; BBC News, *Life after al-Shabab*.

²⁴ BEM, *HLD Final Report*.

2016/17 Electoral Process, frictions between the Federal Government of Somalia and country's Federal Member States and the interference of international actors all disrupted the effort, as did clashes between individual defectors, actors within the broader Somali security sector and international partners. But the effort was, nonetheless, worthwhile.

The same was true in the media exploitation of defections and the sharing of valuable insights gleaned from defector de-briefs - not to be confused with Actionable Intelligence, which was garnered by the Somali National Intelligence & Security Agency (NISA) immediately after defection, prior to the return of the defector to the HLD programme. There is no reason to think that the need for direct international support and oversight will not be required in any such programme in the future, in Somalia or elsewhere. The Somali HLD programme, for all its challenges, nonetheless provides an example of good practice in terms of shaping the terrorist group for negotiations, and in a considerably more effective approach than 'killing them to the table'.

Secrecy during negotiations

Secrecy during the component elements of negotiated settlement - engagement via back-channels, exploratories, initial negotiations, agenda-setting, formal negotiations and then a deal - is often essential for security and to allow free discussions without intrusion, unnecessary scrutiny or the influencing of the process. However, secrecy cannot be maintained forever, nor should it be, and when to 'go public' is a critical decision point. As Toros (2015) noted, this was maintained for decades during the negotiations with the Irish Republican Army (IRA) in Northern Ireland and it remains vital even now.

Negotiations with the FARC in Colombia, for example, were initially cloaked in secrecy²⁵, as were the talks with the Afghan Taliban long before the February 2020 announcement of an agreement²⁶. However, while initially secrecy is a necessity - as long as governments and institutions claim that 'we don't speak to terrorists' - this does then create a difficulty when the moment of reality arrives and the negotiations become public knowledge, sometimes presenting the population with something akin to a *fait accompli*. It is worth noting that no government has initiated a counterterrorism campaign saying that it is willing to negotiate: perhaps it might be good practice that they should, albeit with the more 'palatable' elements of the terrorist group, then obviating the need for secrecy.

Inclusion in negotiations

Inclusion in negotiations is vital and any process that leaves out key players - usually the armed wing of the terrorist group - is likely to fail: Toros clearly notes this in her Northern Ireland case study, when truly meaningful negotiations only began when the military wing of the Republican movement, the IRA, were offered a seat at the table.

²⁵ Segura & Mechoulam, *Made in Havana: How Colombia and the FARC Decided to End the War*, 9-18; Nylander, Sandberg & Tvedt, *Designing Peace: the Colombian Peace Process*.

²⁶ US Department of State, *Agreement for Bringing Peace to Afghanistan*.

Similar lessons can be found in the negotiations leading to the 2016 peace agreement with the FARC in Columbia: while negotiations had been initiated as far back as 1982, it was only latterly that the FARC itself was engaged. In the intervening period other groups, such as the M-19 and Popular Liberation Army (Ejército Popular de Liberación or EPL), were negotiated with, but the exclusion of the FARC itself until 2010 meant that the conflict continued in a cycle of major terrorist offensives by the FARC and, in response, major counterterrorism campaigns by the government. It is worth speculating that engaging with all the anti-government elements, not just the ‘acceptable’ ones, may have resulted in a considerably earlier settlement²⁷.

Remote negotiations

Remote negotiations have proved useful in moving tentative discussions forward in a ‘neutral’ location, much for the same reasons as secrecy - but there are potential pitfalls that have to be managed when ‘taking the fight outside’ of territorial borders.

There is a logic to conducting negotiations in a remote location. The negotiations between the Colombian government and the FARC, for example, were hosted by the government of Cuba: *Cuba’s hosting of the negotiations buffered the talks from the daily occurrences of war and politics in Colombia and provided a controlled environment.*²⁸

The negotiations between the United States and the Afghan Taliban were, similarly, conducted outside Afghanistan in Doha, hosted by the Qatari government.

However, just as secrecy brings with it the inevitable moment of reckoning when the negotiations go public, there are similar pitfalls associated with negotiations in remote locations. As Segura and Mechoulam note, ‘while this proved to be essential for the parties to come to an agreement, it left many Colombians feeling removed from the process and limited their sense of ownership.’²⁹

This observation is not new: similar resentment was felt by all those involved in ‘the Troubles’ in Northern Ireland, be they Republican, Loyalist, the security forces and the British and Irish populations as a whole. It is clear that, while the conduct of negotiations in secrecy, in remote locations and which are fully inclusive are all elements of good practice in the pursuit of a negotiated settlement to a terrorism campaign, there are numerous delicacies that must be taken into account and anticipated at all times.

The potential role for the international community

The potential role for the international community including individual nations, be they neighbours or those with established links and interests and who can prove useful in moving a process forward but these national actors should be carefully selected - and not necessarily

²⁷ Garcia-Sanchez & Carlin, *The FARC in the Public Eye: Negotiation, Integration, and Political Participation*.

²⁸ Segura & Mechoulam, *Made in Havana: How Colombia and the FARC Decided to End the War*, 1.

²⁹ *Ibid*, 1.

self-selected. In a similar way, the broader international community can also be useful, but must be managed with care and sometimes even participate from the shadows.

For example, in the case of the negotiations with the FARC, Cuba, as already noted, played a major role by hosting the remote discussions: so too did Norwegian diplomats³⁰. The United States assisted both financially and as a ‘presence’ to add credibility and impetus to the process on both sides and also to emphasise the cost of another set of failed negotiations³¹.

Within the various possible roles for international actors - hosting, funding, adding moral support or ‘clout’, even actively leading the negotiations - it is, perhaps, worthy of note that a ‘near neutral’ country, Norway was chosen to lead the discussions between the Colombian government and the FARC. Norway is not technically totally neutral, since it is a founding member of NATO and participated in the ISAF mission in Afghanistan. Only Austria, Costa Rica, Finland, Ireland, Liechtenstein, Sweden, Switzerland, Turkmenistan and the Vatican City hold the distinction of being genuinely neutral, However, ‘near neutral’ - Iceland would be another example, along with Norway - may also be acceptable to parties in the conflict and should be considered as good practice within the conduct of negotiated settlements with terrorist groups.

Similarly, the 2018 political settlement in South Sudan, while not a resolution to a terrorism campaign *per se*, similarly saw the engagement of regional actors, notably Ethiopia and Kenya. Once again, the United States also added its ‘clout’ to the process, as did international organisations such as the European Union³². An equally important player in the negotiated settlement was a regional organisation, the Intergovernmental Authority on Development (IGAD)³³, which highlights another element of good practice in negotiated settlements to terrorist campaigns: the need to provide a check and balance against individual nation state actors who may sometimes be perceived -correctly- as acting out of self-interest. The United Nations provided a similar function from the sidelines of the Havana negotiations between the FARC and the Colombian government³⁴.

In Somalia, meanwhile, the European Union (EU) also explored the possibility of finding a suitable interlocutor to perform the role of opening negotiations with al-Shabaab, identifying through high level defectors from the group Pakistan and Indonesia as likely individual nation state actors and the Arab League as a possible international organisation that would be palatable to al-Shabaab³⁵. The EU, with considerable daring, pursued this effort in the hope that it would build on previous but sadly abortive attempts to engage with the group in 2006 and 2008-9 but unfortunately this effort stalled with the re-posting of the EU’s Special Representative to the

³⁰ Nylander, Sandberg & Tvedt, 2.

³¹ Ibid, 3.

³² Biel & Ojok, *IGAD, Political Settlements and Peace building in South Sudan: Lessons from the 2018 Peace Negotiation Processes*.

³³ Vertin, *A Poisoned Well: Lessons in Mediation from South Sudan’s Troubled Peace Process*, 18-22.

³⁴ Segura & Mechoulam, 3.

³⁵ 18 October 2018, Author’s personal engagement with Alex Rondos, EU Special Representative to the Horn of Africa.

Horn of Africa, Alex Rondos. The concept remains, nonetheless, viable, and is indicative of how the judicious deployment of both individual nations and international organisations could help to facilitate the negotiated settlement to a terrorist campaign.

The next steps after the settlement

The next steps after the settlement are often neglected in the euphoria of a ceasefire or a peace agreement, but there are a number of issues that require careful handling: involvement of the former terrorists in the political process; the search for justice for all sides; and, related, the complexities around amnesties.

The FARC in Colombia and the IRA in Northern Ireland are good examples of the challenges that are likely in the aftermath of a negotiated settlement when at least some former extremists inevitably enter politics. Guzman & Hola³⁶ and Garcia-Sanchez & Carlin³⁷ detail the ongoing challenges of former terrorists assuming the roles of politicians in Columbia in detail, highlighting the resentment that this causes amongst their fellow politicians, their former adversaries in the security forces and the population at large, noting how common feelings of justice not being seen to be done can be.

This is equally the case in Northern Ireland, where investigations into alleged historical crimes committed by members of the security forces have prompted fury amongst British politicians, members of the armed forces and the British population as a whole, which was then met with equal fury by members of the Republican community and the Irish population when the prosecutions were dropped³⁸. Finding a way to socialise concepts such as reconciliation, forgiveness and accountability is clearly good practice in negotiated settlements, but it is one that is often neglected.

The formation of the Special Jurisdiction for Peace (SJP) in Colombia was an attempt to address these issues in a comprehensive way. The SJP had five component parts:

‘...the Tribunal for Peace, in charge of delivering judgments and meting out punishments; three Chambers of Justice (Chamber for Acknowledgement of Truth and Responsibility, Chamber for the Definition of Legal Status and Chamber for Amnesties and Pardons); and one Investigative Unit’³⁹

The SJP, however, proved to be one of the most contentious elements of the peace agreement with the FARC. Opposition politicians and many of the populace felt the ‘punishments’, which primarily took the form of periods of sanctioning of individuals, was not felt to be proportionate to the atrocities the individuals had participated in: meanwhile the FARC members who were subject to the sanctions felt the restrictions, which often took the form of strict controls on movement in and out-with Colombia, sometimes for as much as eight years, were too harsh.⁴⁰

³⁶ Guzman & Hola, *Punishment in Transitions*.

³⁷ Garcia-Sanchez & Carlin, *The FARC in the Public Eye*.

³⁸ FT, *Prosecution of Only Soldier Charged over Bloody Sunday Killings Dropped*.

³⁹ Guzman & Hola, *Punishment in Transitions*.

⁴⁰ Ibid.

Amnesty is a vital but equally contentious concept. Borgo & Horgan laid out just some of the considerations necessary prior to implementing an amnesty in 2009:

‘What are the goals to be achieved by the amnesty programme?

Under what circumstances and on which conditions may offers of amnesty (or reduced sentencing) produce these desirable outcomes?

Should amnesty be offered before or after a judicial process?

Should offers of amnesty be time-limited?

How can victims of terrorism be given a proper role in the process?’⁴¹

If anything, the implementation of an amnesty has become even more complicated in the intervening period. The Federal Government of Somalia, with the support of the EU, introduced an Amnesty Policy in September 2016 that was deliberately vague in certain key aspects with the intention of ensuring flexibility in practice: however, this has left considerable ‘grey areas’ around, for example, the different ways in which senior commanders such as Zakariya and Robowe were treated, such as de-listing from UN Sanctions and the US Rewards for Justice programme, and the way in which foot-soldiers are treated. As recently as September 2021 UNICEF noted the lack of clarity in the Somali Amnesty Policy at a workshop in Mogadishu: there is no clear definition, for example, of what a high and low level and a high and low risk defector are, nor is there any addressing of the issue of foreign fighters. While amnesties are generally agreed to be an essential feature of a negotiated settlement, the exact details often remain at best ambiguous and at worst completely absent.

Setbacks

In a negotiated settlement to a terrorist campaign, just as in the terrorist campaign itself and the reciprocal counterterrorism campaign, setbacks are inevitable and should be prepared for accordingly. Spoilers from all sides are likely and the effects of external events can have dramatic repercussions for a tentative peace process. In Colombia, for example, there was significant political and public opposition to the peace process when it was finally revealed, to the extent that a public referendum on the negotiated settlement initially rejected the process, resulting in a revision of the terms of the agreement to make it more palatable for opposition politicians and the public⁴². Persistence and flexibility in the face of such obstacles is another example of good practice in negotiated settlement with terrorist groups.

In Northern Ireland, on the other hand, an external event, Brexit, has also put the Good Friday Agreement at significant risk⁴³. This is just one example: in the period since 2015 external events have consistently interfered with nascent attempts to achieve a peaceful resolution to terrorist campaigns. Haspelslagh suggests that a weakening of the Justice and

⁴¹ Borgo & Horgan, 254.

⁴² Garcia-Sanchez & Carlin, 240-2.

⁴³ Carnegie Europe, *Is the Northern Ireland Peace Process at Risk?*; CFR, *Moving Past the Troubles*.

Development Party (AKP) party's political dominance in 2015 resulted in more hardline approach being adopted with the PKK because, "the fate of the peace process was dependent on the popularity of the AKP at the ballot box."⁴⁴

On the other hand, Jonathan Powell, the UK's chief negotiator with the IRA and Sinn Fein in the 1990s, suggests a similar motivation lay behind the Trump administration's hasty, unilateral engagement with the Afghan Taliban without the involvement of GIRA⁴⁵. It would appear to be good practice to anticipate as much as possible how external events might impact on the delicate flower that is a negotiated settlement.

Missed opportunities

Missed opportunities are also worthy of discussion, possibly beyond the scope of this chapter and this volume. Were there points where a terrorist group may have been open to negotiation? Why didn't they? Conversely, why didn't governments or other institutions take the initiative? According to Jonathan Powell, the Afghan Taliban were certainly keen to negotiate a settlement at various points after 2002, but the opportunity was never taken⁴⁶. In 2015 the UK government explored the concept of approaches to elements of Da'esh in Iraq/Syria, specifically targeting technocrats such as the oil & gas, agriculture and financial professionals that Da'esh had recruited or press-ganged into service while running its pretend state: but, once again, the opportunity was left unexploited⁴⁷. Powell suggests that there appears to be a lingering belief that 'we don't talk to terrorists', noting that politicians are often 'too squeamish to be seen publicly dealing with a terrorist group'⁴⁸ and that there is an inferred differentiation between terrorists who are 'like us' - the IRA, ETA, the FARC and so on - and those who are not, such as self-proclaimed Islamist terrorists, in the minds of some in western governments. Clearly good practice would suggest that any and every terrorist group should be viewed as being open to negotiation, even in the case of groups where some elements are guilty of unspeakable cruelties. This does, of course, have to be balanced with elements such as the need for justice of some kind being seen to be done and the political realities of the involved national actors.

Conclusion: Challenging Misconceptions around Negotiated Settlement to Terrorist Campaigns

This chapter has aimed to analyse recent examples of negotiated settlement with terrorists or other armed groups - and concludes by challenging some existing misconceptions. The first broad misconception is that terrorist groups have to be forced to the negotiating table by kinetic means and will only reconcile when in a position of strategic weakness. But there is another possibility: that terrorist groups can often be at their most open when they are seemingly at their

⁴⁴ Haspeslagh, 208.

⁴⁵ New Statesman, *How the War on Terror Led to the Forever Wars*.

⁴⁶ The Guardian, *The Lesson We Failed to Learn From 9/11*.

⁴⁷ UK CSSF, *Closed Door Workshop on Defections from Violent Extremist Groups*.

⁴⁸ The Guardian, *The Lesson We Failed to Learn From 9/11*.

moment of apogee. This was certainly the case with FARC and continues to be the case with Somalia's al-Shabaab, both of which survived intense targeting and seemingly catastrophic losses - but nonetheless continued to function and, in some cases, even thrive.

The second misconception is that terrorist groups are a homogenous whole when in fact they are often riven by internal factions and differing objectives, which means that negotiations and settlement need not necessarily be with the whole but could, instead, be with a part of the whole. Defections, whether they be of individuals or groups, or high-level commanders or foot-soldiers, are something to be encouraged, but which also require careful handling and a genuine effort to socialise the associated concepts of reconciliation, forgiveness and so on with a generally reluctant populace.

The third misconception is that attempts in the space of negotiation, settlement, reconciliation and so on must be concealed because 'we don't talk to terrorists': but this is a long-disproven trope, and the real issue may instead lie in unchallenged public misconceptions. Secrecy around negotiations with terrorist groups should be reconsidered, and excessive secrecy avoided. Finally, the fourth misconception is that negotiated settlement once achieved is the end of the struggle: whereas the evidence indicates that all examples of negotiation, settlement, reconciliation, reintegration and so on, have inherent, specific fragilities that require consistent effort and review if they are to be sustained. A negotiated settlement to a terrorist campaign is not the end: it is not even the beginning of the end. It is simply the end of the beginning. Then the real hard work begins.

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CHAPTER VII

PREVENTING RADICALISM, ANARCHISM AND ULTRA NATIONALISM

Petar Marinov

Introduction

Contemporary terrorism as a phenomenon, particularly over the last twenty years, is characterised by a complex structure in which ideological, social, religious, ethnic, psychological and other elements intertwine. In addition, terrorism is often associated with war, guerrilla warfare, crime, and other forms of violence.

In its modern manifestations, terrorism increasingly relies on synergy between different repercussion and approaches - the interaction between organized crime and terrorism (narco-terrorism in Mexico), the attempts of terrorist organizations to provide social services (pseudo-social terrorism - Philippines), etc. This allows the resulting impact to exceed significantly the sum of the individual acts.

Motivation is important as a component of the ability of terrorist organizations of their building, development, effective operation and is a critical factor in the successful commission of terrorist acts, including lone wolf attacks. However, those who join terrorist organizations or take direct action on their behalf must overcome significant motivational constraint the instinct for self-preservation, moral, religious and ethical norms, as well as legal constraints. Last but not least, education and intellect raise awareness of the effects and the consequences of the actions of the individual. These limitations can be overcome if a person or group, based on a formed sense of injustice and anger, reaches an extreme position and a willingness to use violence in the interest of the cause. The states and effects described build a process - radicalization.

The process of radicalization is one of the main motivational tools of terrorism. Radicalization, however, can also appear in the employees of the security system. In this case, the consequences could be even worse, as military and security personnel, have access to weapons, familiarity with organizational vulnerabilities, and typically varying levels of combat training and experience? that could cause far greater damage than acts committed by persons without military training. as such, the prevention of radicalization in the armed forces must be directed both “outwards” and “inwards”: outwards towards radical organizations and inwards to the formations and structures of the armed forces themselves to prevent the radicalization of employees and service personnel therein.

The aim of this chapter is to develop a basic algorithm underpinning the process of radicalization and propose a good practice for the identification of symptoms of radicalization, especially inside of military forces and security systems, and adequate preventive and reactive measures.

The features of modern radicalization and the model of terrorist motivation activities

Understanding the concept of terrorism is linked to the analysis of the common features of modern terrorism. While the ideology and motivations of different types of terror organizations greatly differs between Left-Wing or Right-Wing movements, nationalist and separatist groups, and between the various forms of Religiously Motivated Terrorism, the process of radicalization is common between terror groups.

Common features of terrorism could be described as including:

- 1) Political motivation
- 2) Publicity
- 3) Indiscriminate and mass casualties, especially among civilians
4. Intentional cruelty

A basic motivation algorithm can be derived and suggested:

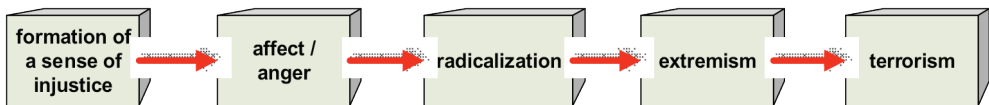


Figure 1: Algorithm of motivation for terrorism

The algorithm starts with a sense of injustice - this feeling is basic in the human psyche and it can be triggered by various factors related to the psyche and the life of the individual (e.g. satisfaction, professional development and personal sense of adequacy, material and social status, recognition, and level in the hierarchy of the individual group or society, etc.), as well as by global causes. Without going deeply into the scientific aspects of personality psychology and the characteristics of the states of affectedness, we must underline the fact that the negative emotional mood caused by a deep sense of injustice can have several influences.¹

What matters more in the algorithm for a person's transition to terrorism, is the suppression of anger. Suppressed anger is not, as such, an immediate threat, but it is much more intense than Externally manifested (aggressive) anger (Figure 2), as it harbours accumulated negative thoughts and emotions based on a negative attitude towards a person, a problem or the sense of injustice itself. Extreme levels of suppressed anger centered around a sense of injustice is the first step in the process of radicalization, includes reaching extremes in assessments and positions, the rejection of any alternative propositions, and, at a later stage, the decisive readiness to impose the embraced "cause" on others through violence.

¹ Marinov, *The Modern Processes of Radicalization and Their Connection with Terrorist Activity*.

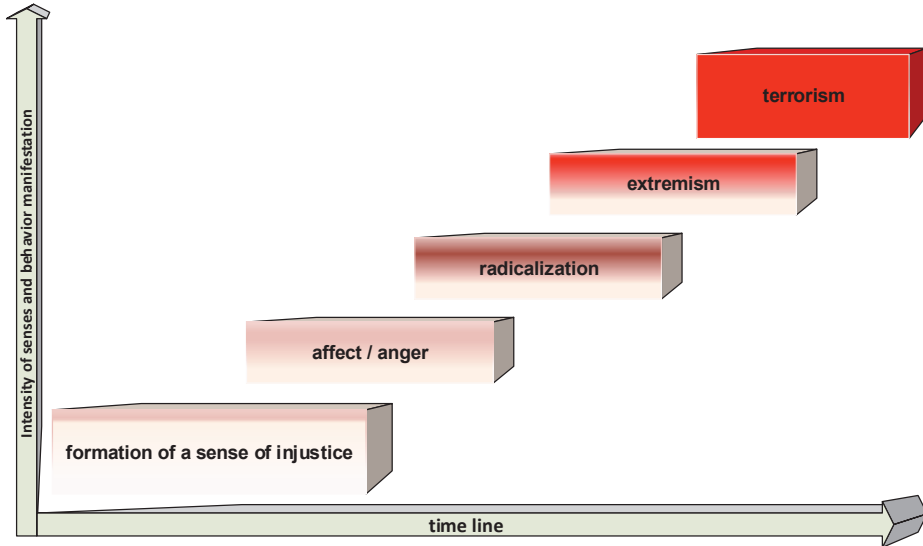


Figure 2: Progress of intensity of feelings and behaviour expressed in accordance with the model of motivation for terrorism

Radicalization, which leads to extreme behaviour, violence and terrorism, is not a new phenomenon, but the process is now evolving at an alarming rate and scale.

The phenomenon is not limited to a single European Union (EU) member state. Available threat assessments indicate an increase in Right-Wing extremism promoting anti-democratic, intolerant and divisive messages that fuel violent extremism as well as contributing to increased polarisation. Rising numbers of attacks carried out by left-wing violent extremists are of concern as well.²

There are two main aspects to the link between radicalization and armed forces activities. The first aspect is how armed forces' activities impact on the operational environment in their areas of responsibility and the second is the impact of radicalization as an environmental factor.

Radicalization as a result of armed forces activities in areas of operations

There are examples of the actions of the peacekeeping military forces provoking negative emotions which prompts the process of radicalization in the local population as a result.

There are general trends that determine these effects and they must be analysed before giving specific examples. UN peacekeeping operations, for example, focus on political processes, peacebuilding, and conflict prevention. Increasingly UN operations face tensions over perceptions of national sovereignty in the areas they operate in and on the borders of

² European Union Agency for Law Enforcement Cooperation, *European Union Terrorism Situation and Trend Report 2021*.

neighboring countries. This has been evident in Burundi, the Democratic Republic of the Congo and South Sudan, where host governments have viewed UN efforts as an encroachment on their sovereignty and, in response, have created obstructions to the deployment of forces. Host nation governments have shown a tendency to promote primarily military solutions in support of their own projection power, for example, in the face of the Joint Forces of the Group of Five for the Sahel region and the Multinational Joint Task Force against Boko Haram. In the case of The Gambia and Lesotho, however, regional organizations have been able to intervene in smaller countries, although in those cases the efforts of the host government was controversial in the first case.

There are a few significant examples of negative public reactions and subsequent disorder after deliberately induced collateral losses. During the ISAF operation in the period 2001-2006³, there were numerous suicide attacks against coalition forces in Afghanistan.(Figure 3)

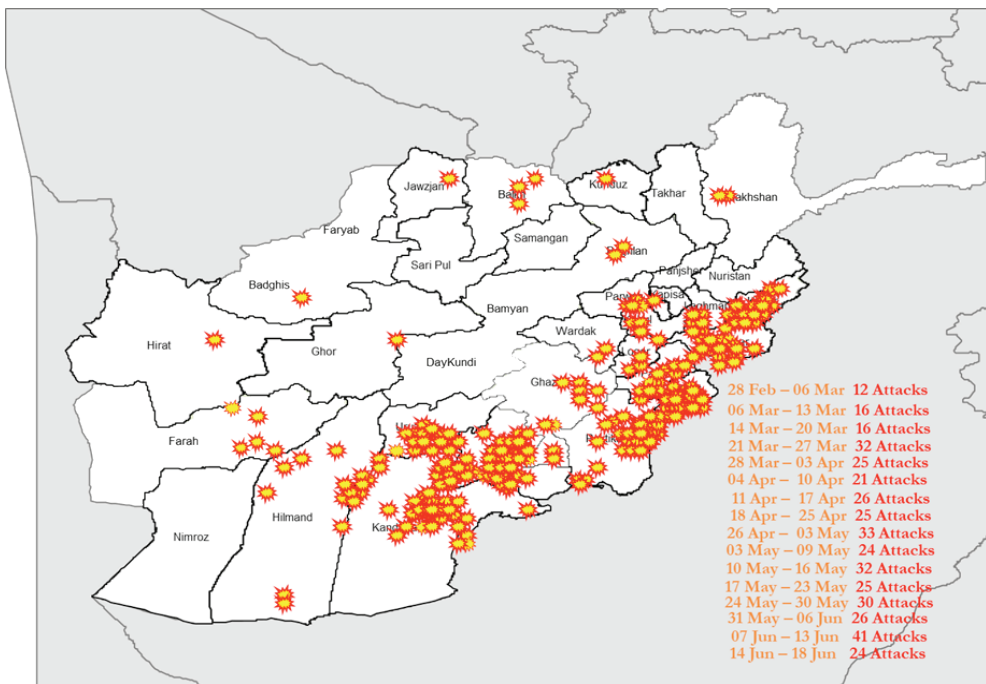


Figure 3: Attacks in Afghanistan by opposing forces between February and June 2005⁴

During this period approximately 19,000 military personnel were stationed in and around Afghanistan. Special operations were focused on capturing or killing Taliban and Al Qaeda leaders. In addition to NATO's growing presence in Afghanistan, there was also continued growth and progress in the Afghan National Army (ANA) and Afghan National Police

³ RFERL, *Afghanistan: A Chronology of Suicide Attacks Since 2001*.

⁴ Briefing of the Senior National Commander of the VII Bulgarian Contingent in Operation ISAF.

(ANP). A number of reports note that in 2005 insurgent tactics showed an increase in the use of suicide and roadside bombings, not unlike the tactics being used by insurgents in Iraq, in response. According to the analysis of this single operational issue, the effect of coalition operations was a change of counterterrorist approach and applied tactics.⁵ There had been over 20 suicide attacks in Afghanistan by September 2005⁶ including car bomb attacks against U.S. and NATO convoys — resulting in four NATO deaths — as well as ‘suicide bombers’, individuals with explosives strapped to their bodies throwing themselves at vehicles or detonating their explosives in crowds. Most of these bombings failed to hit their intended targets but instead killed or wounded Afghan civilians. The terrorists, characterized as well-organized and well trained for battlefield situations, had attracted younger fighters and staged smaller-scale attacks, often using a hit-and-run approach as opposed to conventional combat operations. The terrorist units were divided up into groups of 18 to 20 fighters and Al Qaeda members from Pakistan or foreign fighters, mostly of Arab origin, were included in each unit to train the terrorists on tactics and lessons learned from Iraq.

In turn, the actions of members of the military in response to these attacks proved capable of provoking a sense of injustice or anger in local populations that could lead to the radicalization of locals and yet terror attacks. A noteworthy example is the desecration of dead Taliban fighters by US military members⁷.

During one operation, U.S. soldiers from the 173rd Airborne Brigade burned the bodies of two dead Taliban fighters and then used their corpses for propaganda purposes against the insurgents. The U.S. soldiers burned the two bodies for hygiene reasons as none of the local inhabitants would claim the bodies and afford them a Muslim burial. But after the bodies were burned, U.S. Psychological Operations soldiers then used imagery of the bodies to taunt insurgent fighters believed to be in the area. It should be noted that cremation is prohibited by the Muslim faith and respect for the bodies of the dead is also a central tenet of the Muslim faith.

This act caused negative public reaction and was strongly condemned by the Afghan President Karzai. Ultimately, this incident directly damaged the image of US and ISAF forces in the area of the operation. US Central Command (CENTCOM), which is responsible for operations in Iraq and Afghanistan, quickly condemned the actions of the U.S. troops involved, stating that “desecration, abuse or inappropriate treatment of enemy combatants were never condoned and that these actions violated U.S. policy and the Geneva Convention.” U.S. Army Major General Jason Kamiya, the commander of Joint Task Force 76, the U.S.-led force that operates in eastern and southern Afghanistan, halted all tactical psychological operations the day after he was informed of the incident and ordered an immediate investigation⁸. The

⁵ Congressional Research Service (CRS), *U.S. Military Operations in the Global War on Terrorism: Afghanistan, Africa, the Philippines, and Colombia*.

⁶ Statista, *Number of fatalities among Western coalition soldiers involved in the execution of Operation Enduring Freedom from 2001 to 2021*.

⁷ Schmitt, *Army Examining an Account of Abuse of 2 Dead Taliban*.

⁸ Grimmet, *U.S. Defense Articles and Services Supplied to Foreign Recipients: Restrictions on Their Use Congressional Research*.

effects of this incident negatively impacted on operational execution and necessitated the deployment of additional measures and resources. It is clear that knowledge and understanding of the local culture must be developed and discussed during mission preparation for all forces and this is especially true for the special and psychological operation forces.

Another clear pattern in the analysed examples is that the firing positions of the insurgents in densely populated residential areas were, nonetheless, deliberately targeted. In the ensuing military responses, a large number of civilians died. This provoked a massive negative reaction in the local population in the area of responsibility and compromised the actions of US and ISAF forces, who were pushed to change their approach. Small U.S. formations, such as platoons (16 to 50 soldiers), were deployed to draw out insurgent forces, who would often attempt to “swarm” in larger formations to overwhelm the smaller U.S. units. The smaller U.S. unit then engaged the insurgent force to “fix” it, while other infantry units and U.S. airpower engaged and destroyed the insurgents. The ISAF operation adjusted and extended allocated time and resources.

The experience of these series of attacks in Afghanistan in 2005 and the subsequent response of ISAF forces shows that it is necessary to attempt to attain a deep understanding of the environment, risks, threats and actions of the opposing forces during operations. This is especially true when conducting operations other than war (OOTW). It is necessary to adopt a more flexible approach in the application of the established Tactics Techniques and Procedures (TTP), as well as the assignment of greater freedom for decision-making by the commanders conducting the operation. A possible way to overcome this challenge is the wider application of mission command in conducting operations. Another example of the inadvertent angering of the local population by military personnel because of lack of cultural preparation is the case of holy books being burned in Afghanistan in 2012 by ISAF soldiers. This action prompted extremely negative reactions and led to the radicalization of segments in local community, including Afghans who worked in ISAF bases.

In this incident copies of the Koran were burned during routine repairs to the premises at the ISAF base in Bagram, Afghanistan⁹. Soldiers tasked with clearing offices and destroying obsolete documents also burned copies of the Koran. The burnings were witnessed by local translators hired by ISAF forces. The reaction was instantaneous and the news spread quickly. The Taliban called on locals to beat and kill all Westerners to avenge the burning of the Koran. Seven people were subsequently killed in protests. More than 3,000 people gathered in Mechterlam, the capital of the eastern province of Lachmann, some of whom burned a puppet of US President Barack Obama in protest and some 1,500 protesters in Asadabad burned American flags and car tires and chanted anti-American slogans. President Karzai called on the civilian population and security forces not to resort to violence: however, clashes broke out in many places, including Kabul, where police prevented hundreds of protesters from entering the city center.

⁹ Spencer Ackerman, *Military Burned Korans At Giant Afghanistan Jail*.

To deal with the crowd, Security Forces used non-lethal weapons: batons, water cannons, and firing in the air. The burnings provoked a rapid process of radicalization in the area of responsibility and led to a series of attacks on bases and individual servicemen. Some of the perpetrators were Afghan servicemen and partners of ISAF forces.

A different aspect to the negative effects caused by the activities in the field of servicemen are the misunderstandings between mentors and their partners in the execution of military assistance missions and advisory missions. The examples of this kind, of attacks on military advisers, are mainly from the places where stabilization operations were being carried out and post-conflict. Advisory missions have recently been conducted in Africa, Iraq, Afghanistan and other locations.

For example, more than 135 cases of assault on military advisers were reported between 2007 and 2018¹⁰. Most of the perpetrators or organizers of the attacks were the mentors' partners themselves. One of causes was the actions or behaviour of the mentors, which did not comply with the ethno-religious and cultural norms in the area of the operation. This means that for specific roles such as advisors and mentors, only culturally attuned and comfortable military personnel should be selected. Additional preparation should cover all professional, psychological, cultural, and religious aspects of the local population. A good practice in this direction could be to deploy as the mentors professors from military academies and colleges, having military ranks. The teachers' experience, wiled basic theoretical base and high intellectual capacity could allow to this type of mentors to meet all challenges during the work with their mentees much better and to avoid misunderstandings in their relations.

Also, lectures in cultural awareness during the pre-deployment training must be included. At the same time, there is a need to expand and deepen checks on psychological fitness and propensity for antisocial behavior before sending troops on missions. The case of the burning of the bodies of Taliban fighters shows that it is necessary to improve the monitoring of signs of radicalization and extreme behaviour within the military.

The analysis of these examples and the conclusions drawn show that the lack of adequate procedures or their poor implementation can become an additional tool for the enemy to incite radicalization and to build tension in the local population in the mission area. An example of induced radicalization in an area are the months-long protests at a base for the temporary detention and repatriation of Mojahedin-e Khalq (MEK) members in Ashraf¹¹, Iraq. In 2006,

¹⁰ Phase 1- 2007 to 2009 Totals: KIA: 14, WIA: 14, Attacks: 13. Represented about: 1.7% of all CF KIAs, and 9.6% of all IAs , Averaged 4.3 Insider Attacks per year, Phase 2 - 2010 to 2013, -Dramatic rise in IAs and Strategic Implications. Totals: KIA: 126, WIA: 145, Attacks: 100. Represented about: 6.9% of all CF KIAs and 75.5% of all IAs Averaged 25 Insider Attacks per year, Cultural Training Phase 3: 2014 to 2018 Totals: KIA: 20, WIA: 70, Attacks: 23

Represented about: 13% of all CF KIAs, 16.9% of all IAs. Averaged 4.4 Insider attacks per year

¹¹ Boumedra, *The United Nations and Human Rights in Iraq: The Untold Story of Camp Ashraf*, New Generation Publishing.

a security mission was underway at a camp for the temporary detention and repatriation of members of MEK in Ashraf, Iraq¹². The mission was carried out by parts of the U.S. Army and the Bulgarian Army¹³.

Camp Ashraf is 65 km north of Baghdad and approximately 100 km west of the border with Iran. The camp is 36 square kilometers in size. As of February 2004, it maintained two hospitals, a water treatment plant, a fuel station, and unit dining facilities that served 12,000 meals per day and provided 80,000 gallons of water per day. These facilities allowed Camp Ashraf to be designated logistically self-sustaining by the US military.

Between April and June 2003, the US military negotiated a cease-fire agreement with the MEK and began to disarm the group. According to a media report, by one count, the MEK surrendered to US troops 300 tanks, 250 armored personnel carriers, 250 artillery pieces, and 10,000 small arms. It is widely assessed that the MEK possessed arms equivalent to a mechanized brigade at the time of the US invasion. As of September 2003, the MEK members who had been using Camp Ashraf as a base were consolidated, detained, disarmed, and were being screened and interviewed for any past acts of terrorism. This process and the detention facilities were being maintained by the 530th Military Police Battalion as well as the 310th Military Intelligence Battalion. The MEK were considered protected persons under the Geneva Conventions. According to media reports, they enjoyed significant freedom within the camp itself but were not allowed to leave the camp in large groups.

In 2006, shortly after the start of the mission by Bulgarian Armed Forces, a team of journalists visited the mission area. The visit also included the area of the Temporary Internment and Protection Facility (TIPF), which was one of the most important sites in the mission area. It housed all members of the MEK who have expressed a desire to leave the organization and be repatriated and reintegrated into different countries. As a result of the various conversations and meetings of the journalists with the detainees, in which promises were made about the positions and encouragement of the detainees for their claims (contrary to the accepted procedures), tension arose in the camp. For several months there were tensions and demonstrations, as well as lawsuits. There were dangers both for the detainees in the camp and for the servicemen who guarded them. There were all the signs of the early process of group radicalization, which had the potential to turn into extremism.

The situation in the camp remained tense for more than three months. The whole camp needed to be reconfigured and relocated. Additional security measures and additional equipment, including non-lethal weapons, were introduced. There was a need to update the tactics, techniques, and procedures for the mission. The required resource of people and equipment increased. Had been made a decision to relocate and reconfigure the camp to reduce the causes of radicalization. The relocation of the camp costs extraordinary resources and materials.

¹² Freeh & Mukasey, *Protect Iran's Freedom Fighters in Camp Ashraf*.

¹³ Global Security, *Camp Ashraf*.

Radicalization in Camp Ashraf led to the need to displace the camp and reconfigure the accommodation of those awaiting decision-making. Furthermore, the situation required increased time and resources for mission execution. One of the general conclusions that can be drawn from this incident is that coordination with the media and NGO must be very well planned, maintaining limits in accordance with the unique specifics of each mission. The risk assessment and evaluation of possible positive or negative effects should be considered by the commanders independently of the media or public desires.

Radicalization inside military units

A different aspect of radicalization, but from a diametrically different direction from the cases considered so far is the type that can occur in the units and structures of the armed forces and in the security system as a whole. Conditionally, we can designate this type of radicalization as internal radicalization (IR), and the persons involved in this process as involved or internal radicalized persons (IRP). Despite the low frequency, internal radicalization is significantly more dangerous, as IRPs are very familiar with the organization they work for, know how to harm it, have the necessary training, and very often have access to weapons, equipment, and sensitive information. The drivers towards radicalization in these cases may differ from other types of terror groups, but the main motive is the same feeling of injustice. Injustice may be in relation to religious or ethnic discrimination, feeling of inadequate evaluation and career development, inadequacy of material remuneration, etc. A special case is when political beliefs or causes are accepted by employees which, in combination with other mentioned factors, become the cause of IRP. A clear example of this is the case of right-wing radicalization that took place in the German armed forces.

In 2020 Christof Gramm, president of the Military Counterintelligence Service reported that at least 20 members of the Bundeswehr's Kommando Spezialkräfte (KSK) were involved in right-wing extremism. He claimed that many commanding officers were aware, but either chose to collectively ignore it, or even tolerated the incidents. Over 600 soldiers¹⁴ in the regular army were identified as being either known to harbor radical right-wing beliefs or were skeptical of the current political system and the constitution.

A series of extreme far-right cases among members of Germany's military and police highlight the threat of the enemy within: radicalized extremists within security services, with access to weapons, training, and confidential information. Such individuals, and especially those who are part of groups and networks, pose a challenge to system of security and in particular military units. The cases examined show police chat groups where racist, nationalist, and anti-Semitic content was being shared by Nazi sympathizer within the special forces, who allegedly stored weapons and explosives, and a police employee, who allegedly was looking to help far-right terrorists plunge the country into civil war. The network "Uniter" describes itself as starting off as "a network of active and former members of special forces

¹⁴ Bennhold, *Germany Dismisses Military Intelligence Official After Neo-Nazi Scandals*.

from federal and state level and police,”¹⁵ which evolved into a “network for people outside of these specialized professions.” The organization’s mission statement reads: “Uniter connects people of the same values and virtues regardless of their heritage, their culture or their faith. In a worldwide community security and stability should be promoted on the basis of freedom, democracy, the rule of law and human rights.”¹⁶

Germany’s Parliamentary Oversight Panel (PKG), the oversight committee for the intelligence services, conducted an inquiry into extreme far-right activities in the German military. After two years, the members of the committee presented a report in December 2020, stating that “in the Bundeswehr and in several other security services on federal and state level (police and intelligence agencies) – despite security screening – there are a number of public servants with an extreme far-right and violence-oriented mindset.”¹⁷ Based on the common features of terrorism described before, we could consider the cited report as evidence of an established process of IR and in this sense, as part of the general algorithm, there is potential for the development of terrorist activity. New measures were implemented within Germany’s domestic and military intelligence agencies to more effectively root out enemies of the state wearing uniforms. Nevertheless, the threat will most likely persist in the coming years. The detection and monitoring of potential terrorists among fellow servicemen and police officers is a difficult task for security services, and rooting out bad actors can be even harder—especially in times when new recruits are desperately needed. It is vital to share lessons learned and best practices at the international level as other NATO countries may have to grapple with this same problem.¹⁸

There is no guarantee that this case is isolated and the possibility of secret networks of radicalized members of the security forces is very real. Waves of migrants followed by the perceived and potentially real clash of civilizations in areas with high concentrations of migrants could cause similar effects in all NATO member states, or any state. On the one hand, supporters of right-wing extremist ideas will use this argument to provoke fear in local societies that they are losing their national, ethnic, cultural, and religious identity, and at the same time left-wing extremists will emphasize the possibility of a threat to the social status quo and an opportunity to realize a more equitable society. This creates a cause for the protection of the local community, which can then be easily adapted by radicalised employees in the security system. On the other hand, migrants themselves can just as easily be provoked by fears their ethnic, cultural, and religious identity is under attack and that they are being discriminated against.

Based on the basic algorithm and intensity scale presented in Figure 1 and Figure 2, it should be emphasized that not every person involved in radicalization, including the IRP, necessarily becomes a terrorist. In many cases, the deterrents prevail and the process of

¹⁵ Combatting Terrorism Center, *The Insider Threat: Far-Right Extremism in the German Military and Police*.

¹⁶ United Internet, *Über Uns*.

¹⁷ Jasutis, Fuior & Vashakmadze, *Parliamentary Oversight of Military Intelligence*.

¹⁸ Flade, *The Insider Threat: Far-Right Extremism in the German Military and Police June 2021*.

radicalization stops at a certain level. However, depending on the type and strength of the drivers and the environmental conditions, high levels of intensity can be reached and these are the examples of violent extremism and terrorism perpetrated by the IRP.

The cases of violent extremism that have been reviewed show that a mechanism is needed for monitoring the early signs of radicalization. At the same time, it is necessary to develop specific measures to prevent behavior or create conditions that might have a catalytic effect. In any case, military and political leaderships must take action, but these actions must be based on lessons learned from examples of good practice and be primarily preventive in relation to the factors that support radicalization.

Good Practices on Specific Situations and Conditions outside of the NATO Area of Operations

The experience of operations of Abu Saiaf group's activities in Africa shows that the results can be variable and very often depend not only on military superiority. They also depend on the sustainable impact on environmental factors that favors radicalization and the development of terrorist activity. The current situation with regard to radicalization and nationalism in the African region, and especially in the eastern parts of the continent, specifically in Somalia, began in the early 1990s after a successful coup that overthrew the government of Mohamed Siad Barre in 1989. Al Qaeda made several attempts to establish operational ties with the Somali fighters after the overthrow of dictator Mohamed Siad Barre. In the second half of the 90s the area became the center of al Qaeda's operations.

Al Qaeda and its associated radical ideologues seek to portray local conflicts as religious struggles or jihad. In December 2006, a prominent Kuwaiti Salafi ideologue, Sheikh Hamed al-Ali, said that Muslims in countries such as Somalia, Yemen, Sudan, and Africa in general have an obligation to participate in jihad.¹⁹ Religious motivation for violence in the region has also escalated the conflict in Darfur. Key security challenges in the region have also included media propaganda, radicalization, refugee flows, presence of sympathizers from the poor and illiterate strata, weak state power in Somalia, lack of basic resources, corruption and political instability.

Good practice in addressing these sources of radicalisation is multinational military cooperation typified in the establishing of the African Union Mission in Somalia (AMISOM). First deployed in March 2007, the AMISOM military component has been instrumental in helping the fledgling Somali National Security Forces push the Al Qaeda-affiliated terror group, Al-Shabaab, out of much of southern and central Somalia including most major towns and cities. It has created a relatively secure environment which has allowed the Somali peace process to take root, allowed an opportunity to begin to establish accountable local governance institutions that can begin to deliver services as well as rebuilding the national economy and creating linkages between the national economy and government.

¹⁹ Kimunguyi, *Terrorism and Counter terrorism in East Africa*.

The Military Component is the biggest of the three components of the African Union (AU) Mission in the country. The component was mandated to conduct peace support operations in Somalia and seeks to stabilize the situation in the country, create the necessary conditions for the conduct of humanitarian activities and an eventual handover of the Mission to the Somali security forces. The component also provides protection to the country's Federal institutions as they carry out their functions and helps secure Somalia's key infrastructure including its airports and seaports. Currently the military component is comprised of troops drawn from Uganda, Burundi, Djibouti, Kenya, and Ethiopia who are deployed in six sectors covering south and central Somalia.

The results of this approach have been: improving the general humanitarian situation through the provision of social services (food, medical care and education); increasing economic stability; reducing favorable conditions for piracy and trafficking; increasing the resilience and capacity of local government and law enforcement; and the conduct of anti-terrorist operations and the undermining of the influence of terrorist groups; and increased cooperation and cross-border control. In this context we also can be taken as a fact that demilitarization of the political environment through peace-building efforts can also cause the de-radicalization of population

Another interesting example of good practice for De-radicalization has been developed in Philippines. The Internal Peace and Security Plan – Bayanihan (IPSP-Bayanihan), introduced in 2011, is intended to serve as the Armed Forces of the Philippines' (AFP) guide on internal peace and security until 2016. Unlike the previous military campaign plan, which was purely military, this plan is a result of the collaboration of civil society groups, civilian government agencies, academia, and some members of the AFP. This is an open document that anyone can read and scrutinize – a far departure from the old Internal Peace and Security Plan (IPSP) which was classified as secret.

The features of the IPSP-Bayanihan are:

- A multi-sectoral, multi-pronged approach in combating threats to peace & security.
- A paradigm shift from the predominantly militaristic solution to a more people-centered strategy.
- It is premised upon a belief that a military solution is inadequate in addressing the multi-faceted internal peace & security concerns of the country and peace & security is everybody's concern.

The primary objective is to “win the peace,” not just defeat the enemy.

Military personnel and representatives of the various sectors of Philippine society took part in the development of the plan. After the conduct of hostilities, success is measured not only by combat indicators, but also by non-combat indicators. This approach further confirms that the fight against radicalization and terrorism, as two functionally linked and

interdependent phenomena, must be multidimensional, using both military and non-military tools and that pursuing sustainable results in de-radicalization will be directly dependent on the success of this approach.

Outline of Good Practices and Solutions as a possible Fundament for Issuing a Common NATO Policy and Tactics, Techniques and Procedures (TTP) for Countering Radicalization

The ‘cluster approach’ in Operation Resolute Support in Afghanistan provides an example of a good practice for the future operations. The approach is based on the functionally-based International Security Force Assistance and the efforts are designed to identify the critical paths, the critical processes, and critical nodes of security and stability building.

The basic imperatives of this approach come from historical record and recent experience. The imperatives are:

- a) Understanding the Operational Environment.
- b) Ensuring Unity of Effort: a clear delineation and understanding of authorities is essential to avoid confusion and to ensure that each entity’s strengths are maximized.
- c) Providing Effective Leadership: Leaders must be accountable for their actions, masters of their functional area, and focused on transitions and decisions that move the host nation forces toward long-term sustainability.
- d) Building Legitimacy: developing and contributing to host nation government recognition and acceptance as legally, morally, and politically legitimate by local and the international community.
- e) Management of the Information: dissemination of timely and relevant information, integrating it during planning, and leveraging it appropriately during execution.
- f) Sustainability: ~maintenances of the effort throughout all the phases of the operation so that the local security forces can sustain their capabilities independently over the long term.
- g) Support of Host Nation government ownership: local history, culture, legal frameworks and institutions must inform the principles, policies, laws, and structures of the assistance program in order to secure the continued support of the local community.
- h) Incorporation of the Principles of Good Governance and Respect for Human Rights.
- i) Linkage Security and the Rule of Law: all security forces must operate within the bounds of domestic and international law to retain legitimacy in the eyes of the local people.

- j) Foster Transparency: encourage open and transparent consultation with other agencies, non-governmental organizations (NGOs), international donors, and the media to enhance mission development and mission execution.
- k) Actions without Harm: posture the local security forces so they can sustain themselves while remaining on guard against introducing any processes or activities that are not consistent with the local traditional approach.
- l) Focus on the specifics of the environment in planning and preparing the implementation of the missions

The operational variables of political, military, economic, social, information, infrastructure, physical environment, are the basic conditions of an Operational Environment. These operational variables influence each other to varied degrees dependent on time and conditions in a particular continuum of actions. The dynamic nature of an operational environment is an essential consideration in how to train, educate, and self-develop NATO forces members and leaders as adaptive, flexible, and versatile decision makers. They must be proficient in shaping conditions in support of military plans and operations, and respond effectively to subtle or rapid changes of the conditions in order to accomplish the mission in the context of unified action requirements and directives. This includes the formation of knowledge and skills for identification, risk analysis of radicalization processes and the implementation of the data obtained in the planning and conduct of operations. At the same time, these capabilities will be crucial in risk management activities and the prevention of radicalization in the military units.

Selection of staff' with affinity in ethno-religious and civilizational characteristics for mentoring missions

Examples of good practice also show that an understanding of ethno, religious and cultural specifics of the area of operation and the selection, if possible, of service personnel with similar characteristics and personal qualities such as authenticity and respect for culture and traditions, create a valuable advantage in many cases directly affect the success of the mission. At the same time, such selection, combined with pre-deployment cultural awareness, is highly preventive in nature in order to avoid decisions or behaviors in the mission area that could compromise it.

Policies and approaches to preventing internal radicalization

A key condition for the successful prevention of radicalization processes, within society or internally within security forces units, is a common understanding amongst NATO member states of the nature of the phenomenon. It is necessary to accept that this is not an immediate action but a process: that servicemen and other employees in the security system may fall under the influence of this process, and that this process may be the key challenge in the area of operations.

As a result, the key influencing factors of this process need to be identified. In addition, the rules, norms and a system of procedures that directly suppress the identified influencing factors must be clearly defined. At the same time, in addition to prevention, efforts must be made regarding adequate responses to already existing radicalization processes.

Identification indicators and response procedures for recording the presence of internal radicalization

Based on the different research of the radicalization factors and the existing definitions, Radicalization Levels can be formulated. This will contribute to increasing the descriptiveness of ongoing analysis and also to focusing more precisely on prevention policies, measures and de-radicalization programs. The levels can be presented with details of conditions and signs that characterize each level:

Level 1 - Determined, firm position, accompanied by signs of suppressed anger.

Level 2 - Extremeness, contrast in assessments and perceptions.

Level 3 - Rejection of alternatives. Rejection of discussions. Declaring a position without argumentation.

Level 4 - Negative reaction at each alternative opportunity, even in cases of verbal expression of other opinions and positions.

Level 5 - Manifestations of verbal or behavioral aggression in defense of the cause. Clear signs of manifest anger.

Level 6 - Determined readiness to impose one's opinion on others through personal example (change in behaviour, appearance, etc.) and active propaganda.

Level 7 - Determined readiness to impose one's opinion on others by force.

Conclusion

The processes of radicalization expose multi-dimensional challenges that require multifaceted responses drawing on all relevant policy areas and involving all relevant actors at local, regional, national and international levels, with policies aimed at preventing and countering radicalization whilst complementing other measures as part of a more comprehensive approach to counter terrorism. The High-Level Commission Expert Group on Radicalization (HLCEG-R) highlights the importance of multiagency responses and support to initiatives on the local level²⁰. While Member States' specific needs differ, requiring the development of approaches addressing issues specific to their individual circumstances, there is a shared interest in further enhancing exchanges of practices and experiences and closer cooperation between the different national actors at European level. The HLCEG-R has explored concrete ways to strengthen these policies with a view to supporting Member States in their efforts.

²⁰ Publications Office of the European Union, *High-Level Commission Expert Group on Radicalisation (HLCEG-R)*.

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