The first issue of *Defence Against Terrorism Review* (DATR) published in the Spring of 2008 was very warmly welcomed by our readership, which is composed of a wide variety of distinguished individuals and institutions, both from the civilian as well as the military sectors. We have received letters of commendation from all corners of the world where DATR aims at reaching out to its readers. We have also received invitations to be listed in the prestigious academic indexes that are highly observed by the researchers. This level of success attained with just one issue out, I must admit, was beyond our expectations, even though we were confident that DATR would attract the attention of large segments of its target audience. I would, therefore, like to thank all of our supporters who have contributed to the journal in various ways. The success that we are proud of now, thanks to the quality of articles in the Spring 2008 issue, has also put heavier duties on our shoulders in keeping up with at least the same level of achievement in the second issue. With this in mind, we worked even harder. Yet we have encountered a major problem that caused delays in meeting the intended date of publishing the current Fall 2008 issue. The copy editor who worked with us in our first issue, and with whom we were planning to work for longer periods, has quit the job at an unexpected time for reasons that we have appreciated. Hence, due to the difficulties of hiring foreign professionals by a military organization, the period of getting the articles to the printer after a compulsory copy editing process that involves a series of interactions among the editors of DATR, the copy editor and the authors, has much prolonged. Hopefully, having drawn lessons from this experience, and also having taken the necessary precautions for the forthcoming issues, we will do our best so as not to encounter a similar problem in the future.

The current issue starts with an in-depth analysis of a fundamental question that for long tackles the minds of professionals as well as the laymen as regards the thin line between the legality and the legitimacy of the use of armed forces -in dealing with security problems including defence against terrorism- which is often blurred and also became a powerful source of controversy in public debates. We are extremely lucky to have Dean Tom Farer from the University of Denver on board in this issue who provides us with a very comprehensive elaboration of all facets of the problem at hand. Professor Farer's authority and wisdom, it goes without saying, shed brilliant light to the proper understanding of the issue with his article often exemplified by specific cases from around the world. Unarguably the foremost expert in the field of terrorism studies, Professor Yonah Alexander from the Potomac Institute, contributes to our edition with his invaluable observations about the degree and the extent of the collaboration among the terrorist organizations in the world that have pretty diverse backgrounds. Professor Alexander argues that shared ideologies and commitments to radical strategies such as professed struggles against capitalism, imperialism, racism, Zionism, and democracies motivate groups to work together on a global scale. Thus, defence against these groups requires utmost cooperation among the states. That said, it is also extremely important to make particular evaluations of all kinds of violent acts that we face today, and that identifying the purposes of the performers. In this regard, Dr. Luis Mesa Delmonte from El Colegio de Mexico analyzes and deals with a wide spectrum of violent manifestation. Dr. Delmonte carefully underlines the fact that instead of labelling all of them as only one kind of threat, considering their ideological, social and economic reasons is crucial. At this very point, the value of familiarizing oneself with the peculiarities of particular terrorist organizations gains currency. Syed Manzar Abbas Zaidi from the University of Central Lancashire traces the resurgence and reorganization of the Taliban into a new

organizational entity, namely the Taliban in Pakistan. According to Zaidi, the Taliban, having been forced to flee Afghanistan, have found a haven in Pakistan's tribal areas, re-organizing and recruiting anew in the process, and became the new face of the Taliban. Having said this much about terrorists, insurgents, and guerrillas, the fundamental questions like what is terrorism, why is it there, who are terrorists, and what are the ways to deal with terrorism that concern researchers who have studied this social phenomenon remain to be the key subject matter, which is eloquently discussed by Dr. Özgür Özdamar from the TOBB University. Dr. Özdamar presents various theoretical approaches to the study of terrorism and suggests that the instrumental approach provides a firm base to develop comprehensive theories of terrorism provided that it can resolve the weaknesses mentioned in his article and develops itself to meet his four criteria. One of the scariest scenarios concerning the future trend in terrorist activities is the one that involves the use of weapons of mass destruction (WMD), in their sophisticated or crude forms. Dr. Zafar Jaspal from the Quaid-i-Azam University attempts to examine the potential for WMD terrorism and its likely repercussions for Pakistan security. In his well-thought article Dr. Jaspal asks three central questions such as whether WMD terrorism is a myth or reality; what the current trends are in terrorism that undermine Pakistan security; and what the appropriate countermeasures would be to thwart terrorists' efforts to acquire WMD. He accordingly emphasizes that national and international initiatives aimed at improving the system of controlling the import/export of sensitive materials and instruments should be developed so as to limit the risk of WMD smuggling. Starting with this issue, alongside the major articles, we are planning to spare some space also for case studies that take interesting developments in the field of defence against terrorism into their scopes with a much closer look into the specifics of various events. Dr. Ali Dikici from the Turkish National Police offers us the Şanlıurfa case in his elaborate study of community policing that aim at preventing the misuses of children by the PKK terrorist organization. According to Dr. Dikici, the role of community policing is vital but it will not be sufficient alone to fight terrorist activities. Contingencies should be developed with parents, school officials, mental health professionals, probation officers, and social service workers who are already involved or may need to be involved with the youngsters and their families. Dr. Dikici argues that with a mixture of authority, psychological sophistication, and persistence, the officers and other state officials, universities, educators and NGOs involved in terrorism prevention efforts will be enormously successful.

The terrorism predicament is likely to concern the body of intellectuals as well as the civil and military authorities everywhere in the world. No one would be happier to have nothing to publish than the editors of this journal who would not only hope but also pray for the termination of the terrorist activities in the world. Naïve as this may sound, the editors are also realist enough to believe that their job to provide a platform for exchange of views on how to deal with terrorism will persist at least as long as the root causes remain to be fully addressed by all the relevant institutions as well as the individuals who have both the capacity and the authority to do so. Thus, should you feel like you have the answers to the question of how to do it, feel free to share with our readers in the next issue. Those interested joining others in the Spring 2009 edition of DATR, please take a moment to review the note for contributors at the back of this volume.

Mustafa Kibaroğlu
Editor in Chief

Defense Against Transnational Terrorism: Legal Dimensions[*]

Tom FARER[**]

Abstract: *This paper addresses the questions of what constitutes an 'armed attack' for purposes of activating the right of individual and collective self-defense? Can regional and sub-regional organizations authorize uses of force that would otherwise be illegal? Does military intervention at the request of a recognized government to assist it in repressing domestic opponents constitute a permitted use of force? Are interventions, not authorized by the SC, undertaken to prevent or terminate crimes against humanity ever legal under the Charter? Are reprisals legal under the Charter? What limits does the Charter impose on the right of self-defense once it is triggered by an act of aggression?*

Keywords: Use of force, legitimacy, intervention, aggression, self-defense

Introduction

Two functionally distinct bodies of law govern the design and implementation of strategies to combat transnational terrorism. One consists of the norms stating the conditions in which states may legitimately project force across national frontiers.[1] Both the generality of international lawyers and most political leaders and diplomats now find those norms principally if not exclusively in the United Nations Charter and in the *practice* of states: both their actions and their claims about (a) the legality of their actions and (b) the reaction of other states and intergovernmental institutions and international legal scholars to those claims, that is whether they accepted, rejected or ignored the claims and the related acts of force. The other body of law consists of the norms declaring limits on the means that a state using force may employ to achieve its political/military ends, limits that apply whether or not the use of force itself it legal or illegal.

---

[*]   This paper draws on a much more extended discussion of these issues in Tom Farer's recently published book *Confronting Global Terrorism and American Neo-Conservatism: the Framework of a Liberal Grand Strategy*, Oxford University Press, Oxford and New York, 2008

[**]   Professor Tom Farer is Dean of the Graduate School of International Studies at the University of Denver, Denver, Colorado, USA.

[1]   International lawyers refer to this body of norms as the *jus ad bellum*.

These norms are found both in the so-called Humanitarian Laws of War (principally the Hague Rules and the Geneva Conventions and the related practice of states) and in the various Human Rights Conventions, principally the International Covenant on Civil and Political rights (ICCPR) and the Torture Convention.[2] The most important limits, relating to protection from summary execution and brutal treatment short of killing, apply also to the use of force internally.

Legitimate Recourse to Force

The Original Understanding

At the birth of the United Nations, a majority of legal scholars and probably of governments subscribed to the view that taking into account the language and structure of the Charter, in particular Articles 2 (4) and 51 in conjunction with Chapter VII as a whole, and taking account also of the document's negotiating history, it should be read as dividing the universe of cross-border military coercion and intervention into three categories.[3] Category 1 is self-defense against an armed attack. Category 2 is force (or the threat thereof) authorized by the Security Council under Chapter VII to prevent a threat to the peace, a breach of the peace or an act of aggression. The domain of the illegal is Category 3, call it the default category, which is occupied by every act of state-initiated or tolerated cross-border violence that does not fall into the first two categories. However, it was not long before states with the capacity to project force across frontiers began proposing additional categories, based in part on curious readings of the Charter that happened to legitimate their uses of force, or discovered unexpected elasticities in the existing ones, and they invariably found some scholars[4] who sympathized with their claims. What follows is a sketch of the areas of ambiguity and contention that marked the Cold War years.

1. What constitutes an 'armed attack' for purposes of activating the right of individual and collective self-defense?

a. *Do activities short of launching troops, planes or missiles across a frontier, for instance giving material assistance to an insurgency in another state or a terrorist group, ever trigger the right of self-defense?*

---

[2]   International lawyers refer to this body of norms as *jus in bello*, but sometimes when they use the terms they intend a reference only to the Humanitarian Laws of War, but in so limiting their reference they are failing to encompass the full body of the relevant law.

[3]   See, e.g. Myres McDougal and Florentino Feliciano, *Law and Minimum World Public Order*, New Haven: Yale University Press (1961) at 126; Lassa Oppenheim, *International Law*, 8th edition, New York: Longmans, Green & Co. (1955) at 154; Article 2 (i) of the *Draft Code of Offenses against the Peace and Security of Mankind, Report of the International Law Commission*, Third Sess. (1951), UN Doc. A/1858. But cf. Derek Bowett, *Self-defense in International Law*, New York: Praeger (1958) at 11-13; Tom J. Farer, 'Panama: Beyond the Charter Frame', 84 (2) *American Journal of International Law* (1990), 503-515 and 'A Paradigm of Legitimate Intervention', in L.F. Damrosch (ed.), *Enforcing Restraint: Collective Intervention in Internal Conflicts*, New York: Council on Foreign Relations Press (1993) at 85.

[4]   See, e.g. Julius Stone, *Legal Controls of International Conflict* (1954) at 43, 243, 297-298; cf. Bowett, *Self defense in International Law* (1958).

During the Cold War, primarily with respect to the guerrilla wars waged generally by communist-inspired or -aided movements against pro-American regimes in Latin America and Southeast Asia, the US argued that where State A provided weapons or training or safe haven to opponents of the recognized government of State B, the latter and allied states could treat that assistance as an armed attack.[5] With one dissent (by chance the American judge) in the case brought by the Government of Nicaragua (represented by a Legal Advisor to the Department of State)[6] against the United States, the World Court rejected this claim insofar as it purported to justify US acts of war within Nicaragua.[7]

While the US Government refused to appear and argue the merits, on the grounds that the Court lacked jurisdiction,[8] in the forum of public opinion the Reagan Administration claimed that its own clandestine operations inside Nicaragua and its financing, arming and training of Nicaraguan insurgents were legitimate acts of collective self-defense in response to Nicaraguan aggression against the Government of El Salvador,[9] an ally under the Rio Treaty of Mutual Defense.[10] The acts deemed constitutive of that aggression were various forms of assistance to the indisputably independent Salvadoran insurgents.[11] This was not a new argument for the US. It had earlier been marshaled against Cuba for its encouragement and support of insurgency in various Latin American countries[12] and against North Vietnam for its support of the insurgency in South Vietnam.[13] In retrospect, Vietnam was the stronger case for the argument, since it now appears

---

[5] Tom J. Farer, 'The Role of Regional Collective Security Arrangements,' in T. Weiss (ed.), *Collective Security in a Changing World*, Boulder: Lynne Rienner (1993), 153-188.

[6] Military and Paramilitary Activities In and Against Nicaragua (*Nicar. v. U.S.*), ICJ 14 (June 27, 1986).

[7] Ibid.

[8] Eric Effron, 'State Department Maintains World Court Lacks Jurisdiction in Matter; Historic Verdict', *The National Law Journal*, (December 10, 1984) p.11, col.1; Kenneth Jost, 'Reagan Criticized for Rejecting Role of World Court: Nicaraguan Complaint', *The Los Angeles Daily Journal*, (April 10, 1984) p.1, col. 2; Stuart Taylor Jr., 'World Court's Jurisdiction Disputed in Nicaragua Case', *Chicago Daily Law Bulletin*, (April 10, 1984) p. 3, col. 2.

[9] Philip Taubman, 'Releasing Intelligence Data: a 'No Win Situation'', *The New York Times*, (March 5, 1982) A16; Philip Taubman, 'US Offers Photos of Bases to Prove Nicaragua Threat', *The New York Times*, (March 10, 1982) A1.

[10] Inter-American Treaty of Reciprocal Assistance of 1947, signed at Rio de Janeiro on September 2, 1947, 21 UNTS 77.

[11] Philip Taubman, 'El Salvador as 'Domino'', *The New York Times*, (February 20, 1982) p. 8.

[12] For a general view of US justifications of use of force, see Tom J. Farer and Christopher C. Joyner, 'The United States and the Use of Force: Looking Back to See Ahead', 1 (1) *Transnational Law and Contemporary Problems*, (1991).

[13] This view is implicit in the Government's contention that North Vietnam's support of the Vietcong constituted an "armed attack" against the Saigon regime. See the Memorandum of the State Department on 'The Legality of US Participation in the Defense of Vietnam', submitted to the Senate Committee on Foreign Relations on March 8, 1966, reprinted in Richard A. Falk (ed.), *The Vietnam War and International Law*, Princeton: Princeton University Press (1968), at 583.

that at least by the time the US became openly involved in combat, Hanoi was exercising substantial if not total strategic control over the Vietcong.[14]

Composed as it is of mostly distinguished judges and scholars from the various world regions, the Court's opinions, at least when they are nearly unanimous, are the closest thing we have to authoritative interpretation of the Charter.

b. *At what point, if any, do activities that could reasonably be construed as preparations to launch an armed attack justify preemption?*

Perhaps because on a number of occasions during the Cold War, mechanical and electronic devices erroneously signaled the launch of nuclear missiles,[15] some have argued that preemption should never be allowed, that self-defense requires a prior and actual border crossing.[16] But efforts by the Soviet bloc at the UN to secure a definition of aggression focused exclusively on first recourse to force failed.[17] The more generally prevailing view seems to be that if the behavior of State A is such as to lead a reasonable government in State B to believe that an armed and substantial attack is imminent and cannot be averted by means other than force, State B may preempt.

Most scholars have regarded *imminence* as the key criterion. Without it, measures plausibly intended for defensive or, in the case of nuclear weapons, deterrent purposes could be construed, hypocritically or otherwise, by another, unfriendly state as preparations for an attack justifying a first strike. If, as President Bush appeared to declare after 9/11, the United States is prepared to strike states deemed unfriendly whenever they engage in behavior which could facilitate an attack

---

[14]   See, for example, Robert McNamara's account of retaliation against North Vietnam for its support of the Vietcong, beginning in 1964 with proposed air strikes and CIA support for South Vietnamese covert operations in North Vietnam in Robert S. McNamara, *In Retrospect: the Tragedy and Lesson of Vietnam*, New York: Crown (1995), at 114, 130. Also see Robert D. Schulzinger, *A Time for War: the United States and Vietnam, 1941-1975*, Oxford, UK: Oxford University Press (1999) at 95-96, for an account of the creation of the Vietcong (the National Front for the Liberation of Vietnam) in December 1960.

[15]   An account of an erroneous signal during the Carter administration can be found in Robert M. Gates, *From the Shadows: the Ultimate Insider's Story of Five Presidents and How they Won the Cold War*, New York: Simon and Schuster (1996) at 114-115.

[16]   Albrecht Randelzhofer, 'Article 51 and the Inherent Right to Self-Defence', in Bruno Simma (ed.), *The Charter of the United Nations: a Commentary* 2nd ed., New York: Oxford University Press (2002), 677; see also the exchange among European and US international lawyers in J. Delbrück (ed.), *The Future of International Law Enforcement: New Scenarios, New Law?: Proceedings of an International Symposium of the Kiel Institute of International Law, March 25 to 27, 1992*, Berlin: Duncker & Humblot (1993). Oscar Schachter, 'In Defense of International Rules on the Use of Force', 53 *University of Chicago Law Review* (1986), is an exemplary expression of this view. See also, 'The Use of Armed Force in International Affairs: the Case of Panama', *Report of the Association of the Bar of New York City* (June 1992); Louis Henkin, 'Force, Intervention and Neutrality in Contemporary International Law', *Proceedings of the American Society of International Law, 1963*, 147, 149, 165; Philip Jessup, *A Modern Law of Nations*, New York: Macmillan (1948) at 166; Hans Kelsen, *The Law of the United Nations*, New York: Lawbook Exchange Ltd. (1950) at 797-98; Josef Kunz, 'Individual and Collective Self defense in Article 51 of the Charter of the United Nations', 41 (4) *American Journal of International Law* (1947), 872, 878.

[17]   UN Doc. No. A/AC77/L4 (1957).

in the indeterminate future, whether by the state itself or by terrorists it might enable,[18] we are back in the era of preventive wars, the kinds of wars urged in the late nineteenth and early twentieth centuries by German strategists fearing the future military superiority of the continental-sized powers, Russia and the United States.[19] These are wars to eradicate merely contingent risks, often risks not to survival, i.e. not to political independence and territorial integrity, but rather to regional superiority or even global hegemony. Remove the requirement of imminence and it becomes very difficult to distinguish aggression from self-defense.

c. *Can forms of coercion other than military ones constitute an armed attack?*

Developing states have sometimes argued that economic ones threatening their political independence should be so regarded.[20] The US seemed to imply the same during the Arab oil boycott following the 1973 Middle East War.[21] In the West, there was little if any scholarly support for this view and efforts by some Third-World states to include economic coercion in the definition of aggression failed.

2. Does the Security Council have authority under the Charter to authorize coercive measures including use of force in cases (a) where the threat to international peace and security is not imminent or (b) the 'threat' consists of massive violations of human rights within a country but with little immediate spillover effect to other states?

With respect to (a), two views once competed for dominance**.** Some commentators argued[22] that the Council was an organ with jurisdictional authority strictly limited by the language of the Charter and that the Charter's grant of authority under Chapter VII to deal coercively with 'threats' had to be read in the light of Chapter VI authorizing the Council to employ non-coercive measures like mediation in cases where a situation could develop into a threat. In other words, the Charter itself distinguishes in so many words between immediate and potential or longer-term threats and gives the Council authority to employ force only in the former case. So while it has authority to employ force (or to authorize force by states acting as its proxy) at a somewhat earlier point than an individual state can under Article 51, that authority does not extend to cases where the threat is in so early a stage of incubation that its actualization is uncertain and there is opportunity to test the efficacy of means other than force.

In recent years I have seen little support for this view in Western academic circles, although it may well reflect the preferences of the Chinese and certain other governments in the Global South. While the Council may not have absolute discretion to define its authority, it has and in

---

[18] An overview of the relevant Security Council Resolutions – and of the overall 'case' the US was making – can be found in the text of the draft resolution offered up by the US, Spain and the UK S/2003/215 (March 7, 2003). See also W.H. Taft IV and T.F. Buchwald, 'Preemption, Iraq, and International Law', 97 (1) *American Journal of International Law*, 5-10.

[19] See Wolfgang J. Mommsen, *Imperial Germany 1867-1918*, London: Hodder Arnold (1995).

[20] See Tom J. Farer, 'Political and Economic Coercion in Contemporary International Law', 79 (2) *The American Journal of International Law* (1985), 405-413.

[21] See Robert W. Tucker, 'Oil: the Issue of American Intervention', 59 (1) *Commentary* (1975), 21-31.

[22] See e.g., Kelsen, *The Law of the United Nations* (1951) at 769-815.

contemporary circumstances must have a very broad discretion to decide at what stage in the gestation of a threat it should intervene with coercive means of one form or another.

With respect to (b), the practice of the Council since the end of the Cold War seems to have resolved the once sharp dispute over its authority to authorize coercion to avert or mitigate catastrophes that occur mainly within one country. When in the 1970s it authorized[23] coercive measures against the minority racist regime in what was then Rhodesia (contemporary Zimbabwe), the Council was sharply criticized by some legal commentators[24] and initially the United Kingdom took the position that the matter was an internal concern.[25] Sanctions against South Africa in the 1980s also encountered some opposition on legal grounds. Since the Cold War, however, the Council has authorized intervention to restore democracy (Haiti),[26] to protect the delivery of humanitarian relief (Bosnia and Somalia),[27] and to end civil conflicts marked by massive violations of human rights (e.g. Liberia and Sierra Leone).[28] Practice has confirmed the breadth of the Council's power to act for the sake of human as well as national security.

3. Can regional and sub-regional organizations authorize uses of force that would otherwise be illegal?[29]

Articles 52-54 (Chapter VIII) of the Charter recognize a possible role for such organizations particularly in helping to mediate festering hostility that, if left unattended, could lead to armed conflict.[30] It also recognizes them as possible instruments of the Security Council in dealing with Chapter VII situations.[31] But Article 54 states that any "enforcement action" by such organizations requires the approval of the Security Council.

---

[23] S/RES/232 (1966) and S/RES/221 (1966). See Myres S. McDougal and W. Michael Reisman, 'Rhodesia and the United Nations: the Lawfulness of International Concern', 62 (1) *American Journal of International Law* (1968), 1-19.

[24] Dean Acheson so argued and was criticized by Myres S. McDougal and W. Michael Reisman in 'Rhodesia and the United Nations: the Lawfulness of International Concern', 62 (1) *American Journal of International Law* (1968), 1-19.

[25] The Lusaka communiqué, based on agreement by leaders of an August 1979 Commonwealth, along with establishing the principle of majority rule and legal independence from Britain, was interpreted by British officials as precluding any intervention by the United Nations, see Henry Wiseman and Alastair M. Taylor, *From Rhodesia to Zimbabwe: the Politics of Transition*, New York: Pergamon Press (1981) at 4.

[26] S/RES/940 (1994); see also David Malone, *Decision-making in the UN Security Council: the Case of Haiti, 1990-1997*, New York: Oxford University Press (1998).

[27] S/RES/816 (1993) and S/RES/794 (1992), respectively.

[28] S/RES/1497 and S/RES/1509 in the case of Liberia; S/RES/1132 (1997), S/RES/1181 (1998), and S/RES/1245 (1999) in the case of Sierra Leone.

[29] See generally Farer, 'The Role of Regional Collective Security Arrangements' in *Collective Security in a Changing World* (1993), 153-188; Tom J. Farer, 'Law and War', in Cyril E. Black and Richard A. Falk (eds.), *The Future of the International Legal Order* III, Princeton: Princeton University Press (1971) at 56-62.

[30] UN Charter art. 53; UN Charter art. 52, para.1; See also Farer, 'Law and War', (1971).

[31] UN Charter art. 52, paras. 1-3 but see restrictions in art. 53 para. 1.

During the Cold War, the US argued (in relation to the Cuban Quarantine of 1962,[32] the intervention into the Dominican Republic in 1965[33] and the invasion of Grenada in 1982)[34] that the approval could be after the fact and implicit, a position most scholars and governments rejected.[35] More recently the US has altered its position insofar as the OAS in concerned, insisting (most clearly in the case of Haiti) that enforcement measures require SC authorization.[36] But the first ECOWAS intervention in Liberia,[37] although not authorized, was not criticized, much less condemned. A distinguished panel of experts established by the Swedish government found NATO's intervention in the Kosovo conflict to be not consistent with the charter and thus technically illegal but nevertheless "legitimate."[38] Whether NATO, originally a self-defense rather than regional organization, can be said to have evolved into the latter is open to dispute.

4. Does military intervention at the request of a recognized government to assist it in repressing domestic opponents constitute a permitted use of force?

Some scholars and governments have argued that the prerogatives of sovereignty certainly include authorizing foreign intervention and that the recognized government is the agent of state sovereignty.[39] Others have said that in cases of large-scale civil war, an intervention even if invited by the recognized government violates the country's political independence and the universal right of self-determination and should be deemed illegal.[40]

---

[32] See Abram Chayes, 'Law and the Quarantine of Cuba', 41 (3) *Foreign Affairs* (1963), 550-557; Abram Chayes, *Cuban Missile Crisis*, New York: Oxford University Press (1974); James G. Blight and David Welch, *On the Brink: Americans and Soviets Re-examine the Cuban Missile Crisis*, New York: Farrar, Straus & Giroux (1989); Raymond Garthoff, *Reflections on the Cuban Missile Crisis* Rev. Edition, Washington, DC: Brookings Institution Press (1989). A rejection of the argument can be found in Organization of American States, *Sixteenth Meeting of Consultation of Ministers of Foreign Affairs*, San Jose, Costa Rica (July 29, 1975), Resolution I.

[33] See Abraham F. Lowenthal, *The Dominican Intervention*, Cambridge, Mass.: Harvard University Press (1972); Piero Gleijeses, *The Dominican Crisis: the 1965 Constitutionalist Revolution and American Intervention*, Baltimore: Johns Hopkins University Press (1978); and Leonard Meeker, 'The Dominican Situation in the Perspective of International Law', *Department of State Bulletin LIII* (July 1, 1965), 60-62.

[34] UN General Assembly censure of the US interventions in Grenada and Panama can be found in A/RES/44/240 (1989).

[35] See Tom J. Farer, 'The Role of Regional Collective Security Arrangements', in *Collective Security in a Changing World* (1993).

[36] See David Malone, *Decision-making in the UN Security Council: the Case of Haiti, 1990-1997* (1998).

[37] Kenneth B. Noble, '5 NATIONS MOVING TROOPS TO LIBERIA; West Africans Begin an Effort to End Civil War but One Rebel Vows to Resist', *The New York Times* (August 11, 1990) A3; Kenneth B. Noble, 'Civil War in Liberia Threatening To Divide West African Neighbors; Liberian War Threatens To Split West Africans', *The New York Times* (August 29, 1990) A1.

[38] Independent International Commission on Kosovo, *Kosovo Report*, New York (2001).

[39] A/59/2005 (2005).

[40] See Myres McDougal and Florentino Feliciano, *Law and Minimum World Public Order* (1961) at 194n; for an earlier view, see William E. Hall *A Treatise on International Law* 6th edition, Oxford, UK: Clarendon Press (1909) at 286.

5. Are interventions, not authorized by the SC, undertaken to prevent or terminate crimes against humanity ever legal under the Charter?

In the early decades after the Charter's adoption, scholars and governments especially were reluctant to concede that the claims of humanity might trump the principle of non-intervention,[41] although at least in particular cases some seemed disposed to treat the circumstances as highly mitigating. The Kosovo Commission mentioned above based its finding of "legitimacy" largely on what it perceived as the imperative necessity of using force in order to abort massive ethnic cleansing initiated by the Belgrade Government against the Albanian population of Kosovo. Few would dispute that mass ethnic cleansing is a 'crime against humanity', with genocidal potential. With respect to the question of law, it is significant that even in the presence of such a crime, coupled with action by an arguably 'regional organization' (but not, to be sure against a *member* of the organization) and SC resolutions condemning the Government of ex-Yugoslavia for its treatment of the Albanian population and calling upon it to cease and desist,[42] a committee of experts with a strong collective commitment to the protection of human rights has found that action to be illegal under the Charter yet still "legitimate." Nevertheless, some leading, primarily US-based international law scholars, including ardent defenders of the UN and the Charter-based legal order, have argued that Humanitarian Intervention is legal where the following criteria are satisfied:

- A massive crime against humanity is imminent or has begun to be executed;

- Either there is no time for recourse to the SC, if the crime is to be averted or aborted before its completion, or action by the SC is blocked by a Permanent Member's exercise of its veto;

- The action is reported to the SC;

- The intervention is carried out in good faith and so as to minimize its consequences for the political independence of the target state;

- The intervention complies with the Humanitarian Law of War and is reasonably calculated to cause less harm to "innocent persons" than would occur if the crime against humanity were allowed to proceed.[43]

Scholars insisting on the legality of interventions satisfying the above criteria have emphasized the Charter's recognition of human rights along with national sovereignty as paired constitutional

---

[41] Ian Brownlie, *Principles of Public International Law* 4th edition, Oxford, UK: Clarendon Press (1990) at 304-305 and 324; and Ian Brownlie, *International Law and the Use of Force by States*, Oxford, UK: Clarendon Press (1963) at 339-342.

[42] S/RES/1244 (1999).

[43] These views are reflected by virtually all authors in J.L. Holzgrefe and R.O. Keohane (eds.), *Humanitarian Intervention: Ethical, Legal and Political Dilemmas*, Cambridge, UK: Cambridge University Press (2002); but cf. Tom J. Farer with Daniele Archibugi, Chris Brown, Neta C. Crawford, Thomas G. Weiss and Nicholas J. Wheeler, 'Round Table: Humanitarian Intervention after 9/11', 19 (2) *International Relations* (2005) 211-250.

principles.[44] Even scholars from countries with a history of intense opposition to intervention of any kind now show some disposition to concede that in extraordinary circumstances, for example the onset of genocide, international action may be justified even if the SC does not authorize it. A number of Chinese scholars from influential think tanks have so conceded in a recent discussion,[45] but they insisted that circumstances must be so exceptional that they cannot be codified, a position echoing that of the leading English authority on the use of force, Ian Brownlie, who analogized Humanitarian Interventions to "mercy killings" in domestic law which are illegal but may be overlooked in extraordinary circumstances.[46] Efforts by the Axworthy Commission, supported by the Canadian Government, to promote agreement that the prerogatives of sovereignty are dependent in some measure on states meeting minimum obligations to their citizens[47] initially met a cool reception from the generality of governments,[48] implying that they preferred the Chinese approach.

The humanitarian arguments invoked by the US and the U.K. in the case of Iraq, arguments increasingly emphasized when evidence of WMD programs failed to appear, are unusual in that they refer to conditions that were chronic rather than acute.[49] In fact, at the time of the invasion, violations of core human security rights appear to have been considerably less acute than during earlier periods when popular resistance to Saddam was more pronounced. The moral basis for distinguishing chronic violations of rights from acute ones, as most advocates of Humanitarian Intervention do, is problematical.[50] But failure to require a sudden spike in human rights violations as a condition of "Humanitarian Intervention" would exponentially increase the number of potential targets; at least a strong plurality of UN members would be at risk.

---

[44] See, for example, Anthony D'Amato, 'Agora: US Force in Panama: Defenders, Aggressors, or Human Rights Activists', 84 (2) *American Journal of International Law* (1990), 516-524; and W. Michael Riesman, 'Coercion and Self-Determination: Construing Charter Article 2(4)', 74 (3) *American Journal of International Law* (1984), 642-645; see also Fernando Teson, *Humanitarian Intervention: an Inquiry into Law and Morality*, Dobbs Ferry, NY: Transnational Publishers (1988).

[45] Simon Chesterman, Tom Farer, and Timothy Sisk, 'Competing Claims: Self-Determination, Security and the United Nations', report of the project 'Self-Determination, Security, and the United Nations', Graduate School of International Studies, University of Denver, and the International Peace Academy, November 29-December 1, 2000, Vail, Colorado; see http://www.ipacademy.org/Publications/Reports/Research/PublRepoReseCompClaims_body.htm.

[46] Ian Brownlie, *International Law and the Use of Force by States* (1963).

[47] International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, Ottawa (2001).

[48] See S. Neil Macfarlane, Jennifer Welsh, and Caroline Thielking, 'The Responsibility to Protect: Assessing the Report of the International Commission on Intervention and State Sovereignty', 57 (4) *International Journal*, 489-502.

[49] Tony Blair's arguments, among others, are included in Thomas Cushman (ed.), *A Matter of Principle: Humanitarian Arguments for War in Iraq*, Berkeley: University of California Press (2005); A rejection of American and British administration humanitarian arguments can be found in Kenneth Roth, 'War in Iraq: Not A Humanitarian Intervention', in *Human Rights Watch World Report 2004: Human Rights and Armed Conflict* (available online at http://hrw.org/wr2k4/), 13-36.

[50] Tom J. Farer, 'Human Rights in Law's Empire: the Jurisprudence War', 85 (1) *American Journal of International Law* (1991), 117-127.

6. Are reprisals legal under the Charter?

In pre-Charter international legal practice, reprisals were punitive acts responding to some illegal act committed by another state.[51] They were deemed legitimate if they were proportional to the delinquency that occasioned them. One of their recognized purposes was to deter a repetition of the delinquency. In relation to a reprisal carried out by the United Kingdom during the 1950s in what is today the Republic of Yemen, the Security Council declared reprisals to be illegal under the Charter in that they did not constitute acts of self-defense.[52] Self defense presumed an ongoing attack. A one-off border incursion by forces of State A into State B could be resisted. But if State A's forces withdrew before State B could mount a response and appeared unlikely to make another incursion in the immediate future, then the opportunity for the exercise of self-defense rights had passed.[53] State B would thus have to pursue other remedies for any damage done to it from the incursion including, of course, an appeal to the Security Council on the grounds that the situation constitutes an ongoing "threat to the peace."

Distinguishing reprisal and legitimate self-defense can be difficult in the context of ongoing hostile relations between states marked by numerous 'incidents'. For instance, the bombing of Tripoli by the United States in the wake of the bombing of a night club in Berlin frequented by US military personnel and attributed to Libyan intelligence operatives was arguably a reprisal;[54] but the US could have argued that the night club incident was only one in a line of Libyan-organized attacks on US installations and personnel and that these various incidents amounted cumulatively to an on-going attack. Similarly, some Israeli incursions into neighboring Arab states could have been characterized as incidents in a single on-going low-intensity armed conflict. However, Israel has an explicit doctrine of reprisal; it has not tried to characterize every incursion as an incident of an ongoing war.[55] And many of its reprisals have been ignored by the SC or action has been blocked by the US.

It appears that the SC has become inured to reprisals, at least in the context of the Arab-Israeli conflict, and therefore takes note of them only where they risk igniting a general conflict or possibly where they are grossly disproportionate to the damage inflicted by the act held to justify reprisal or violate rights protected by the Humanitarian Law of War. It did not condemn the US missile attack on Iraq following the alleged attempt by Saddam Hussein to assassinate former President George H.W. Bush during a visit to Kuwait. Arguably that was a reprisal, although it

---

[51] Ibid, 11-13; see also Georg Schwarzenberger, 'The Law of Armed Conflict', in *International Law as Applied by International Courts and Tribunals*, *Vol. II*, London: Sweet & Maxwell Ltd. (1968).

[52] S/RES/188 (1964); Tom J. Farer, 'Law and War', in C.E. Black and R.A. Falk (eds.), *The Future of the International Legal Order: Conflict Management, Volume 3*, Princeton: Princeton University Press (1969), 15-78.

[53] Anthony C. Arend, 'International Law and the Preemptive Use of Military Force', 26 (2) *The Washington Quarterly* (2003), 89-103; Sean D. Murphy, *Humanitarian Intervention: the United Nations in an Evolving World Order*, Philadelphia: University of Pennsylvania Press (1996), at 92.

[54] 'Transcript of Address by Reagan on Libya', *The New York Times* (April 15, 1986), A10.

[55] The United Nations condemns Israel's reprisals in S/RES/101 (1953) and S/3139/Rev. 2.

might have been defended as mere enforcement of the terms of the cease fire that ended the first Gulf War.[56]

To help probe the distinction between acts justifying reprisal and acts of war, I offer the following hypothetical case. Suppose the attack on the World Trade Center and the Pentagon on 9/11 had been the first violent act against US persons or property by persons under the direction of Osama bin Laden and his associates and had been accompanied by a statement from bin Laden describing it as a single retaliation for crimes committed against the Arab people and declaring that the slate was clean, there had been an eye for an eye, and now co-existence was possible. If, without benefit of an SC resolution recognizing the availability of the claim of self-defense under the circumstances, the US had launched its campaign to overturn the Taliban regime and to destroy bin Laden's infrastructure in Afghanistan and to kill or capture bin Laden and his lieutenants, would that have been a reprisal or lawful action in self-defense under the Charter?

It is implausible that under those circumstances, the US or any other nation that had experienced such a blow would have felt constrained either by the Charter or even by the pre-Charter doctrine to treat that blow as something other than an act of war. As an act of war, an aggression against the US, it would presumably allow the United States to take all necessary measures consistent with the Humanitarian Law of War to capture or kill the perpetrators and to dismantle their organization and to wage war against any state that interfered in this effort. In other words, some acts of violence may be of such scope and intensity that states generally will regard them as acts of war even if it is unclear that they will be repeated.

7. What limits does the Charter impose on the right of self-defense once it is triggered by an act of aggression?

The hypothetical case in No. 6 above warrants two further questions. One is whether, in a case where following a wanton act of aggression the aggressor withdraws from any territory it may have occupied and places its forces in a defensive posture and calls for negotiation or mediation of whatever dispute occasioned the aggression, the victim state can initiate a defensive war without SC authorization even though it can seek such authorization without further endangering itself. The second is whether a state exercising its right of self-defense by preparing to invade an aggressor or destroy its military capability through an assault by missiles and aircraft must desist in cases where the SC, acting pursuant to Chapter VII, authorizes less intense measures such as economic sanctions or a blockade to force the surrender of the persons authorizing and conducting the aggression or takes other action which the victim state deems insufficient. Neither the practice of states and of the Security Council under the Charter nor the opinions of international legal experts has provided entirely clear answers to either question.[57]

---

[56] S/RES/687 (1991).

[57] Compare, for instance, Albrecht Randelzhofer, 'Article 51 and the Inherent Right to Self-Defence', in Bruno Simma (ed.), *The Charter of the United Nations: a Commentary* (2002), 677, Kelsen, *Principles of International Law* (1966) at 62 and 64-87, and Myres S. McDougal and Florentino P. Feliciano, *Law and Minimum World Public Order: the Legal Regulation of International Coercion* (1961) at 233-241.

The New Global Context and the Call for Loosened Restraints on the Use of Force

Authoritative norms pull relevant actors toward compliance. If they fail, their authority is hollow. Why do legal rules and principles have that pull in a legal system lacking centralized enforcement institutions? Principally because they express the stable interests identified by the main subjects of the norms either through processes of unhurried deliberation (as in the various stages of proposing, negotiating and ratifying a treaty) or through the retrospective rationalization of a series of initially extemporized responses to concrete problems. Whether a single long deliberative process or the cumulation of initially improvised responses, the resulting norm encapsulates national interest contemplated in serenity. (For the neo-Realist, of course, what I call a process of identification, implying the ultimately subjective character of interests, is really the appreciation of objective interests, the rational recognition of a country's fate).[58]

It follows (from this statement of the probably obvious) that the adequacy of the Charter use-of-force norms is a function of whether they express the interests of today's main actors. Charter skeptics claim they do not, usually citing in support of that claim the changed structure and challenges of the contemporary international system. That changes have occurred is indisputable, but is it clear that they have correspondingly effected a change in core interests relating to the use of force?

Law and the interests of powerful states after the Cold War: the neo-conservative project and the use of force

In the years immediately following the end of the Cold War, it became almost conventional among writers about international relations to celebrate a new or renewed coincidence between the Charter system and the interests of states both large and small. Experts tended to assume that the disappearance of those fracturing pressures exerted on the system by Cold War strategies would allow Charter norms and processes to operate much more effectively.[59] Restraints on the projection of power across frontiers would now plainly serve the interests of almost all states. Force would be needed largely to protect human security threatened by ethnic tensions and autocratic rulers unable to legitimate their regimes.

Ethnic conflicts and massacres would not touch the core interests of powerful states. For cultural, ideological and domestic political reasons, the major Western states would sometimes be prepared to undertake mercy missions.[60] The Security Council would legitimate Humanitarian Interventions on a case-by-case basis. True, the Chinese and possibly the Russians might be uneasy about the precedents. But normally neither would have interests sufficient to justify blocking interventions remote from their core interests to which its main trading and investment partners in the West were committed. Encouraged in part by the 1992-93 Somali interventions, this expectation seemed confirmed by Security Council authorization of intervention in Haiti primarily

---

[58] See arguments for and against in Robert Keohane (ed.), *Neorealism and its Critics*, New York: Columbia University Press (1986).

[59] Edward C. Luck, 'Making Peace', *Foreign Policy* 89 (winter 1992); Charles William Maynes, 'Containing Ethnic Conflict', *Foreign Policy 90* (spring 1993).

[60] See Tom J. Farer, 'Humanitarian Intervention before and after 9/11: Legality and Legitimacy', in *Humanitarian Intervention: Ethical, Legal and Political Dilemmas* (2002).

to restore democratic government,[61] a purpose considerably more controversial than ending slaughter. As I explained in Chapter 1, at no point in this brief era of good feeling did neo-conservatives share the generally happy view of things. But until the 9/11 cataclysm, they could not shape policy to their ends. That cataclysm created the political conditions in the United States for the active employment of hegemonic military power. And so in alliance with the President and a number of figures, most notably Vice-President Cheney and Secretary of Defense Rumsfeld, who had previously been thought of as no more than conventional right-wing realists, they launched American foreign policy onto uncharted seas with potentially grave consequences for the just renewed normative order.

The Charter's norms cannot be reconciled with the full range of measures the Bush Administration and its neo-conservative advisors have declared necessary for the protection of American interests which it equates with the interests of the West and, indeed, of all states other than a few evil ones. That being so, one might reasonably have expected the Administration to campaign for corresponding reforms in the international legal order. In fact, just as it has evinced little concern about the gap between its stated policies and hitherto conventional views of what international law allows, it has evinced little interest in reform.[62]

This relative disinterest in normative reform is subject to several interpretations. One is that the Administration is generally happy with the inherited normative arrangements, but regards them as inapplicable to the United States, because it, not the Security Council, is the ultimate guarantor of international order. Of course this claim has no precedent in the history of modern international law dating back to the middle of the seventeenth century. But that history coincided with the balance of power and an effective monopoly of force by the major states. Today, Administration officials might argue, the system is dominated by a single power and all of the major states are threatened by non-state actors. The attribution of exceptional legal privileges to the hegemonic power acting in the general interest is as congruent with the real character of international relations as the Westphalian idea of the legal equality of all civilized states was congruent with the reality of international relations in the preceding era.

A second possible interpretation is that the dominant figures in the Bush Administration do not regard international law as law or as an element in international relations that needs to be taken seriously. To be sure, the President and the Secretaries of State and Defense occasionally defend one or another policy – for example, the invasion of Iraq and the treatment of detainees – as being consistent with international law.[63] Moreover, when accused of actions that clearly violate treaty law, like the kidnapping of persons in foreign countries or the rendition of suspected terrorists to torture regimes or the torture and cruel and inhuman treatment of detainees by agents of the United States itself, the Administration sometimes pays a kind of deference to law by claiming that senior officials did not authorize the behavior or that despite what appear on the surface to be violations –

---

[61]   S/RES/940 (1994).

[62]   Bob Woodward, *Bush at War*, New York: Simon & Schuster (2002) at 335-336.

[63]   On 25 January 2002, then-White House counsel Alberto Gonzalez wrote a memo to the President justifying the use of torture in the war on terror due to new circumstances that placed prisoners outside the scope of Geneva Convention protections. See David Savage and Richard Schmitt, 'Administration Lawyers Ascribed Broad Powers to Bush on Torture', *Los Angeles Times* (June 10, 2004).

rendition to regimes known to torture habitually, for example--it has taken steps to assure that violations will not occur or by refusing to acknowledge that the behavior occurred.[64]

That said, the fact remains that the Administration was ready and stated its readiness to invade Iraq without Security Council authorization[65] and then sent as its chief representative to the United Nations a lawyer who has written that international law is not law as we know it domestically, but rather a matter of political understandings adopted for the convenience of states and subject to unilateral change when such understandings prove inconvenient.[66] In addition, the President's Counsel, now the Attorney General, endorsed the view, frequently advocated by writers on the right, that international law cannot as a constitutional matter and should not be understood to limit the discretion of the President of the United States, for to do so would be to diminish the nation's sovereignty, a view of sovereignty that reduces treaty law to the equivalent of mere political understandings.[67] Moreover, in claiming that the US was not bound by the Torture Convention's preclusion of cruel and inhuman treatment[68] because the Congress had limited enabling legislation to torture, the Administration simply ignored the strictures on abusive behavior contained in the International Covenant on Civil and Political Rights to which the United States is a Party. And these are only illustrations of what could fairly be described as a dismissive or simply disinterested attitude toward normative restraint in matters of national security.

A third possible interpretation of the Administration's position is that it agrees with those writers who claim, as I noted at the beginning of this chapter, that violations of Charter norms have in their number and severity stripped those norms of binding character.[69] That being our present normative condition, the Administration is implicitly imposing a new, more flexible regime that allows responsible states like the US to exercise effectively in the altered conditions of international relations their inherent right to self-defense.

Yet a fourth interpretation is that the Administration is simply clarifying in light of changed conditions the actions that states are entitled to take pursuant to the "inherent right to self-defense" recognized by Article 51 of the Charter. The main problem with this interpretation, of course, is that Article 51, while recognizing the "inherent right," limits its exercise to cases of "armed attack" (hitherto construed to be ongoing or at least indisputably imminent) and, in any event, appears to require a state taking self-defense measures to report them to the Security Council with the understanding that the Council shall determine what further actions can be taken by the state in

---

[64] See 'Secretary Rice's Rendition', *The New York Times* (December 7, 2005).

[65] Two months prior to the invasion of Iraq, a documented meeting between Prime Minister Blair and President Bush demonstrates that the US was intent on invading even without a further UN resolution and if UN weapons inspectors failed to find WMD. See Richard Norton-Taylor, 'Blair-Bush Deal before Iraq War Revealed in Secret Memo', *The Guardian* (February 3, 2006).

[66] 'The World According to Bolton', *The New York Times* (March 9, 2005).

[67] Michiko Kakutani, 'Presidential Architect of Designs for Power', *The New York Times* (July 11, 2006). This article is a review of a biography of Attorney General Alberto Gonzales by Bill Minutaglio entitled *The President's Counselor*, Rayo/HarperCollins (2006).

[68] David Johnston and Neil A. Lewis, 'Bush's Counsel Sought Ruling About Torture', *The New York Times*, (January 5, 2005).

[69] Michael Glennon, 'The New Interventionism', 78 (3) *Foreign Affairs* (1999), 2-7.

question or by any other state. Given the apparent reluctance of the Administration to submit its actions to final review by the Security Council, this fourth interpretation should probably be seen as a merely cosmetic version of the first, second or third.

All in all, the Administration's view of international law bears an ironical resemblance to views exhibited by Wilhelmine Germany around the turn of the twentieth century and thereafter in the practices of the Third Reich. When the US delegation to the Hague Peace Conferences proposed agreed limits on the use of force and the arbitration of inter-state disputes, the leader of the German delegation responded bluntly that Germany was not prepared to sacrifice its predominant influence on the European Continent which consisted in its ability to mobilize and employ force superior to that of any other state.[70] The German neo-con of his day, Heinrich von Treitschke, once thundered: How can a puny neutral state like Belgium claim to be a center of international law? The shaping of law lies only with great powers.[71] Or, in the same temper, as an anonymous senior White House official said to a *New York Times* journalist objecting to some Administration statement as contrary to the facts: "We are not fact-dependent because we have the power to create the facts."[72]

The Neo-conservative Project and the Interests of the West

One cannot dismiss the claims of neo-conservatives merely by invoking parallels to the century-old views of German chauvinists and, after them, Nazi ideologues. It is at least conceivable that people with different ends may nevertheless adopt the same means, the means in this instance being a repudiation of widely held views about international law and about appropriate restraints on the use of force. Differences in peoples' ends should be presumed to matter until it is shown that the differences are dissolved by the common means. As I noted earlier, neo-cons offer a more-or-less coherent diagnosis of non-state transnational violence and then prescribe treatment that happens not to fit within the Charter's normative framework for the use of force and the protection of sovereignty. Nor, I should add, is it congruent with long-established views on the means states may employ to maintain either internal or external security. However, on the presumption that international law must reflect the interests of its subjects, opponents of the neo-con approach to international law need to challenge its diagnosis of the threat to Western interests or the efficacy of its prescription for reducing it.

On the matter of diagnosis, the neo-conservative explanation of anti-Western terrorism may obscure its real causes. Is it incontestable, as neo-cons and their acolytes like President Bush assert, that Islamic terrorism is best understood as a pathological response to the paradigmatic freedom and affluence Western states enjoy within their own borders, contrasted with the intellectual and material poverty of much of the Islamic world, or, to similar effect, is a demented aspiration to restore Muslim power in all the areas where it once was exercised (i.e. from Spain all the way down the Mediterranean basin and then north to the gates of Vienna) or is a fanatical effort to exclude from the Islamic World the diffuse cultural forces seen to issue from within the

---

[70] Calvin DeArmond Davis, *The United States and the Second Hague Peace Conference*, Durham, NC: Duke University Press (1975), 149-55, 280.

[71] Heinrich von Treitschke, *Politics*, New York: Harcourt, Brace and World (1963), at 297.

[72] See Ron Suskind, *One-percent Doctrine*, New York: Simon & Schuster (2006).

West, although they may be nothing more than the manifestations of a global post-industrial, consumerist economy? Isn't there a more parsimonious, straightforward explanation, one that treats Islamist terrorist leaders as rational human beings defending tangible commonplace interests by awful means? The more straightforward although not necessarily the most accurate explanation, let's call it a not absurd hypothesis, is that Muslim terror is in significant measure a well-precedented response of indigenous forces to what they perceive as an alien exercise of political-military power within territories they perceive as theirs, a response not fundamentally different from, although to this point much more narrowly based than, the rebellions or attempted rebellions in countries like Algeria, Angola, South Africa, Southern Rhodesia, Kenya and Vietnam and earlier in Ireland against imperial structures of domination. To be sure, alien power is exercised through or in collaboration with elements of the indigenous population, is often indirect and to a considerable extent hidden. This is not unusual in the annals of colonialism.

It does not appear to be a controversial proposition of fact that, by means of the various instruments of statecraft – open military intervention (e.g. Iraq, Lebanon), intervention by proxy (e.g. support for Saddam Hussein's invasion of Khomeini's Iran), subversion (e.g. the overthrow of the democratically-elected Mossadegh Government in Iran), payments to accommodating chiefs (e.g. the annual subvention for the Mubarak regime in Egypt), the arming and equipping of military, police and intelligence personnel (e.g. Tunisia, Morocco, Saudi Arabia, Egypt) – the United States, like the British and French before it, exercises what could reasonably be perceived as imperial power in the Middle East. I offer this fact not to make a normative point. People will doubtless differ on whether, at the end of the day, imperial domination contributes more to the well-being of local peoples than it extracts in tolls for its efforts. I invoke the fact simply to suggest that Islamist terrorism may be attributable in large measure to tangible policies of domination and perceived exploitation, as was Irish, Kikuyu and Algerian terrorism, to name only three well-known cases.

What follows from this hypothesis is that, at least in theory, it might be possible to reduce the incidence of Islamist terrorism by a sharp withdrawal of the Western political, clandestine and military presence in Islamic countries leaving indigenous forces to negotiate accommodations in some places and to submit their differences to the arbitration of force in others. Even assuming that terrorism directed at the West might thereby be reduced, it does not, of course, follow that a manifest contraction of the Western political-military presence undertaken for the stated purpose of altering a relationship conceded to have been imperial would best serve the interests either of the West or the majority of local peoples. The requisite cost-benefit analysis would be immensely complex and, in the end, highly uncertain which generally means that inertia prevails.

I have put the policy issue dichotomously. In fact there are many points between wholesale dismantling of the imperial presence that has prevailed since the end of World War I and a policy marked by strict non-intervention in local affairs. A finite number of acts such as the withdrawal of Western troops from Arab countries, the establishment of a sovereign albeit neutralized Palestinian state with a capital in East Jerusalem, an apology for the subversion of Iran's nascent democracy in 1953 (the elephant does not notice the squashed hen, but the hen's children remember), and a declared commitment to non-intervention in Middle-Eastern countries might alter significantly the apparent perception among many young Muslims all over the Islamic world

that the West is at war with them.[73] I reiterate that even if one concluded that a package of such acts might alter perceptions and thus reduce substantially the pool of *jihadi* recruits and sympathizers, the package's costs might seem too high. My point, then, is simply this: neo-cons call for a dismantling of restraints on the use of force and on unilateral intervention in the face of irreducible enmity from a pathological foe. In fact, there are plausible grounds for believing that the enmity is reducible, because the foe has tangible, familiar interests which we might be able to accommodate partially through changes in public policy. On this hypothesis, then, the status quo is not our fate; rather, in some measure admittedly difficult to specify, it is our choice.

The choice thus far has been to intrude more violently into the Middle East and to associate the United States openly with Israel's goal of barring a Palestinian political presence in East Jerusalem and annexing a substantial part of the territories it has occupied since the 1967 war,[74] a goal that seems incompatible with a negotiated solution of the Palestinian-Israeli conflict and with important norms of international law including the Fourth Geneva Convention dealing with the treatment of people in occupied territories.[75] The invasion and occupation of Iraq is to this point the principal illustration of that flight from the Charter norms that the successful containment of terrorism is alleged to require. The catastrophic terrorist attacks on Madrid and London appear to have been motivated by this instance of flight. Various observers of trends in the Islamic World, including the part expatriated to Europe, believe that the invasion of Iraq has facilitated the translation of Muslim anger[76] and alienation into recruits for terrorist organizations.[77] Moreover, the now well-documented and widely-publicized recourse to torture and inhuman and degrading treatment of detainees in Afghanistan, Guantánamo and Iraq,[78] Abu Ghraib being a well-precedented response to the frustrations of battling a guerrilla insurgency,[79] are certain to have weakened the West's necessary effort to build a worldwide consensus against the use of brutal means for political ends which is the essence of terrorism.

To be sure, it is early days. Things may look different years from now. We might take the leisurely historical view recommended by Premier Zhou Enlai to Henry Kissinger when,

---

[73] Daniel Benjamin and Steven Simon, *The Age of Sacred Terror* (2002), at 148 – 150; Pew Global Attitudes Project, 'America's Image Slips, but Allies Share US Concerns Over Iran, Hamas', Pew Research Center (June 13 2006), at http://pewglobal.org/reports/display.php?ReportID=252.

[74] See, Henry Siegman, 'Sharon's Phony War', *The New York Review of Books*, (December 18, 2003) pp. 16-18.

[75] See Chapter 5 below; see also Ian Lustick, 'Israeli State-Building in the West Bank and Gaza Strip: Theory and Practice', *International Organization* 41, No. 1 (1987), pp. 151-171.

[76] Daniel Benjamin and Steven Simon, *The Next Attack* (2005), at 15.

[77] Ibid, p. 16.

[78] Consider Amnesty International reports: 'Beyond Abu Ghraib: Detention and Torture in Iraq', (6 March 2006), 'Guantánamo: Lives Torn Apart – The Impact of Indefinite Detention on Detainees and their Families', (6 February 2006), 'Afghanistan: Amnesty International's Campaign to Stop Torture and Ill-treatment in the 'War on Terror'', (1 May 2006). All reports are available online through www.amnestyusa.org.

[79] See Wade Sanders, 'Predictable Atrocities? History Shows that Combat has Sad Consequences', *San Diego Union-Tribune*, (May 31, 2006), p. B7.

responding to the latter's query about his assessment of the French Revolution's impact, he said it was too early to tell. Still, if proponents of radical normative change are felt to carry the burden of persuasion, it seems fair to conclude at this point: "Case not proven." There is, however, a case for codifying certain minor deviations from a literal reading of the Charter norms that still leave in place powerful restraints on unilateral recourse to force.

The Liberal Case for Conserving Normative Restraint

There is nothing new about powerful states using all of the instruments of statecraft including brute force not only to disable potential rivals and to protect against immediate threats to vital interests, but also to create an international environment that mirrors their values. This is particularly true of states with a strong sense of ideological mission. They view the reproduction of their domestic institutions and values as a good in itself. Moreover, despite the disconfirming record of Sino-Soviet or Sino-Vietnamese relations, they presume that mirror image regimes will be far more cooperative than those reflecting very different ideas about government and society. In recent history we have seen Marxist, Fascist, social democratic and liberal capitalist regimes all trying to clone themselves, just as in the Middle Ages Catholic governments sought to reproduce Christian polities in the then pagan areas of Northwestern Europe.

The main premise of neo-con ideologues is that the employment of American hegemony to spread democracy, if necessary at the point of the bayonet, serves American interests no less than its values, incidentally serving the interests and values of all human beings other than the evil ones. Let me confess that I too believe that human security would be far better served in a world of liberal democratic states. I am not convinced, however, that the use of force in violation of substantive and procedural norms supported by the generality of states, or at least the leading states, much less in flagrant violation of human rights and humanitarian law, will advance the democratic cause. On the contrary, there are signs that, at least in the United States, it is beginning to erode those constraints on executive power that have long distinguished North Atlantic Democracy from illiberal formal democracies in Latin America and parts of Asia.

If, as sometimes appears to be the case, the call for looser restraints on the use of force is in the service of a violent crusade for laissez-faire democracy, it will surely go unanswered, for such a crusade will threaten the interests of many states, the United States included. Perhaps for that reason the call is usually made in more traditional and hence disarming terms. Loosened restraint is said to be necessary not for the indefinite reproduction of congenial regimes, but rather to protect conventional interests that all states share, above all the protection of their populations from catastrophic attack.

The main argument is now familiar: unlike states, terrorists (i.e. NGOs with bombs) cannot be deterred because they have few if any sunk assets and their operations are entirely clandestine. Hence they must be preempted, that is killed or captured wherever and whenever they surface. This preemptive action is an exercise of the inherent right to self-defense. Exercise cannot be limited by mandatory recourse to the Security Council in advance of any action. Consultation involves some delay, while the opportunity to strike the shadowy fast-moving enemies of civilization will often be fleeting. Moreover, in order to persuade other countries of the need for

action, it would often be necessary to reveal fragile intelligence sources that could easily be compromised.

To be sure, these concerns are not trivial. Can they be taken sufficiently into account by means of an interpretation of the received normative order that leaves it essentially intact? The answer, I think, is yes.

Take the case of al-Qaeda. For a number of years before 9/11, it had attacked US targets, including its embassies in Kenya and Tanzania and a vessel of its armed forces in Yemen. These attacks were part of a declared campaign against the US presence in the Middle East. Although not carried out by a state, the attacks and their broad aims were arguably analogous in certain respects to the waging of war and the US could therefore exercise its right of self-defense under Article 51 of the Charter. But even assuming the force of the analogy, still the US was obligated to bring the situation to the Security Council so that it could review the situation and determine what collective measures would best serve international peace and security.

However, since the analogue of an aggressive attack had occurred and was likely to recur at times and places of al-Qaeda's choosing, arguably the US was not required to remain inert while the Council deliberated. If, for instance, its armed forces encountered al-Qaeda operatives aboard a ship on the high seas flying no national flag, it certainly was privileged to attack and destroy the ship or to seize the operatives. Moreover, if, as was the actual case, Osama bin Laden was ostentatiously using a country as his operations base, the US could demand of its government that bin Laden be detained and the base shut down, so no further attacks could be made. Moreover, if that government was indisputably colluding with bin Laden or there was substantial reason to believe that the host government either could not or would not prevent bin Laden from quickly shifting to a new venue, the US could attack bin Laden without any prior request. And in the event that the bin Laden host government attempted to repel this exercise of self-defense rights under the Charter, it too would be a legitimate target of US forces.

In short, the Government of the United States could reasonably have construed the Charter to allow an attack on al-Qaeda installations in Afghanistan, for instance after the Embassy bombings, once it had conclusive evidence that al-Qaeda had authorized the bombings and the Taliban, despite being presented with this evidence, had thereafter refused to detain al-Qaeda leaders and shut down their camps or there were substantial grounds for believing that they were unable to do so even if they wished to or were unwilling. However, unless it appeared that prior referral to the Council would allow al-Qaeda leaders to conceal themselves or launch a new attack on United States property or personnel, the United States would have to seek Council authorization. In the event the Council failed to act, then, assuming the conditions just specified, the United States could have attacked al-Qaeda's bases in Afghanistan. The Security Council's implied authorization of the US invasion of Afghanistan following 9/11[80] is consistent with this analysis of what the Charter allows.

What the Charter does not allow is unauthorized military action against allegedly terrorist organizations or individuals residing in a country able and willing to prevent use of its territory for attacks on other states. Thus if Osama bin Laden were suddenly discovered summering in

---

[80]   S/RES/1368 (2001).

Provence, the United States would not be entitled to lob onto his villa even the most intelligent of missiles or to drop in a few members of Delta Force without permission from the French Government which, in my hypothetical, is perfectly unaware of his presence. Rather it would have to either secure permission from Paris or authorization from the Security Council. Is this an intolerable constraint on the protection of nations against transnational terrorism? Would it not be fair to say that disregard of the extant law in a case like this would end that cooperation between the intelligence services of France and the United States which the Bush Administration has lauded?[81] Surely legal constraint in this case reinforces or at the very least reflects the conditions of interstate cooperation essential for the counter-terrorist struggle.

What can be done under Charter norms where a group allegedly disposed to transnational terrorism is merely nascent? Let us hypothesize a case where US intelligence identifies an anti-American group and determines that it is beginning to plan attacks on American targets. Since most governments are today hostile to transnational terrorism and inclined to cooperate in its suppression, a word from Washington wrapped, perhaps, in a few incentives, should be sufficient to secure local steps to suppress the budding terrorists. But suppose the government is reluctant or unable to act because the alleged terrorists are members of an important ethnic constituency or are located in a remote part of the country where there is virtually no governmental presence. Then there are two possibilities. One is that the US would obtain the other state's authorization to act in effect as its proxy. Obviously the rights of sovereignty allow one state to outsource a limited exercise of its police power to another. The other possibility is that it would seek authorization from the Security Council. Since all Permanent Members regard transnational terrorism, particularly Islamic terrorism, as a threat to their respective national interests, if the US can offer persuasive intelligence of the group's aims, the Council is likely to exercise its now well-precedented authority to authorize preventive action. This may, admittedly, involve some risk to intelligence sources.

But what is the alternative? That the United States globally and lesser powers regionally should be free to lob missiles or troops into a country and kill or kidnap its residents, often with collateral injury to persons conceded to be innocent, on the basis of such intelligence as each deems sufficiently reliable? The likely result of repeated violation of the territorial integrity of states is the progressive collapse of cooperation on a whole range of issues including non-proliferation. If states are thrown back on their own resources to guarantee their security, the incentive to find means for deterring intervention by more powerful actors will be multiplied. It is hard to think of means to that end other than the reputed possession of weapons of mass destruction.

The one other scenario often adduced by enthusiasts for preventive intervention is the imminent acquisition of nuclear weapons by a state not presently a member of the nuclear club. The High Level Panel Report addresses this case directly, hypothesizing an instance where a state suddenly acquires nuclear weapons-making capability. The Panel members' response is that even without evidence of any intention on the part of the acquiring state to use the weapons or to seek

---

[81]   See 'Help from France Key in Covert Actions', in *The Washington Post* (July 3, 2005), in which they describe the important alliance between French and US intelligence officials. The article states that "the rarely discussed Langley-Paris connection also belies the public portrayal of acrimony between the two countries that erupted over the invasion of Iraq."

concessions by threatening use, the Council could find a threat to the peace and authorize enforcement measures. In doing so, the Council might well take into account legitimate fears of intervention on the part of the acquiring state and condition enforcement measures on the provision of pledges of non-intervention from states that have previously threatened it.

The nub of the matter, then, is that, properly construed, the Charter's normative and institutional arrangements are consistent with the imperative interests of great states in the era of transnational terrorism. They are inconsistent only with the dangerous hegemonic delusions not of the United States as a society, but of the small but powerful clique embedded in the Bush Administration.

Neither conclusion is intended to celebrate the existing system of global governance. It is plainly inadequate to deal very effectively with the full range of threats to human security. There are, for instance, two dozen or more states governed by tyrants and kleptocrats unable or unwilling to provide their peoples with a minimum number of public goods and thereby killing them through the slower mechanisms of malnutrition and preventable disease. A more perfect system of governance would remove these mafias or reckless incompetents and place these states under trusteeships for the benefit of their peoples. It would also foster much greater interstate cooperation, including intrusive surveillance, to reduce the risk of pandemics, a risk more grave than bio-terrorism at this time. These examples could easily be multiplied. More effective governance will not occur unless and until the United States is prepared to institutionalize cooperation among the leading states. As long as the United States is ruled by men and women unwilling to acknowledge normative restraint on their discretion to employ force, effective governance will be a vision unfulfilled.

Legitimate Means

It ought to verge on cliché to say that human rights law along with the laws of armed conflict or international humanitarian law, as they are often summarily called, provide the operational standards by means of which we can test whether the methods employed in the struggle with terrorist groups are compatible with our general values. And yet it is not hard to find a substantial body of recent legal writing on the conflicts in Afghanistan and Iraq and on other dimensions of the struggle that focuses exclusively on the Hague Regulations, the Geneva Conventions of 1949 and the 1977 Protocols Additional to them, as if the laws of war alone provided relevant criteria for assessment of what we are doing.

That it is a serious omission, a failure to bring all relevant legal criteria to bear on the issues, seems to me hardly worth disputing. After all, there is nothing in the history or language of the baseline legal statement of core human rights, the International Covenant on Civil and Political Rights,[82] on which to ground an argument that it was not intended to apply once armed conflict begins. Rather the contrary. By virtue of being about human rights, the Covenant purports to

---

[82] International Covenant on Civil and Political Rights, UNGA Res. 2200A (XXI), *GAOR*, 21st Session, Supp. No. 16, 52 (1966) [hereinafter ICCPR]. *See also* International Covenant on Civil and Political Rights, GA res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 52, UN Doc A/6316 (1966), referred to as the "companion" to the ICCPR.

declare the rights of all individuals at all times in all places and the corresponding duties of states. What distinguishes the idea of human rights from earlier normative declarations concerning rights and human dignity is precisely its comprehensiveness in time and space.

The rights adhere to people by virtue of their being born rather than being Englishmen or Christians or persons at different levels of the feudal hierarchy. Moreover, the Covenant takes explicit account of exigent circumstances, such as threats to public order and security, both in its statement of certain rights, like freedom of association, and in its provision for the suspension of the majority of its guarantees "in time of public emergency which threatens the life of the nation."[83] Few threats other than a major armed conflict and the looming danger of catastrophic attack could satisfy that standard.

Nor is there anything in the parallel but largely independent evolution of the law of human rights and the law of armed conflicts suggestive of an intention by state parties that the latter should utterly displace the former whenever armed conflict erupts. Humanitarian law is rightly seen as *lex specialis,* a body of law that brings the relative generalities of the Covenant to earth in an often very detailed form taking painstaking account of the peculiar circumstances of armed conflict. What, for instance, if it is not a commandment to pacifism, does the right to life mean in a context defined by the efforts of organized groups to achieve their political ends by killing each other? The law of armed conflict provides a reasonably detailed answer. But with respect to matters where it does not provide a clearer, more detailed and precise answer than the Covenant or where, allegedly, it does not apply to certain persons, human beings are not relegated to a normative abyss where anything goes.

Thus in the context of armed conflict, human rights law can be seen as a safety net assuring that no one lies beyond the reach of legal protection. Article 16 of the Covenant, which states that "Everyone shall have the right to recognition everywhere as a person before the law," nicely expresses this idea of human rights law as the ultimate defense against the law of the jungle.

Before turning to legal and ethical issues that the counter-terrorist struggle has generated thus far, I want in all fairness to recall the setting in which the Bush Administration made the fateful decision to pursue its ends unconstrained by conventional interpretations of the applicable law. In the immediate aftermath of the 9/11 catastrophe, the Administration's imperative was to avert further attacks, attacks which its leaders appeared genuinely to fear.[84] Certainly such fear had

---

[83]   Ibid., at Part 2, Article Four (1): "In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin."

[84]   Compare 'By invitation: Harold Hongju Koh, 'Rights to Remember''', *The Economist* (November 1, 2003), at 24: "The American administration responded to the twin-towers tragedy with a sweeping new global strategy: an emerging 'Bush doctrine,' if you will. One element of this doctrine is what I call 'Achilles and his heel.' September 11th brought upon America, as once upon Achilles, a schizophrenic sense of both exceptional power and *exceptional vulnerability* (italics added). Never has a superpower seemed so powerful and so vulnerable at the same time."

ample grounds and, as the Report of the 9/11 Commission implies,[85] the extraordinary thing is that it took the destruction of the Twin Towers to arouse and focus it on the al-Qaeda network. After all, President Bush and his colleagues preside over a country with immense borders on the land and sea sides, dependent as a global economic powerhouse on the largely uninhibited movement of people and goods across those borders and without an effective accounting system for citizens and documented aliens much less undocumented ones.

Furthermore, as the previous Oklahoma City bombing had demonstrated, the country has a super-abundance of targets vulnerable to catastrophic attack by means easy to assemble from separately innocuous items like fertilizer and diesel oil. In addition, rather than being confronted with some ultimatum to do one thing or another within a certain period of time lest a second attack occur, the Administration faced a diffuse, apparently vengeful, hostility possibly bonded to the belief that a series of devastating blows would effect that generalized withdrawal from the Middle East that Osama bin Laden seemed to seek or would generate broad support for him among Arabs, a people humiliated by centuries of defeat and foreign domination.

From this perspective, it was imperative to act with extreme urgency to disrupt communications and logistics within the terrorist network, to force its members into a defensive crouch, and to incapacitate as many of them as possible in the shortest possible time. Osama bin Laden and associates had been a fixture on the radar screen of US intelligence agencies for at least a half dozen years. As Richard Clarke has testified, the counter-terror specialists within President Clinton's National Security Council security network regarded al-Qaeda as one of the major threats, possibly *the* major threat, to the internal security of the United States, regarded it as an organization with the will and the capacity to inflict catastrophic damage whether through conventional means or biological and chemical weapons.[86]

Given these concerns, stemming in large measure from attacks on US military and diplomatic assets, intelligence agencies had no doubt been tracking persons associated with al-Qaeda for years before 9/11.[87] Thousands of Muslims had passed through the al-Qaeda training facilities in Afghanistan during the war of national liberation against Soviet occupation and afterwards or had at least fought in units that bin Laden had helped to arm. Many had then dispersed to various parts of the world, including Europe and even the United States.[88] All of these thousands had at least

---

[85]   *The 9-11 Commission Report: the Final Report of the National Commission on Terrorist Attacks upon the United States*, New York: W.W. Norton and Co., Inc. (2004).

[86]   *Testimony of Richard A. Clarke before the National Commission on Terrorist Attacks Upon the United States* (March 24, 2004), available at http://www.9-11commission.gov/hearings/hearing8/clarke_statement.pdf. See also *Against All Enemies: Inside America's War*, New York: Free Press (2004).

[87]   *See, e.g.,* Andrew Zajac, 'Report Details FBI 9/11 Flubs', *The Chicago Tribune* (June 10, 2005), at 19. Zajac summarizes a report by the Justice Department's Inspector General on why the CIA and the Justice Department at their highest levels failed to receive and synthesize data, available at lower levels, which would have alerted them and hence the President to the immediate risk of a 9/11-like occurrence. The Report notes, for instance, that CIA agents had detected the presence in January 2000, at a meeting of al-Qaeda militants in Malaysia, of one of the 9/11 terrorists and had determined that he had acquired a US passport. They did not pass the information along to the FBI.

[88]   See, e.g., Hal Bernton, et al., 'The Terrorist Within: the Story Behind One Man's Holy War Against America', *The Seattle Times* (June 23-July 7, 2002), *available at* http://seattletimes.nwsource.com/news/

rudimentary training in firearms and explosives and most, having left home and family to face the rigors and mortal dangers of war, first against the Soviets and then against local enemies of the Taliban regime, could be assumed to embrace the militant form of Islam then encouraged by Pakistan, which had controlled the flow of American aid to the insurgency, and personified by bin Laden and the Taliban. Their numbers, training and ubiquity and the probable disposition of many to see the world in the same terms as bin Laden and to take if not orders in all cases than at least inspiration from him provided ample grounds for the sensation of a grave and immediate threat of more 9/11s.

While the US and cooperating intelligence agencies must have had many names on their watch lists,[89] some of them identified by CIA agents working with the Afghan resistance to the Soviets, given the thousands of persons who had passed through the conflicts in Afghanistan and the clandestine ways in which they had entered and left that country, the agencies could not have believed that they had identified more than a small fraction of the persons who might be prepared to carry out missions for al-Qaeda. Moreover, again in light of the numbers involved, many militants must have disappeared from intelligence radar screens after they had left Afghanistan. In addition, given the level of anger and frustration within the Arab world about its poverty, backwardness and legacy of domination by Western countries led since World War II by the United States, the intelligence agencies and the White House were probably destined to assume that the Afghan-trained militants could co-opt to their cause thousands of young men and women from all over the Arab and wider Islamic world including disaffected persons living within the large immigrant communities of Western Europe and, possibly the much smaller American one. In short, the circumstances provided the White House with immense incentives to round up and detain anyone in the United States who might be associated with al-Qaeda and to extract actionable intelligence from them and from persons in other countries detained by their security services. Hence the question of allowable interrogation methods had to have been on the Administration's mind virtually from the outset of its response to 9/11.[90]

Deconstructing the Laws of War

Debate over the application of the Geneva Conventions to the conflict in Afghanistan appears to have begun within weeks of 9/11. By January 18, 2002, the Department of Justice had already issued a formal legal opinion concluding that Geneva Convention III did not apply to al-Qaeda and that there were reasonable grounds for the President to conclude that it did not apply to the Taliban either.[91] Whereupon the President announced that Convention III would not apply to either.[92] The

---

     nation-world/terroristwithin/about.html. See also 'Frontline: Inside the Terror Network', available at http://www.pbs.org/wgbh/pages/frontline/shows/network.

89   Zajac, at 19.

90   Alan Dershowitz, *Why Terrorism Works*, New Haven: Yale University Press (2002), at 134: "shortly after that watershed event [9/11], FBI agents began to leak stories suggesting that they might have to resort to torture to get some detainees, who were suspected of complicity in al Qaeda terrorism, to provide information necessary to prevent a recurrence."

91   See especially John C. Yoo and Robert J. Delahunty, *Memorandum for William J. Haynes II* (January 9, 2002), available at http://www.msnbc.msn.com/id/5025040/site/newsweek. See also Neil A. Lewis,

State Department immediately sought reconsideration. In a Memorandum to the President dated only seven days later, then-White House Counsel Alberto Gonzalez, after summarizing the competing arguments, concluded that those made by the State Department were unpersuasive. In that memorandum, Mr. Gonzalez, later to become the Attorney General of the United States, argued that the war against terrorism was a new kind of war, one placing a premium on, among other things, "the ability to quickly obtain information from captured terrorists."[93] He then added: "In my judgment, this new paradigm renders obsolete Geneva's strict limitations on questioning of enemy prisoners."[94]

Taking into account the enormous number and variety of that Department's responsibilities, it would strain credulity if someone suggested that the initial Justice Department memorandum or those written the following year specifically on the issue of torture, were spontaneously generated by mid-level officials. Rather reason and experience dictates the conclusion that the White House requested legal advice both to determine the limits imposed by acts of Congress and the risk of criminal liability particularly for persons not in a position to deny responsibility if they went outside statutory law and their actions became public.

Along with incapacitating potential terrorists and collecting operational intelligence, the highest priority in those early days was to strike directly at bin Laden and to terminate use of Afghanistan as a terrorist haven by replacing the country's de facto government. An invasion of Afghanistan would serve punitive purposes and might coincidentally disrupt the al-Qaeda network, disperse its leading figures and limit their communications with cadres and affiliates in other parts of the world. A decision must have been made at a very early point that the Administration could not achieve its goals in Afghanistan simply through clandestine support of the Taliban's internal opposition, the Northern Alliance.[95] There had to be open military intervention.

Not only was this operationally necessary, for three reasons it might well have seemed positively desirable. First, it would demonstrate the power of the United States and the will of a right-wing Republican Administration, unlike its Democratic predecessor, to use it ferociously.

'Justice Memos Explained How to Skip Prisoners Rights', *The New York Times* (21 May 21, 2004), at A10. The evolution of the Bush Administration's thinking regarding the status and treatment of captured Taliban and al-Qaeda forces is perhaps best illustrated by the memorandums and correspondence issued in the months after the 9/11 attacks. For an extensive collection of these documents, see generally Mark Danner, 'Torture and Truth: America, Abu Ghraib, and the War on Terror', *New York Review of Books* (2004); *and* Karen J. Greenburg and Joshua L. Dratel (eds.), *The Torture Papers: the Road to Abu Ghraib*, Cambridge: Cambridge University Press (2005).

[92] See White House Press Secretary Ari Flesicher, Press Briefing at the White House (7 February 7, 2002), at 1-2, available at http://www.whitehouse.gov/news/releases/2002/02/20020207-6.html.

[93] Alberto Gonzalez*, Memorandum to Pres. George W. Bush* (January 25, 2002), at 2, available at http://news.lp.findlaw.com/hdocs/docs/torture/gnzls12502mem2gwb.html.

[94] Ibid. But compare Anthony Lewis, 'Making Torture Legal', *The New York Review of Books*, Vol. 51, No. 12 (July 15, 2004), at 6. In assessing the interpretations of international law advocated by Gonzalez and co., Lewis notes: "There is a French phrase for betrayal of standards by intellectuals: *la trahison des clercs*. I think this is the lawyer's version: *la trahison des avocats*."

[95] See *The 9-11 Commission Report* at 330-334 on the evolution of Administration planning regarding Afghanistan following the 9/11 attacks.

For years one article of the neo-conservative faith had been that President Bill Clinton was dissipating the advantages of hegemony, indeed was actively betraying the national interest, by failing to use force robustly.[96] In particular, neo-conservatives believed that the problem of terrorism directed at US assets abroad was integrally related to a perception on the part of terrorist-supporting regimes and of terrorist organizations that public opinion in the United States and hence the US Government was casualty averse.

Second, senior figures in the Administration were keenly aware of public opinion polling data stretching back decades indicating that short and decisive military operations produced spikes in Presidential popularity that could probably be translated into support for domestic initiatives.[97] In this instance, however, the President had already achieved that spike simply by virtue of going to the Trade Center site, talking tough and announcing that the country was at war.[98] Actually going to war was likely to sustain his extraordinary approval ratings. As the President appears to have been keenly aware, his father's approval ratings had fallen gradually but in the end decisively once the Gulf War ended.[99] Actual war, precedent indicated, could serve a third purpose, namely maximizing Presidential power under the Constitution by inhibiting Congress or the Courts from questioning it.[100] In time of peace, for instance, a declared policy of holding aliens, much less citizens, without charge or trial for as long as the President deemed necessary or subjecting them to trial by Courts Martial or Military Commissions or turning detained persons over to governments likely to torture them was unlikely to survive a test in the federal courts as currently staffed. So war there was to be and for the professional military and presumably for the President's

---

[96] See George Packer, *The Assassins' Gate: America in Iraq*, New York: Farrar, Straus and Giroux (2005), at 14-38.

[97] See especially Richard Neustadt, *Presidential Power and the Modern Presidents*, New York: Free Press (1990). See also Jon Mueller, *War, Presidents, and Public Opinion*, New York: John Wiley and Sons (1973).

[98] See Frank Newport, 'Bush Job Approval was 51% Immediately Before Tuesday's Attacks', *The Gallup Poll* (September 12, 2001), available at http://poll.gallup.com/content/default.aspx?ci'4882&pg'1. See also 'American Psyche Reeling From Terror Attacks', The Pew Research Center for the People and the Press (September 19, 2001), available at http://people-press.org/reports/display.php3?ReportID'3. Per the Pew survey, Bush's approval ratings spiked to "historic heights" in the weeks after 9/11: eight-in-ten Americans claimed to approve of Bush's job performance, an increase of 51% in a few weeks. Per the survey, "this placed Bush's approval mark on par with the 84% rating his father received in March 1991, shortly after the US victory in the Persian Gulf War." More specifically, Bush received even higher ratings for his response to the 9/11 attacks; per the survey, "85% approve of his performance on that front."

[99] See generally 'On the Eve of '92: Fault Lines in the Electorate', The Pew Research Center for the People and the Press (December 4, 1991), available at http://people-press.org/reports/display.php3?Report ID'19911204.

[100] The accumulation and concentration of war powers by the Executive Branch over the past few decades has generated a wide range of debate, scholarship and commentary. For a strong criticism of this pattern, particularly under the Bush Administration, see generally Louis Fisher, *Presidential War Power*, 2nd Edition, Lawrence, Kansas: University Press of Kansas (2004). But compare David Mervin, 'Demise of the War Clause', *Presidential Studies Quarterly*, Vol. 30, Issue 4 (2000), for an (pre-9/11) argument in favor of enhancing the scope and scale of Presidential war powers.

civilian legal advisors, as well, that meant engagement with the laws of war, in particular the Geneva Conventions.

One benefit of invoking the laws of war is the *laissez passer* they give for killing anyone who appears to be a combatant. Combatants are legitimate targets at all times and places, not simply on the battlefield or when fleeing there from. The fact that he is on leave sniffing roses in his garden does not immunize a commander from attack. Hence another advantage derived from simply folding Afghanistan into a generalized war against international terrorism, to the extent this description came to be widely accepted as reasonable, was that it could arguably legitimate targeted killing of al-Qaeda operatives all over the world, not simply in Western Asia.[101]

Of course, if the killing occurred within the borders of a state not manifestly complicit with al-Qaeda, and without permission from that state's government, that government might claim after the fact a violation of sovereignty, but at least the war paradigm would tend to nullify a parallel claim of gross violation of the right to life. Moreover, the United State might defend itself against the alleged breach of sovereignty by citing the Security Council Resolutions following 9/11 recognizing and authorizing exercise by the United States of self-defense rights under Article 51.[102] It could claim, in other words, that the resolutions, adopted pursuant to Chapter VII, implicitly licensed the United States to take all measures necessary for self-defense against a diffuse threat.[103] And that might include striking al-Qaeda functionaries immediately, wherever found, if delay occasioned by the effort to contact the relevant government and secure permission might allow the target to escape. A further advantage of the war paradigm, as previously suggested, is its power to justify detention without charge or trial for the duration of the conflict.[104]

---

[101] See, e.g., David Johnston and David E. Sanger, 'Threats and Responses: Hunt for Suspects, Fatal Strike in Yemen was Based on Rules Set Out by Bush', *The New York Times* (November 6, 2002), at A16. See also Philip B. Heymann and Juliette N. Kayyem, 'Long-Term Legal Strategy Project for Preserving Security and Democratic Freedoms in the War on Terrorism', *Final Report of the Long-Term Legal Strategy Project*, Cambridge, MA: Belfer Center for Science and International Affairs (November 16, 2004), at 62-70. But compare Daniel Byman, 'Do Targeted Killings Work?', *Foreign Affairs*, Vol. 85, No. 2 (March/April 2006).

[102] See S/RES/1368 (2001), S/RES/1373 (2001), S/RES/1377 (2001), S/RES/1378 (2001). Resolutions and Decisions of the Security Council, 1 January 2001 to 31 July 2002. UN Document Symbol: S/INF/57. Call Number S (01)/R3. Publication Date: 2003.

[103] Charter of the United Nations, Chapter VII, Article 51. Article 51 states, in part: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security." See also Yoram Dinstein, 'Jus Ad Bellum Aspects of the 'War on Terrorism'', in Wybo P. Heere (ed.), *Terrorism and the Military: International Legal Implications*, The Hague: TMC Asser Press (2003), at 13-22: "What gives rise to the rightful invocation of self-defense is only (and exclusively) an armed attack. All the same, once an armed attack is unleashed, the victim state is allowed by Article 51 to take forcible action (without seeking the prior approval of the Security Council)."

[104] See Avril McDonald, 'Terrorism, Counter-Terrorism and the Jus in Bello', *Terrorism and International Law: Challenges and Responses*, Meeting at the International Institute for Humanitarian Law (May 30-June 1 and September 24-26, 2002), at 68.

The conflict in Afghanistan itself promised to be short, but as the President and Secretary of Defense repeatedly declared, the war against terrorism could last for a generation or more.

The Temptation to Torture

The main disadvantage in invoking the humanitarian law of war is, as the former White House Counsel noted, its detailed safeguards for prisoners of war.[105] The Bush Administration must have hoped to capture and interrogate those members of al-Qaeda who survived the fighting. Senior Taliban commanders might also have information useful for foiling planned actions and rolling up the al-Qaeda global network. Geneva law does not incorporate anything like the American Miranda rule[106] which requires police to inform criminal suspects of their right to remain silent and to have appointed counsel and also requires them to cease interrogating a suspect who, having been informed of his rights, requests a lawyer. Interrogation can begin again after the lawyer appears, but in the normal course, defense lawyers counsel silence at least until suspect and lawyer have had a chance to develop a defensive strategy.

Military interrogators can ask POWs all the questions that occur to them, but Article 17 of the Third Geneva Convention ties the hands of coercion by stating that "[n]o physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever." And just in case that is not clear enough, it adds: "Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind." In addition, Article 21 limits more subtle forms of coercion by declaring that "prisoners of war may not be held in close confinement (e.g. in cells) except where necessary to safeguard their health." Naturally there is an exception where prisoners are properly subjected to penal and disciplinary sanctions, as would be the case if they had attacked guards or fellow inmates or attempted to escape. Article 25 goes still further and requires that POWs be quartered "under conditions as favorable as those for the forces of the Detaining Power who are billeted in the same area."

Other articles spelling out obligations concerning the provision of medical services, food, clothing, opportunities for physical exercise, and contact with the outside world through letters to loved ones also assure that the conditions of detention are not such as to pressure militant detainees into providing the authorities with intelligence. Overall the Geneva-mandated POW regime is far less severe than the regime for common criminals in most prisons, certainly less severe than prisons in the United States[107] other than those set aside primarily for wealthy non-violent felons biding their time before returning to the wars of capital accumulation. Nor is it

---

[105]   See generally 1949 Geneva Convention III Relative to the Treatment of Prisoners of War [hereinafter GC III]. See also Silvia Borreli, 'The Treatment of Terrorist Suspects Captured Abroad: Human Rights and Humanitarian Law', in Silvia Borreli (ed.), *Enforcing International Law Norms Against Terrorism*, Oxford: Hart Publishing (2004), at 39-61.

[106]   See *Miranda v. Arizona*, 384 US 436, 86 S.Ct. 1602 (1966).

[107]   See, e.g., Jamie Fellner, 'Prisoner Abuse: How Different are US Prisons?', *Human Rights Watch* (May 14, 2004), available at http://hrw.org/english/docs/2004/05/14/usdom8583.htm. For a European perspective, see, for instance, Bernard-Henri Lévy, *American Vertigo: Traveling in the Footsteps of Tocqueville*, New York: Random House (2006), at 23-25, 85-88 and 150-153.

possible to evade the regime by transferring detainees to the custody of governments less punctilious about observing the commandments of Geneva III. Article 12 precludes transfer to any state's authority unless the transferring state "has satisfied itself of the willingness and ability of the [receiving state] to apply the convention."

As far as one can tell, the chronology of Bush Administration responses to this dilemma was essentially as follows. Its first reaction was to declare that the Geneva Conventions did not apply to the conflict in Afghanistan because the Taliban was not a government but rather a mere faction and therefore its troops were not members of the armed forces of a High Contracting Party, to use the language of the Convention.[108] The previously mentioned Justice Department memorandum suggested, moreover, that the President could conclude that Afghanistan was a "failed state," i.e. that there had been a complete collapse of legitimate authority.[109] As a matter of general international law, the claim that the Taliban leaders did not constitute the government of Afghanistan was a hard position to maintain persuasively in a legal order in which historically, the de facto authorities had generally been deemed to embody sovereignty for most purposes. In September of 2001 and for several years previously, the Taliban had controlled all but a small fraction of the country.[110] Moreover, it enjoyed formal recognition by Pakistan, Saudi Arabia and the United Arab Emirates.[111]

A second difficulty for the Administration, assuming it sought a free hand in dealing with members of al-Qaeda and the Taliban, arose from Article 2 of Geneva IV, which deals with the protection of civilians.[112] It provides that "The Convention shall … apply to all cases of partial or total occupation of the territory of a High Contracting Party" (Afghanistan was such a party). If, as the semi-official steward of the Conventions, the widely respected International Committee of the Red Cross, has concluded, all persons in occupied territory are either civilians or POWs, then if the Taliban soldiers and officials were not the latter, they were the former and that meant, according to Article 27 of the Fourth Convention that "they are entitled to respect for their persons," that "they shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity." As if that were not enough protection, Convention Four doubles up along the lines of the Third. Article 32 states that

---

[108] See footnote 15 above, at 1.

[109] Ibid., at 1: "Afghanistan was a failed state because the Taliban did not exercise full control over the territory and people, was not recognized by the international community, and was not capable of fulfilling its international obligations." But compare William H. Taft, *Memorandum to John C. Yoo* (January 11, 2002), at 4, available at http://www.newyorker.com/online/content/articles/050214on_onlineonly02 [hereinafter the Taft Memo]: "neither the United States nor any other country has viewed Afghanistan at any point as ceasing to be a State. Neither the United States nor any other State has viewed it as ceasing to be a party to international agreements. The fact that the United States did not recognize the Taliban as the government of Afghanistan is completely irrelevant."

[110] For a concise overview of the creation and evolution of the Taliban, see generally 'Afghanistan – Crisis of Impunity: the Role of Pakistan, Russia and Iran in Fueling the Civil War', *Human Rights Watch*, Vol. 13, No. 3 (July 2001).

[111] Ibid., at 16.

[112] 1949 Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War [hereinafter GC IV].

"The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering … of protected persons in their hands. This prohibition applies not only to murder, torture, [and] corporal punishment … but also to any other measure of brutality whether applied by civilian or military agents."

In one respect, the Fourth Convention looked to be a harder legal nut to crack for the Administration's purposes even than the Third, because unlike the latter, it precluded "individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, … regardless of motive." The only exception allowed is movement of people who get in the way of military operations under circumstances where moving them elsewhere in the territory is impossible. But persons so moved must be "transferred back … as soon as hostilities in the area in question have ceased." It is clear from the overall language of the Article that merely having conflict going on, as it still is, in some part of Afghanistan, for instance in a remote area near the Pakistan border, would not justify keeping civilians from returning to an area of the country where the ongoing conflict would not threaten their well being.

Worse yet, from the Administration's perspective, the Fourth Convention appears applicable to al-Qaeda members no less than native Afghanis. For Article 4 defines Protected Persons not as citizens or permanent residents of the occupied territory, but simply as "those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals."

Faced with these obstacles to its ends, the Bush Administration rejected the ICRC dichotomy, insisting that in addition to POWs, protected by the Third Convention, and civilians, protected by the Fourth, in any given conflict there may be a third category of persons: These are people who are not civilians, because they were organized combatants, but neither are they POWs because they do not satisfy the Third Convention's criteria of eligibility for POW status.

In my recently published book, *Confronting Global Terrorism and American Neo-Conservatism: the Framework of a Liberal Grand Strategy,* I have noted certain problematic aspects of the Administration's characterization claims. But even if one accepted those claims, the Administration would still be faced with insuperable legal obstacles to its apparent initial desire to evade all legal restraints on its discretion with respect to the extraction of information from detainees and more generally setting the conditions and length of their detention. For however the United States characterized the Taliban or al-Qaeda fighters, in its treatment of them it was at a minimum required to comply with Common Article 3 of the Four Geneva Conventions which states that:

the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to [persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause] (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; … (c) outrages upon personal dignity, in particular, humiliating and degrading treatment and (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

There can be no legitimate dispute about the proposition that Article 3 is a summary of the core elements of the Conventions, the elements designed to inject a minimum of humanity into the awful business of war, the elements without which war becomes a struggle among rabid beasts. In 1949, most states were unwilling to treat persons who took up arms against the constituted authorities as prisoners-of-war.[113] They wanted the option of treating them as criminals. Article 3 summarizes what minimal part of the Four Conventions they were willing to accept as inhibiting their choice of means. This minimum did not come from beyond the rest of the four conventions; it clearly came from the conventions themselves. It is striking, and suggestive of how basic are the Article 3 prohibitions, how inseparable they are from the essence of the Geneva Conventions, that they correspond so closely to the substance of the idea of Crimes Against Humanity[114] as the activator of legitimate intervention and international criminal liability, concepts that have ripped holes in the definition of national sovereignty that prevailed at least until the end of World War II and the Nuremberg Trials.

Reinforcing Article 3 is the very widely ratified Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It defines 'torture' as: any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession … when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.[115]

Consistent with the equivalent prohibition in the ICCPR, it provides that "No exceptional circumstances whatsoever, whether a state or war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."[116] And it forecloses the evasive practice of rendition of persons to other jurisdictions by prohibiting extradition of a person "to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture."[117] Also strikingly relevant is Article 11's requirement that "Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any

---

[113] See Michael Bothe, et al., *New Rules for Victims of Armed Conflicts*, The Hague: Martinus Nijhoff Publishers (1982), at 2-10. See also Elizabeth Chadwick, *Self-Determination, Terrorism and the International Humanitarian Law of Armed Conflict*, The Hague: Martinus Nijhoff Publishers (1997), at 80-85.

[114] Donald W. Wells, *War Crimes and Laws of War*, 2nd edition, Lanham, Maryland: University Press of America (1984), at 114; quoting from 'Nuremberg Trial Proceedings Vol.1: Charter of the International Military Tribunal', Section II, Article 6 (August 8, 1945), available at http://www.yale.edu/lawweb/avalon/imt/proc/imtconst.htm. Article 6 defines 'Crimes Against Humanity' as: "namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated."

[115] *Convention Against Torture*, Article 1.

[116] Ibid., at Article 2, Paragraph 2.

[117] Ibid., at Article 3.

cases of torture." While not defining acts of cruel, inhuman and degrading treatment which do not amount to torture, the Treaty says that all of the provisions in it relating to torture are also intended to cover such acts.

The first formal statement of the Bush Administration's interpretation of the Torture Convention as incorporated into American law is contained in a memorandum addressed to the President's Counsel by the Department of Justice. It defines torture as:

Physical pain … equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily functions, or even death. For purely mental pain or suffering to amount to torture … it must result in significant psychological harm of significant duration, e.g. last for months or even years. [In sum], we conclude that the statute, taken as a whole, makes plain that it prohibits only extreme acts.[118]

Under this construction such tactics as the removal of teeth by means of hammers and the extraction of finger and toe nails might be found merely cruel and inhuman in that they were not akin to acts producing organ failure or the impairment of bodily functions and therefore could be presumed not to cause the threshold intensity of pain. After all, as long as some teeth remain, a chap can eat; indeed with implants he can ultimately be as good as new, after a time. As for feet without nails, they can still be made to walk, however painfully.

From credible press reports, it is apparent that most military lawyers strongly opposed the conclusions of the memorandum, in part because they in effect licensed behavior clearly prohibited by the rules and regulations of the US armed forces.[119] When the memorandum was leaked to the press, it became the subject of widespread denunciation by human rights and civil liberties groups, by leading newspapers and by many independent legal experts. The Administration has denied ever acting on the basis of the definition of torture contained in the memorandum[120] and it has since nominally repudiated the definition's narrowness,[121] although it

---

[118] See Jay S. Bybee, *Re: Standards of Conduct for Interrogation under 18 US C. ' ' 2340-2340A* (August 1, 2002), at 2-3, available at http://www.washingtonpost.com/wpsrv/nation/documents/ dojinterrogationmemo20020801.pdf. But compare Jerome Slater, 'Should We Try To Regulate and Control Torture?', *Political Science Quarterly*, Vol. 121, No. 2 (summer, 2006), at 195: "after severe criticism, the Justice Department formally retreated from the Bybee memorandum in late 2004; the Bush Administration now officially accepts that any 'severe' physical and mental pain and suffering constitutes torture and is therefore prohibited by US as well as international law."

[119] See Lisa Hajjar, 'An Army of Lawyers: JAGs and Radicals Join Forces', *The Nation*, Vol. 281, Issue 22 (December 26, 2005), at 41. See also Charlie Savage and Bryan Bender, 'Policy Rift Seen on Detainees', *The Boston Globe* (June 24, 2004), at A1.

[120] See Kames G. Lakely, 'Values' Guided Bush Torture Ban', *The Washington Post* (June 23, 2004), at A01. See also George W. Bush, *Memorandum on the Humane Treatment of al Qaeda and Taliban Detainees* (February 7, 2002), available at http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB127/ 02.02.07.pdf.

[121] See Bybee, *Re: Standards of Conduct for Interrogation under 18 US C 2340-2340A*; and *Re: Status of Taliban Forces Under Article 4 of the Third Geneva Convention of 1949*. But compare especially the Taft Memo. In his recently published book *War by Other Means: an Insider's Account of the War on Terror*, New York: Atlantic Monthly Press (2006), Yoo writes that the second memorandum, notionally repudiating the first (written largely by Yoo) was an "'exercise in political image-making' … [which]

has never specified where it wants the line to be drawn and opposed the legislation that lay down binding limits on interrogation.[122] Nor has it repudiated, indeed it has reaffirmed perhaps the most controversial aspect of the memorandum, namely its claim that in time of war, the President as Commander-in-Chief under the Constitution can override Acts of Congress and international law and treaties incorporated by Congress into US law if, in his or her judgment, that is necessary for the effective prosecution of the conflict.[123]

In large measure, the President himself has stuck to his original script, insisting that persons captured in Afghanistan are not POWs but have been, in general, humanely treated and will continue to be so treated, consistent, however, with military necessity.[124] The positions of the Defense Department and the American armed forces have been more fluid. However, on September 6, 2006, the Department in effect repudiated several tactics of interrogation hitherto employed by specifically forbidding US troops from using forced nudity, hooding, stress positions, military dogs and water-boarding to elicit information from detainees.[125] The new interrogation policies were incorporated in a revised Army field manual. The manual and the related Pentagon directive stated that US forces must adhere to the standards of the Geneva Convention's Common Article 3 and that its standards would apply to unlawful combatants including persons linked to non-state organizations like al-Qaeda. "The new policies also eliminate the … practice of hiding detainees—sometimes called 'ghosting'—and requires anyone operating in a Defense Department facility to follow the … new regulations."[126]

The most legally important definition of torture currently available is the 1999 decision of the European Court of Human Rights in *Selmouni v. France*, where the Court stated that:

…having regard to the fact that the [Torture] Convention is a 'living instrument which must be interpreted in the light of present-day conditions', the Court considers that certain acts which were classified in the past as 'inhuman and degrading treatment' as opposed to 'torture' could be classified differently in future. It takes the view that the increasingly high standard being required in the area of the protection of human rights and fundamental liberties correspondingly and

---

included a footnote to say that all interrogation methods that earlier opinions had said were legal were still legal." See Michiko Kakutani's review, 'An Insider's Account of the War on Terror', *New York Times* (October 31, 2006), p. E1.

[122] See 'Global Agenda: Bush Arm-Twisted Into a Torture Ban', *The Economist* (December 16, 2005). But compare Charlie Savage, 'Bush Could Bypass New Torture Ban', *The Boston Globe* (January 4, 2006), at A1.

[123] See generally John Yoo, *The Powers of War and Peace: the Constitution and Foreign Affairs After 9/11*, Chicago: University of Chicago Press (2005). See also Joel Whitney, 'The Devil's Advocate: an Interview with John Yoo', *Guernica Magazine* (December 2005), available at http://www.guernicamag.com/interviews/102/the_devils_advocate/.

[124] See, e.g., 'President Hosts United States-European Union Summit', *The White House* (June 20, 2005), available at http://www.whitehouse.gov/news/releases/2005/06/20050620-19.html. But compare *Amnesty International Report 2005*, Amnesty International (May 25, 2005), available at http://web.amnesty.org/report2005/index-eng.

[125] Josh White, 'New Rules of Interrogation Forbid Use of Harsh Tactics', *Washington Post* (September 7, 2006) p. 1.

[126] *Ibid.*

inevitably requires greater firmness in assessing breaches of the fundamental values of democratic societies.[127]

Selmouni, the Court found, had been urinated on and beaten in various parts of his body over an extended period. He had not experienced organ failure or otherwise been deposited at death's door.

A ticking-bomb exception?

Defenders of the use of torture and brutal measures on torture's gray frontier regularly invoke the so-called ticking bomb scenario; that is the case where the authorities have incontrovertible evidence that the detainee possesses knowledge essential to aborting an imminent act of mass-casualty terrorism. Surely, they argue, whatever limits may properly be imposed on the use brutal methods must be waived in that case.

My response is as follows: The ticking bomb case is really just a rhetorical device, a debater's fantasy. You could run torture operations for a century without encountering the smirking sociopath who credibly assures you that he's planted a small atomic device which will incinerate the population of lower Manhattan in three hours. That is not the real world.[128] The real world is Algiers, 1958. The resistance owns the Kasbah by night. By day they are teens on street corners, shopkeepers, shoe-shine boys, vendors, students. But at night they own the Kasbah. So one night you begin.

You cordon off a block and grab every male between the ages of 16 (or at least who look 16) and 40. You blindfold and shackle them and take them to some improvised detention center. You strip them and you let them sit naked on the stone floor. If they doze off, you kick them awake. After a while, maybe a long while, you bring them to the interrogation room. Maybe you begin softly, ask if they would like some water or a cigarette or to use the toilet. Maybe you don't. Maybe you start off as if you did not care what they have to say, as if you did not want answers to questions, you just want to experience the pleasure of hurting them. Silent colleagues strap them to the water-board or attach electrodes to their gums and ears and testicles and pour water on them. And you begin. And after a time, most will beg for questions to answer. And eventually they will get their wish. You will give them questions. And sooner or later they will give you answers, names and addresses; they will give them fulsomely, almost with pleasure. Finally, when you can't think of any more questions and they can't think of any more answers, you may just send them back to the bare room and the crawling vermin who share it with them or you may become soft, paternal, concerned, rueful, offer them some tea. Then you go and seize the people they named and search the houses and collect more names. And you discover that some lied, but others told the truth, because you find a pistol or a grenade or a pamphlet in the closet or under a floorboard. You continue, day after day, deliberately sorting through the cornucopia of screamed names, distinguishing the militants from the sympathizers from the innocent until you have unpeeled the

---

[127] *Selmouni v. France* (1999).

[128] See, e.g., Andrew Sabl, 'Torture as a Case Study: How to Corrupt Your Students', *The Chronicle of Higher Education* (November 11, 2005), at B5. See also Dean, at 3; paraphrasing David Luban, 'Torture, American Style: This Debate Comes Down to Words vs. Deeds', *The Washington Post* (November 27, 2005), at B1.

onion and the Kasbah belongs to the parachutists and the Legion. Mission accomplished, sir. The battle of Algiers was won, but of course the French lost the war and in the process almost lost their democratic government.[129]

Now let's move forward forty-six years to another part of the Arab world, to Iraq. A report (the "Fay Report") stemming from an internal US Defense Department investigation following the exposure of the mistreatment of detainees in the prison of Abu Ghraib, states that:

As the pace of operations picked up in late November-early December 2003, it became a common practice for maneuver elements to round up large quantities of Iraqi personnel [i.e. civilians], in the general vicinity of a specified target as a cordon and capture technique. Some operations were conducted at night…[130]

As Mark Danner has written, "In this way the Americans arrested thousands of Iraqis—or, as the Schlesinger Report puts it, they reverted to rounding up any and all suspicious-looking persons, all too often including women and children. The flood of incoming detainees contrasted sharply with the trickle of released individuals."[131] The release was a trickle, according to one US General, because combat commanders had the attitude: "We would not have detained them if we wanted them released."[132] The flood was a flood because, as General Fay points out, the combat soldiers, in their zeal to apprehend Iraqis who might conceivably be supporting those shadowy figures attacking American troops, neglected to filter out those who clearly did not belong in [prisons like Abu Ghraib]. The capturing soldiers, in Fay's words,

…failed to perform the proper procedures at the point-of-capture and beyond with respect to handling captured enemy prisoners-of-war and detainees (screening, tactical interrogation, capture cards, sworn statements…) Failure of capturing units to follow these procedures contributed to facility overcrowding…[133]

My main point is that once torture and cruel, inhuman and degrading treatment become normalized, even if nominally restricted to the ticking bomb case, it will in fact be employed as an every-day means to the end of rolling up the whole carpet of the organization or organizations perceived to be potential planters of such a bomb and then rolling them up again and again as the kin and friends of the tortured and others who feel aggrieved by real or perceived oppression and humiliation resist. Your interrogators will not wait for the mastermind or the delivery agent to

---

[129] See generally General Paul Aussaresses, *The Battle of the Kasbah*, New York: Enigma Books (2006). See also Alistair Horne, *A Savage War of Peace: Algeria 1954-1962*, London: Macmillan Ltd. (1977). But compare Slater, at 203: "It may be rhetorically effective to say that it was torture that caused the French to ultimately lose in Algeria, but it is not accurate; they resorted to torture precisely because they feared defeat if they did not…"

[130] Jones-Fay Report at 37.

[131] Danner, at 30; quoting the Schlesinger Report at 29.

[132] Ibid., at 31; quoting the Fay-Jones report at 39.

[133] Ibid., at 32; quoting the Jones-Fay Report, at 39. *See* also HRW, 'Leadership Failure', at 3-4. Human Rights Watch conducted extensive interviews with US troops in Afghanistan and Iraq to determine how US forces were handling prisoners/detainees, and what directives/orders they were given regarding this: "These soldiers' accounts show how the administration's refusal to insist on adherence to a lawful, long-recognized, and well-defined standard of treatment contributed to the torture of prisoners."

come into their nests. They are not sure who these people are or where they are. You have to start somewhere, they will say. Find the right thread and you can unravel the whole quilt. The trick is finding the right thread and, regrettably, mistakes will be made. To be sure, they are foreseeable, but so is the collateral damage of air and missile attacks. What's the moral difference? Are you a worse human being because you look your mistakes in the eye?

And perhaps, to toughen yourself or because people of a certain cast of mind will be drawn, by process of self-selection, into the game, you will begin to say: Maybe many of these people that did not actually seem to know anything were not really innocent. After all, they were friends of the bad apples. Hell, that's how we got their names in the first place. Or they sympathized with the goals of the bad apples, even if they did not support or had yet to become involved with the means. Innocence is relative. Not everyone, but some may end up thinking just a little bit like the Argentine general in the days of state terror in that country (1976-83) who said: First we will kill all the subversives. Then we will kill everyone who helped them. And then we will kill everyone who did not help us. Yes, the precedent may seem a bit too extreme to be taken as evidence of the potential for contagion.

Still, I think you can see that people who spend their working days inflicting pain and humiliation on other people and are not eager sociopaths or crazed fanatics to begin with, will need to do something to thicken their mental skin. The utilitarian calculus sounds fine when you are sitting in your study in a thick leather chair and telling subordinates what results you want and making sure they understand you don't need to know about the means. But it is pretty weak medicine when human beings are screaming and vomiting blood in front of you. It certainly must help to convince yourself that they are at least a little bit guilty in most cases.

In short, beyond the extreme unlikelihood of the true ticking bomb case, a large part of the liberal answer is that torture like a taste for luxury goods once experienced has an irremediable tendency to spread beyond the small special places where governments may attempt to isolate it. Extreme necessity becomes routinized. And more and more people become implicated. To be implicated in an age or at least in a society where torture remains a dirty little secret is to become deeply wedded to keeping the secret, not just now, but forever.

The Israeli experience illustrates the difficulty of limiting the use of brutal means to ticking bomb cases. In the late 1960s, following the beating death of two Palestinian detainees, the Israeli Government constituted a blue-ribbon commission (the eponymous Landau Commission), chaired by a Supreme Court Justice, to consider, among other things, the methods that the General Security Service, the state's internal security organization, could employ against suspected terrorists in detention. Following prolonged deliberation, the Commission concluded that "in cases where the saving of human lives necessarily requires certain information, the investigator is entitled to apply both psychological pressure and 'a moderate degree of physical pressure [not amounting to torture].'"[134]

While the various apparently stringent conditions surrounding this license to hurt were set out in a secret part of its report, the general understanding was that the Commission intended to limit

---

[134] Report of the Landau Commission of Inquiry (1987); cited in Israel's report to UN Committee against Torture (February 17, 1997), CAT/C/33/Add.2/Rev.1.

physical pressure to ticking bomb types of cases, i.e. to cases where the threat of terrorist attack was strongly evidenced and imminent. When defending physical coercion in a 1999 Supreme Court case concerning GSS interrogation methods, the Government implicitly confirmed this limitation.[135] It argued that GSS authority to employ physical coercion in certain circumstances is implied by the language of the criminal law defense of "necessity" prescribed in Israeli Penal Law. The relevant provision states that:

A person will not bear criminal liability for committing any act immediately necessary for the purpose of saving the life, liberty, body or property, of either himself or his fellow person, from substantial danger of serious harm, imminent from the particular state of things [circumstances], at the requisite timing, and absent alternative means for avoiding the harm.[136]

Despite this nominal policy, according to reliable reports, Israeli GSS personnel have long employed on a widespread and systematic basis practices that are unquestionably cruel and inhuman and sliding over into torture as understood by official inter-governmental institutions and by widely respected non-governmental organizations.[137]

If substantial numbers of people, in high as well as low places, become members of a fraternity of the guilty, democratic governance can begin to erode. You need judges who will find they have no jurisdiction when complaints are brought by torturees who lived to tell the tale or who deliver summary judgments with one-line opinions, you need a compliant press, you need friends in Congress, and you will have them, because the members of the joint-intelligence committee probably knew and so they too are implicated. And you need a military institution and intelligence

---

[135] *Public Comm. Against Torture in Israel v. the State of Israel,* 53(4) P.D. 817 (1999).

[136] Among other organizations, *B'tselem*, the most prominent Israeli human rights group monitoring activities both in Israel and Occupied Territories, has widely reported on torturous behavior of Israel's General Security Service: http://www.btselem.org/english/Torture/Torture_by_GSS.asp.

[137] See Human Rights Watch, *Israel's Record of Occupation: Violation of Civil and Political Rights*, Vol. 10, No. 2E (August 1998), available at *http://www.hrw.org/reports98/israel/htm;* Human Rights Watch, *UN Should Condemn Israeli Torture and Hostage Taking* (July 15, 1998), available at *http://hrw.org/english/docs/1998/07/15/isrlpa1214.htm;* Amnesty International, *Israel and the Occupied Territories: Mass Detention in Cruel, Inhuman and Degrading Conditions,* MDE 15/074/2002 (May 2002), available at *http://web.amnesty.org.library/pdf/MDE15074200ENGLISH/$File/MDE150702.pdf.* The UN Committee Against Torture and the Special *Rapporteur* of the UN Human Rights Commission found that GSS practices identified by an official Israeli investigative body, the so-called Landau Commission, constituted torture (see Tom Lue, 'Coercive Interrogations', Appendix B of Philip B. Heymann and Juliette N. Kayyem, *Long-Term Legal Strategy Project for Preserving Security and Democratic Freedoms in the War on Terrorism,* Kennedy School of Government, available at http://bcsia.ksg.harvard.edu/BCSIA_content/documents/LTLS_final_5_3_05.pdf) p.155, at 161, a position however rejected by the Israeli Supreme Court in *Public Comm. Against Torture in Israel v. the State of Israel,* 53(4) P.D. 817 (1999). For an eye witness account see Ari Shavit, 'On Gaza Beach', *New York Review of Books* (July 18, 1991), available at *www.nybooks.com/articles/3202.* See, in addition, Chris McGreal, 'Facility 1391: Israel's Secret Prison', *The Guardian* (November 14, 2003), available at *http://guardian.co.uk/israel/story/0,2763,1084796,00.htm* and Israeli Information Center for Human Rights in the Occupied Territories*, Legislation Allowing the Use of Physical Force and Mental Coercion in Interrogations by the General Security Service,* Position Paper (January 2000), pp. 61-62, cited in Lue, *supra.*

agencies staffed by persons who will rally round, if exposure is threatened, who will 'understand', maybe even celebrate your ability to transcend your humanity in the name of humanity and national interest. The fraternity needs to maintain a conspiracy of silence. And it needs to be large. Maybe it is sheer coincidence that French democracy barely survived Algeria. Maybe there is simply no comparison. I myself can think of a hundred differences. Still, there just might be a distant cautionary bit of history here. It is not hysterical to factor it into the liberal answer.

But perhaps the strongest strand in the liberal answer also connects to the French experience. As I said, the French lost their war. Flash forward to the present moment and our struggle against mass-casualty terrorism inspired by the example of al-Qaeda. Mark Danner tells of meeting a young Iraqi from Falluja and peppering him with questions about the insurgency. Why were American troops being attacked? How many were carried out by foreigners? How many by local Islamists? And so on. Then Danner writes: "The young man—I'll call him Salih—listened, answered patiently in his limited but eloquent English, but soon became impatient with what he plainly saw as my American obsession with categories and particulars. Finally he interrupted my litany of questions, pushed his face close to mine, and spoke to me slowly and emphatically:

'For Fallujans it is a shame to have foreigners break down their doors. It is a shame for them to have foreigners stop and search their women. It is a shame for the foreigners to put a bag over their heads, to make a man lie on the ground with your shoe on his neck. This is a great shame, you understand? This is a great shame for the whole tribe. It is the duty of that man, and of that tribe, to get revenge on this soldier—to kill that man. Their duty is to attack them, to wash the shame. The shame is a stain, a dirty thing; they have to wash it. No sleep—we cannot sleep until we have revenge. They have to kill soldiers.'[138]

I suppose that, for that list of shames, torture is *a fortiori*.

REFERENCES

- Aussaresses, Paul, '*The Battle of the Kasbah'* (New York: Enigma Books, 2006).
- Blight, James G., and David Welch, *On the Brink: Americans and Soviets Re-examine the Cuban Missile Crisis* (New York: Farrar, Straus & Giroux, 1989).
- Bothe, Michael et al., *New Rules for Victims of Armed Conflicts* (The Hague: Martinus Nijhoff Publishers, 1982).
- Bowett, Derek, *Self-defense in International Law* (New York: Praeger, 1958).
- Brownlie, Ian, *International Law and the Use of Force by States*, (Oxford, UK: Clarendon Press, 1963).
- Brownlie, Ian, *Principles of Public International Law* 4th edition, Oxford (UK: Clarendon Press, 1990).

---

[138] Danner, at 1.

- Chadwick, Elizabeth, *Self-Determination, Terrorism and the International Humanitarian Law of Armed Conflict* (The Hague: Martinus Nijhoff Publishers, 1997).

- Chayes, Abram, *Cuban Missile Crisis* (New York: Oxford University Press, 1974).

- Damrosch, L.F. (ed.), *Enforcing Restraint: Collective Intervention in Internal Conflicts* (New York: Council on Foreign Relations Press, 1993).

- Davis, Calvin DeArmond, *The United States and the Second Hague Peace Conference* (Durham, NC: Duke University Press, 1975).

- Dershowitz, Alan, *Why Terrorism Works* (New Haven: Yale University Press, 2002).

- Farer, Tom J., *The Future of the International Legal Order: Conflict Management, Volume 3* (Princeton: Princeton University Press, 1969).

- Garthoff, Raymond, *Reflections on the Cuban Missile Crisis,* Rev. Edition (Washington, DC: Brookings Institution Press, 1989).

- Gleijeses, Piero, *The Dominican Crisis: the 1965 Constitutionalist Revolution and American Intervention* (Baltimore: Johns Hopkins University Press, 1978).

- Hall, William E., *A Treatise on International Law* 6th edition (Oxford, UK: Clarendon Press, 1909).

- Horne, Alistair, *A Savage War of Peace: Algeria 1954-1962* (London: Macmillan Ltd., 1977).

- Delbrück, Jost (ed.), *The Future of International Law Enforcement: New Scenarios, New Law?: Proceedings of an International Symposium of the Kiel Institute of International Law, March 25 to 27, 1992* (Berlin: Duncker & Humblot, 1993).

- Jessup, Philip, *A Modern Law of Nations* (New York: Macmillan, 1948).

- Kelsen, Hans, *The Law of the United Nations* (New York: Lawbook Exchange Ltd., 1950).

- Lévy, Bernard-Henri, *American Vertigo: Traveling in the Footsteps of Tocqueville* (New York: Random House, 2006).

- Lowenthal, Abraham F., *The Dominican Intervention* (Cambridge, Mass.: Harvard University Press, 1972).

- Malone, David, *Decision-making in the UN Security Council: the Case of Haiti, 1990-1997* (New York: Oxford University Press, 1998).

- McDougal, Myres and Florentino Feliciano, *Law and Minimum World Public Order* (New Haven: Yale University Press, 1961).

- Mommsen, Wolfgang J., *Imperial Germany 1867-1918* (London: Hodder Arnold, 1995).

- Mueller, Jon, *War, Presidents, and Public Opinion* (New York: John Wiley and Sons, 1973).

- Neustadt, Richard, *Presidential Power and the Modern Presidents* (New York: Free Press, 1990).

- Oppenheim, Lassa, *International Law*, 8th edition (New York: Longmans, Green & Co., 1955).

- Packer, George, *The Assassins' Gate: America in Iraq* (New York: Farrar, Straus and Giroux, 2005).
- Schwarzenberger, George, 'The Law of Armed Conflict', in *International Law as Applied by International Courts and Tribunals*, *Vol. II* (London: Sweet & Maxwell Ltd., 1968).
- Sean, Murphy D., *Humanitarian Intervention: the United Nations in an Evolving World Order* (Philadelphia: University of Pennsylvania Press, 1996).
- Simma, Bruno (ed.), *The Charter of the United Nations: a Commentary* 2nd ed., (New York: Oxford University Press, 2002).
- Suskind, Ron, *One-percent Doctrine* (New York: Simon & Schuster, 2006).
- Teson, Fernando, *Humanitarian Intervention: an Inquiry into Law and Morality* (Dobbs Ferry, NY: Transnational Publishers, 1988).
- Treitschke, Heinrich von, *Politics* (New York: Harcourt, Brace and World, 1963).
- Wells, Donald W., *War Crimes and Laws of War*, 2nd edition (Lanham, Maryland: University Press of America, 1984).
- Woodward, Bob, *Bush at War* (New York: Simon & Schuster, 2002).
- Yoo, John, *The Powers of War and Peace: the Constitution and Foreign Affairs After 9/11* (Chicago: University of Chicago Press, 2005).

Contemporary Terrorism: From National to Regional and Global Threats*

*Yonah ALEXANDER***

Abstract: *Experience indicates that terrorist groups thrive on collaboration across national boundaries. Shared ideologies and commitments to radical strategies (such as professed struggles against capitalism, imperialism, racism, Zionism, and democracies) motivate groups to work together on a global scale. Informal and formal relationships among various terrorist groups and state sponsors have resulted in a national, regional, and international terror framework.*

Terrorism—as a tool, method, process, and projection of psychological and physical violence in violation of law—is not new. Although the tactics and strategies of terrorism as employed by both non-state and government agencies in the name of 'higher' ideological, theological, or nationalistic principles to attain political, social, or economic objectives date from time immemorial, it is the twentieth century and even the early twenty-first century that are unique for the extraordinary scale of the globalization and brutalization of this mode of waging war by other means.

More specifically, no community, country, or region is immune from conventional and unconventional threats of terrorism. The Middle East is the most terrorist-active region and this has serious implications for international security. Turkey is a classic case study.

Turkey has been a prime victim of terrorism over the last 35 years and will continue to suffer from it in the foreseeable future. With a changing global and regional political environment, the Turkish regime is attacked by virtually all kinds of terrorism present in today's world, namely

---

ideological, religious, and ethnic terrorism. Flourishing in the impoverished parts of the country and supported by foreign powers at odds with Turkey, terrorism has inflicted much damage on the Turkish people in the last two decades.

Although the terrorist organization the PKK announced a so-called unilateral ceasefire on October 1, 2007, terrorism has escalated, particularly as a result of attacks originating from terrorist bases in Northern Iraq. In response to the intensification of hostilities originating across the border, Turkey undertook successive air strikes and deployed troops against terrorist targets inside Iraq. Apparently, Turkey's military actions were sanctioned by the United States which provided its NATO ally with the actionable intelligence required for such operations.

When terrorism turned into a low-intensity conflict in Turkey toward the end of the twentieth century, the government was forced to develop new military and legal methods to fight it, while remaining determined not to negotiate with or make concessions to the terrorists. This, in turn, led to legal and diplomatic problems that came close to making Turkey a pariah state on account of its human rights record. Fortunately, the government strategy against the separatists provided an environment of reconciliation and peace, which made it possible to improve human rights and democratic practices. In the future, Turkey's terrorism problem is expected to mutate into a transitional narco-criminal one, which will be harder to fight than its previous form due to its economic dimension. Nevertheless, the determination of the civilian and military authorities to overcome this new form of terrorism is promising better days for Turkey.

The global and regional outlook is however more bleak. Consider the challenge of the international network of terrorism. Experience indicates that terrorist groups thrive on collaboration across national boundaries. Shared ideologies and commitments to radical strategies (such as professed struggles against capitalism, imperialism, racism, Zionism, and democracies) motivate groups to work together on a global scale. Informal and formal relationships among various terrorist groups and state sponsors have resulted in a national, regional, and international terror framework. The international character of many terrorist efforts often compounds the difficulty of identifying the initiator or sponsor of a given terrorist act.

Clearly, Osama bin Laden's al-Qaeda is the most elaborate international terrorist network operating around the world, with dire consequences for the security interests of the United Stated and its friends and allies, such as Turkey. That is, al-Qaeda (the Base), also known as the International Front for the Jihad against Jews and Crusaders, the Group for the Preservation of the Holy Sites, and the Islamic Army for the Liberation of the Holy Places, operates in over 90 countries. Al-Qaeda seeks to unite all Muslims and establish a government which follows the rule of the Caliphs, according to bin Laden's strategic plan.

Indeed, in the post 9/11 environment, tomorrow's al-Qaeda and affiliated terrorists will continue to utilize a broad range of conventional weapons, including explosives and missiles, as illustrated by suicide bombings worldwide. The arsenals of future operations will most likely consist of mass destruction instruments, such as biological, chemical, radiological, nuclear, and cyber terrorism. In the face of such devastating dangers, the question is not if the worst is yet to come, but when 'super terrorism' will occur and with what consequences for national, regional, and global security concerns.

On December 2, 2008, the United States' Commission on the Prevention of WMD Proliferation and Terrorism' issued a bipartisan report asserting that it is likely that terrorists will resort to biological and nuclear attacks by 2013 if governments fail to undertake major security and preventive measures. The commission, co-chaired by former Democratic Senator Bill Graham of Florida and former Republican Senator Tim Talent of Missouri, recommended that the new American administration appoint a national security aide devoted exclusively to coordinating U.S. intelligence, military and political efforts to curb weapons proliferation. Other recommendations include improving rapid response efforts to deal with mass biological weapons attacks and convening an international conference on biosecurity.[1]

What is also challenging to the global security system in the twenty-first century is the expansion of violence in the maritime environment. The proliferation of piracy, insurgency, and terrorism is a stark case in point. More specifically, the tactics utilizes by these actors include hijacking, arms smuggling, human trafficking, drug trafficking, assaulting land-based maritime facilities, shelling tankers, firing rockets at port energy infrastructures, launching seaborne raids against civilian targets on land, attacking offshore oil rigs, and bombing vessels in port. Piracy most dramatically reflects the current serious maritime security situation:

- Some 95 ships were attacked and more than 39 were hijacked in 2008 off Somalia. In 2007, a total of 31 incidents were recorded, and in 2006, only 10 cases were reported.

- Piracy ransoms are partially funding insurgencies in Somalia and Africa as a whole.

- Some 14 ships are still detained by Somali pirates and approximately 330 crew members from 25 countries are being held hostage.

Among the maritime incidents reported by the media in 2008, the following attacks are noteworthy: pirates seized a Spanish tuna boat off Somalia (April 20); an Iranian bulk carrier and Japanese-operated tanker were hijacked by Somali pirates (August 21); pirates grabbed a Ukrainian ship load with 33 Russian-made T-72 tanks and numerous weapons off Somalia (September 25); a Turkish ship carrying iron ore from Canada to China was captured by Somali pirates (September 28); armed rebels killed a Nigerian sailor during an assault on U.S. Chevron's oil facility in Southern Nigeria (November 7); a Chinese fishing boat with 24 people on board was captured off Kenya by unidentified persons (November 14); separate bands of attackers seized a Thai ship with 16 crew members and an Indian Vessel with a crew of 25 in the Gulf of Aden (November 18); and a U.S. cruise ship with over 1,000 people on board escaped pirate speedboats along a corridor patrolled by international warships (December 2).

The record of violence in the maritime environment indicates that vessels, citizens, and interests of other countries were targeted, namely Italy, Indonesia, Sri Lanka, the Philippines, Georgia, Greece, Malaysia, Brunei, Germany, The Netherlands, France and Egypt, and Syria.

To be sure, the most spectacular and unprecedented incident recorded is the capture by Somali pirates of a fully laden Saudi supertanker, the *Sirius Star* (1,080 feet long, dead weight 318,000 tons), with a cargo of 2 million barrels of oil worth more than $100 million. This hijacking occurred off the coast of eastern Africa (some 450 nautical miles southeast of Mombasa, Kenya)

---

[1] See *World at Risk*, Random House, New York, December 2008.

outside the 'security zone' in the Gulf of Aden that various military ships have been patrolling since summer 2008. The brazen attack on the biggest tanker ever hijacked, which had a crew of 25 people (including British, Croatian, Polish, Filipino, and Saudi nationals), began on November 16, 2008. The pirates subsequently moved the tanker close to their base at Harad, some 180 miles from Somalia's capital, Mogadishu, where they have total control of the area. Meanwhile, the Saudis vowed to retake the ship and apparently negotiations with the ship owners for a passable ransom have begun.

Regardless of the outcome of the *Sirius Star* case, the implications for maritime security are discouraging. For instance, a major Norwegian shipping group Odfjell SE, already ordered its more than 90 tankers to sail around Africa rather than use the Suez Canal to avoid attacks by pirates.

Clearly, piracy is not the only challenge in the maritime environment. Both insurgents and terrorists have been active in modern times. A partial list of contemporary perpetrators include: the Somalia National Movement (SNM), the Eritrean Liberation Front (ELF), Marxist Popular Forces 25 April (FP-25), the Liberation Tigers of Tamil Ealam (LTTE), the Moro National Liberation Front (MNLF), Abu Sayyaf, the Irish Republican Army (IRA), Jama'ah al-Islamiya, Fatah, the Popular Front for the Liberation of Palestine (PFLP), the Popular Front of the Liberation of Palestine – General Command (PFLP-GC), the Palestinian Liberation Organization (PLO), Abu Nidal Organization, Hizballah, Japanese Red Army (JRA), the Movement of 19 April (M-19), Anti-Castro groups, and Puerto Rican independence terrorists, and single-issued political extremists such as anti-abortion and animal rights radicals.

The aforementioned insurgent and terrorist groups have been involved in thousands of attacks in the post-WWII period. For instance, on October 20, 2001, LTTE suicide attackers rammed their five boats into a ship carrying fuel off the coast of Sri Lanka. Apparently this operation was carried out in retaliation for a Sri Lanka naval attack on the terrorist Sea Tiger base earlier that month.

For the past decade, however, it is widely recognized that the most serious threat to maritime security is the challenge posed by Osama bin Laden's al-Qaeda. One of its important military components is a maritime capability consisting of a fleet ranging from an estimated 15 to 300 vessels. Al-Qaeda's tactical methods include the shipment of weapons and deployment of ships as bombs directed against naval targets, critical infrastructure, and port cities and straits. In October 2000, for instance, a spectacular al-Qaeda suicide attack by a small boat against the *USS Cole* in the port of Aden killed 17 American sailors. Also, in June 2002, Moroccan authorities arrested three operatives planning attacks on U.S., British, and Israeli ships in the Strait of Gibraltar. And, in October of that year, a French-flagged oil tanker, the *Limburg*, was attacked by al-Qaeda members in the Gulf of Aden. Moreover, it has been reported that Abd al-Rahim al-Nashiri, identified as al-Qaida's maritime operations chief and who was arrested in November 2002, planned to attack U.S. ships in the Strait of Hormuz. In short, two conclusions are apparent. First, attacks on shipping allow al-Qaeda to disrupt the global economy, divert resources to protect the seas, and serve as a vehicle for recruiting. And second, al-Qaeda is not merely interested in destroying shipping but also in using vessels to close maritime lanes and conducting seaborne mass casualty attacks.

One of the most spectacular terrorist assaults recorded in the post-9/11 period took place in Mumbai between November 27, 2008 and November 29, 2008. Ten determined terrorists, reportedly members of Lashkar-e-Taiba (a Pakistani-based movement with al-Qaeda affiliation and dedicated to 'liberating' Kashmir from India's rule), spread terror, death, and chaos in the subcontinent's economic and financial capital. The city of some 14 million turned into a war zone for three days. The purpose of this attack was to cause random and selected mass casualties to Indians and foreigners, take hostages as human shields for safe passage, confuse response forces, and further destabilize the region by undermining the peace process between India and Pakistan. When the bloody assaults on eight different sites in Mumbai were ended by the Indian security forces, the human cost was horrific: nearly 200 people were killed, including 22 foreigners, and over 200 were injured.

What is of particular tactical and strategic concern is that the terrorists hijacked a fishing trawler at sea that was used to launch their land attacks. More specifically, the unfolding piracy-terrorist maritime drama began when a private Indian fishing boat with five crew members sailed from the western Gujarat state in mid-November 2008. At some point afterwards, the trawler was hijacked at sea by a group of attackers probably boarding a mother vessel at the Pakistan port of Karachi. Once in control of the trawler, the terrorists slit the throat of one of the crew members. Three nautical miles off Mumbai, the attackers abandoned the vessel, opened inflatable dinghies they were carrying, and sailed into the city coast on November 26, some ten hours before splitting into four assault units. Apparently the terrorists' plan was to return to Pakistan with the same abandoned trawler. In sum, one of the implications of this latest drama is that the international community must beware of possible conventional and unconventional seaborne terrorist plots in the future.

In view of the foregoing dangers, it is important to underscore several security problems. For example, globally, there are some 15 million containers in circulation and approximately 120,000 merchant ships that require some sort of security protection. There is also a concern of tracking difficulties such as re-naming, re-painting and re-registering ships. Additionally, fictional corporations are formed by owners of these vessels to disguise them.

It is not surprising that in the face of the vulnerabilities in the maritime environment, states at a unilateral and multilateral level have responded to the numerous challenges in accordance with their specific concerns. Regarding the piracy threats, for instance, in 2008 alone, the following actions should be mentioned: the U.S. Navy fired at Somali hijackers of a Russian ship (February 12), Somali troops stormed a Dubai vessel and arrested seven pirates (April 22), the French army freed hostages off the coast of Somalia (September 16), the UN adopted a new Somalia piracy resolution (October 7), NATO dispatched ships to tackle Somali pirates (October 9), Russian and British frigates joined forces to thwart a pirate attack on a Danish cargo vessel off the coast of Somalia (November 12), the Indian Navy ship *Tabar* sank a suspected mother ship used by Somali pirates in the Gulf of Aden (November 19), and NATO foreign ministers meeting in Brussels demanded that the alliance act amid growing alarm over the maritime attacks (December 2). It is expected that similar and other appropriate responses will be applied in the coming months and years not only against pirates but also against insurgents and terrorists.

Finally, the important role of Turkey in combating terrorism in the maritime environment and elsewhere should be commentated on. For instance, representatives from EU member states and ten Mediterranean partners, including Turkey, met in Barcelona, Spain, in November 1995 to begin the Mediterranean Dialogue. Though the ultimate goal of the dialogue was to secure improved political, economic, and cultural relations in the Mediterranean region, it did focus on maritime security cooperation. This initiative was confirmed by NATO's North Atlantic Council the following year. Also, on June 29, 2004, at the Istanbul Summit, NATO members decided to elevate the Mediterranean Dialogue to a full partnership with associate countries. The Istanbul Cooperation Initiative (ICI) aims at promoting military-to-military cooperation, fighting terrorism through information sharing and maritime cooperation, and fighting illegal trafficking on a bilateral level with Turkey, Algeria, Egypt, Israel, Jordan, Mauritania, Morocco, and Tunisia.

Moreover, from January 1, 2009 through 2010, Turkey will serve as a non-permanent member of the UN Security Council, whose primary responsibility is to maintain international peace and security. The selection of Turkey for this important Council seat is a testimony of the world body's confidence in Ankara's capability to carry out this task.

Violence and Terrorism: A Perspective from Mexico

Luis Mesa DELMONTE

Abstract: *This paper emphasizes that it is extremely important to make particular evaluations of all kinds of violent acts that we face today, and that identifying the purposes of the performers, considering their ideological, social and economic reasons, and taking into consideration that, although a tough task, it will always be better to analyze and deal with a wide spectrum of violent manifestation, instead of labelling all of them as only one kind of threat.*

Keywords: Socio-political process, armed groups, drug trafficking, cooperation

Since 9/11 in 2001, there has been a strong tendency to associate any kind of violence, of any origin, with the idea of terrorism. This is also followed by a disposition to react almost automatically with suspicions about its Islamic motivations.

In the middle of this situation, and in order to establish effective strategies to fight terrorist acts and groups all over the world, it is extremely important to make particular evaluations of all kinds of violent acts that we face today, identifying the purposes of the performers, considering their ideological, social and economic reasons, and taking into consideration, that although a tough task, it will always be better to analyze and deal with a wide spectrum of violent manifestation, instead of labeling all of them as only one kind of threat. Oversimplification will only make the challenge of understanding and fighting terror even harder.

Considering any kind of violent act or strong anti-establishment protest as a national security threat, and in one way or another relating it to a terrorist agenda, is a very common practice, and a useful instrument in the hands of states for particular situations. However, this practice can distort reality in a very serious manner; it can defuse the needed analytical exercise and the strategy for action.

---

* Dr. Luis Mesa Delmonte is Professor and Academic Coordinator at the Center of Asian and African Studies in El Colegio de México, Mexico City, Mexico.

Nowadays, the strong perception of insecurity that prevails in Mexican public opinion is linked to a wide agenda of violence that includes:

a) Socio-political protest

b) Armed groups

c) Crime and drug trafficking organizations

In the particular cases of acts that can be considered as terrorist, we must judge in a first place different actions developed by drug trafficking organizations or drug cartels, and of a second level of importance, some actions done by armed groups or guerrillas.

Let us look at these sources of violence.

Socio-political Protest

With a total population of 105 millions, the official statistics of the Social Development Secretary[1] recognize that 47% of the population is living in poverty, and 18.2% is living in extreme poverty, with an illiteracy rate of 9%. If we also take into consideration that 10% of the richest people receive more than 42% of global income, and the poorest 10% received only 1.5% of the total, it is not difficult to imagine that such a kind of unfair distribution of richness is a strong motivation for protests by trade unions, political parties, and civil society organizations.

The triumph of Vicente Fox, heading the National Action Party (Partido de Acción Nacional, PAN), in the presidential elections of 2000 ended 71 years of political hegemony of the Institutional Revolutionary Party (Partido Revolucionario Institucional, PRI) in Mexico and started the so-called 'transition towards democracy' period. The new self-designated 'Government of Change' raised many different expectations in regard to democratization, development and relaxation of social tensions in general.[2]

Fox's administration (2000-2006) was characterized by: new permanent contradictions between the President and a Congress with diverse political integration, a continuation of neo-liberal economic policies started during last PRI's administrations, the growing enrichment of high

---

[1]   Consejo Nacional de Evaluación de la Política de Desarrollo Social, 'El CONEVAL reporta cifras sobre la evolución de la pobreza en México', Comunicado de Prensa No. 001/2006 (October 1, 2006), at http://www.coneval.gob.mx/pdf/Comunicado%20001%202006%20Oct%2001.pdf.

[2]   This transcendental change in Mexican politics was explained mainly by: a) the deterioration of the image of the PRI (high level of corruption, weakness of the traditional social agenda, frustration in wide sectors of the electorate, the idea of a needed change and exploration of new options). In fact, for many voters it was more a punishment of the PRI, than a vote in favor of PAN; b) the very popular image of Vicente Fox, governor of the strong and well-managed State of Guanajuato, who started his campaign forming a group called Fox's Friends and using his very successful slogan: 'Vote for the Change'; c) the decision of former President Ernesto Zedillo and some sections inside the PRI to act in a more transparent manner, accepting new realities and the popular will in favor of democratic development, instead of imposing fraud as in the 1988 elections and other previous moments. Fraud in the 1988 Presidential elections was particularly infamous. On that occasion, a 'computing system failure' gave the victory to Carlos Salinas de Gortari (PRI, 50.4%), thereby 'defeating' Cuahutemoc Cárdenas (31.1% heading the National Democratic Front, which included leftist forces and former PRI militants).

classes, no clear effort against generalized corruption,[3] growing levels of violence, failure of "Operation Secure Mexico", further deterioration of the social security system and public education, strong efforts from the central political power to destroy the image of the main opposition leader, Andrés Manuel López Obrador, and the failure of the impeachment case against him due to great popular opposition and street demonstrations.

The Fox administration declared and insisted that it had reached some important achievements at the end of its mandate: economic stability, a growing level of social housing construction, the program 'Opportunities' (financing alternatives, educational programs, medical projects and other social needs) and a reduction of poverty and extreme poverty levels. These social programs were favored mainly by the high prices of oil and huge annual remittances from Mexicans working in the US (legally and illegally) reaching over even more than 20 billion dollars in 2005 and 2006.[4] In fact, the 7% of annual economic growth promised by Fox during his electoral campaign was a distant goal compared with the oscillating 0 % to 4.6% GDP achieved in those years.

In spite of the fact that there were some detectable advances in democratic expressions (political and social manifestations, a higher level of openness in the press and media), it is also true that police-military repressive practices persisted, and increased notoriously during 2006 with the repression of mine workers in Michoacán, the excessive use of force and brutal violations of human rights in face of the popular protests in Atenco, and the coordinated action developed by the military and federal forces in order to end the six months conflict with professors and other social sectors in the state of Oaxaca. At the same time, the assassination of journalists in actions linked to their work is a new negative characteristic that appeared in recent years.[5]

The 2006 Presidential campaign was a very tense one and presented new challenges. For example, traditionally a president designated his successor, but in this occasion Felipe Calderón (Fox´s Secretary of Energy) quitted searching for the presidential chair and generated strong contradictions with Fox. During most of the electoral race, Andrés Manuel López Obrador, head of the Party of the Democratic Revolution (Partido de la Revolución Democrática, PRD) and two other allied political parties, led the polls and seemed to have a sure victory. His coalition, For the Good of All, First the Poor People (Por el Bien de Todos Primero los Pobres), made some mistakes that help to explain why a notorious 10-point advantage was drastically reduced near the

---

[3] Even the some Fox family members have been strongly accused of corruption. The accusations were directed against Fox's wife's sons: the Bribiesca brothers. The case is still under investigation.

[4] In 2006, oil sales represented 78,250,000,000 dollars, and remittances 23,540,000,000 dollars. Roberto Aguilar, 'Aumentan 15% las remesas en 2006', *El Universal* (January 31, 2007), at http://www.eluniversal.com.mx/notas/403892.html.

[5] "Mexico has become the most dangerous country for journalists in the Americas. In the last eight years, at least 24 journalists and media workers have been killed, eight have disappeared and dozens have been threatened or attacked in direct reprisal for their work. The majority of these cases continue to be met with impunity, a situation that has led to a general state of self-censorship. The main obstacles for the work of journalist are organized crime, corruption, lack of political will and the failure of the Mexican authorities to provide protection and security to journalists". International Press Institute, 'Statement from the International Mission on Attacks against Journalists and Media', Mexico City (25 April, 2008), at http://www.freemedia.at/cms/ipi/missions_detail.html?ctxid=CH0065&docid=CMS1209469073224&category=missions.

election date. Some of these were: Obrador's attacks against high capital, his absence from the first televised debate between candidates, less favorable results in polls led him to criticize all polling companies and not to recognize them, and so on. These attitudes generated a high level of electoral confusion in important sectors of society that where then wooed by other participating parties.

At the same time, rightist political sectors developed various successful campaigns characterizing López Obrador as a danger to Mexico. In this effort, the President, in an alliance with the media, the Catholic Church, and entrepreneurs, interfered in the democratic process in an open war against Obrador. The candidate of the PRD was described as a new dictator that wanted to bring the country back to previous non-democratic stages, and was presented as "a promoter of an economic crisis", "obstacle to foreign investment", and a "menace to the stability" of high, medium and low level classes. PAN's strategy also incorporated into its new discourse, some of the most popular demands.

The official results of the presidential elections of July 2, 2006 where: Felipe Calderón (PAN) 35.89%, and López Obrador (PRD-PT-C) 35.31%. So the margin of difference was only 0.58%.

These narrowed results generated a very deep post-electoral conflict and showed a strongly fractured society with manifestations of frustration and discontent in different parts of the country. The PRD transformed itself into the second political force, and the historical PRI fell down to a third place. The opposition demanded a full recount of votes and argued fraud (even cybernetic fraud), but only a partial recount was made.

Other actions taken by the opposition had contradictory and weakening results as were for example: the closing of Reforma Avenue in Mexico City during weeks, affecting people and business activity in an important part of the Capital of the country, the main constituency in favor of the PRD and Obrador, and the celebration of a National Democratic Convention that elected López Obrador as the 'Legitimate President' who formed a parallel 'legitimate government'. These initiatives were refused by important groups of sympathizers, supporters and even by sections of PRD militants. The PRD, strengthened by the election results, suffered immediately because of the new internal divisions and lost important percentages of popular support.

President Calderón participated in the empowerment ceremony in front of The Congress of the Union, in spite of PRD strong opposition to that, and formed a cabinet in favor of promoting foreign and national capital, investments, and announcing a "strong hand" in internal policy. A fundamental part of his new agenda was the immediate assignment of a central role to military forces in defending law and order, and fighting insecurity threats coming from drug cartels, in what was conceived as a "long and costly campaign in resources and human beings". Calderón announced higher salaries to all military personnel, and the high level of social recognition of the institution was stressed.

Armed Groups

In Mexico, as in other different parts of Latin America, there were important guerrilla movements in the 1960s. The main guerrilla groups that operated in the mountains of the state of Guerrero

during the '60s (headed by Lucio Cabañas and Genaro Vázquez), were immersed in the revolutionary atmosphere of those years, highly inspired by the example of the Cuban Revolution.

After the defeat of the guerrillas by military means, and the repression of the famous Mexican student movement of 1968, there was a long period of almost total disappearance of that kind of armed movement. That is why the upsurge of the Zapatista Army of National Liberation (Ejército Zapatista de Liberación Nacional, EZLN) on January 1, 1994 in the State of Chiapas was a very surprising event that started the so-called 'second wave' of armed groups in Mexico.

After its sudden appearance and short direct fighting against military forces, a cease fire was declared and a long period of dialogue and negotiations started.

Since those first moments in 1994, the EZLN established some independent municipalities in areas in the northern part of Chiapas State. We can say that all the process has been mainly characterized by some advances in the negotiating platform, a kind of partial implementation of the agreements, and a permanent parallel strategy of military pressures and counterinsurgency tactics that has affected the negotiating and confidence building process. The formula of Disarmament, Demobilization and Reintegration (DDR) included in conflict resolution theory was not applied and in fact the EZLN kept armed.

Although the EZLN is still today an armed movement, it has frozen its military actions, and gives total priority to a political platform that defends Mexican indigenous groups' demands and rights.

As positive aspects we can point out:

a) The cease fire and the starting of the dialogue (1994);

b) The approval of a congressional law supporting dialogue, reconciliation and peace with dignity in Chiapas (1995) regulating the compromise by the state in order to stop military action and not to capture EZLN leaders;

c) The creation of the Commission for Concord and Pacification (Comisión de Concordia y Pacificación, COCOPA) integrated by representatives of political parties with Congressional representation;

d) The signing of San Andrés Agreement in 1996 as a result of the negotiating process on indigenous culture and rights.

As negative ones we may consider:

a) The permanent military presence through all Chiapas that motivates periodical declarations of 'Red Alerts' by the EZLN;

b) The creation of paramilitary forces (like Justice, Peace and Development) that act with total impunity and pressure constantly in different Zapatistas areas using the argument of land conflicts;

c) The development of a counterinsurgency strategy that includes: military operations arguing fighting against drug crop cultivation; development of propaganda campaigns; limits on international observers; constant pressures on potential or real social bases of Zapatista support; repressive actions like in Acteal in 1997; displacement of local populations;

arbitrary detentions; development programs conceived without consulting with the Zapatistas nor with the local factors in a classical project 'from the top', and so on.

At the start of Fox's mandate, some Zapatista prisoners were released, some military checkpoints were temporarily closed, and a new law on indigenous rights and culture was passed by the Congress. This Law of 2001, though evaluated as a better one, was strongly criticized and considered 'treason' by the EZLN because it did not supported the full autonomy of indigenous groups. As part of its refusal strategy, the EZLN created in 2003 the five Good Governance Councils (Juntas de Buen Gobierno) and the Snails (Caracoles), that is, social webs supporting education and health in the autonomous Zapatista municipalities. In this way, the EZLN opted for a civic resistance alternative instead of a military one, consolidating parallel forms of self-governance.

During the tense year of 2006, the EZLN insisted on the need to create a 'Wide Political Front', forging an alliance with different forces in Mexican society – students, workers, farmers – and creating "a national program of transformation, clearly left-inspired and anti-capitalist". The EZLN criticized all political parties participating in the electoral campaign and developed The Alternative Campaign touring different states through all the country, insisting on developing a peaceful political alternative, which even included, for the first time since the start of the conflict, public TV appearances of Subcomandante Marcos in Mexico City.

The Popular Revolutionary Army (Ejército Popular Revolucionario, EPR)[6] was created in the state of Guerrero in 1996. From this, many other groups have originated, in a process reflecting not only internal contradictions, but an argued political strategy of developing *façade* organizations. It is very difficult to have an exact idea of the total number, power, and real geographic presence of these groups. Many are considered as such once they send messages and communiqués declaring their formation, strategy and purposes. There are many inventories and lists of these groups (estimating them at 30, approximately), but Mexican intelligence sources identify only nine "subversive or bursting groups".[7] (*See Map Main Armed Groups.*)

---

[6] Formed on May 1, 1996, the Ejército Popular Revolucionario unified various groups. They have developed some action against police and military units. It is also known as Partido Democrático Popular Revolucionario-Ejército Popular Revolucionario due to its political branch.

[7] Those are: Ejército Zapatista de Liberación Nacional; Ejército Popular Revolucionario; Ejército Revolucionario del Pueblo Insurgente; Fuerzas Armadas Revolucionarias del Pueblo; Comando Jaramillista Morelense 23 de Mayo; Ejército Villista Revolucionario del Pueblo; Comité Clandestino Revolucionario de los Pobres Comando Justiciero 28 de Junio; Tendencia Democrática Revolucionaria-Ejército del Pueblo; and Coordinadora Guerrillera Nacional José María Morelos. According to an official statement by Ricardo Cabrera Gutiérrez, head of the special unit on terrorism and arms-trafficking of the Procuraduría General de la República (PGR), quoted in Silvia Otero, 'Operan en México nueve grupos subversivos: PGR', *El Universal* (October 10, 2006), at http://www.eluniversal.com.mx/notas/vi_380388.html.

The explosion of three bombs[8] in Mexico City on November 6, 2006 (claimed by a group of five guerrilla movements)[9] was explained as an answer to the government's repressive violence, already mentioned, and the tensions derived from the presidential post-electoral conflict. Although many sectors of the political establishment and part of Mexican opinion considered this a terrorist act, others explained that these groups wanted to have an impact, showing potential and capacity to act, and noted that the bombings were planned according to a careful strategy of action directed to avoid human casualties (direct or collateral) or generalized chaos, in a kind of 'limited terror'. A month later, those groups, recognizing the high level of criticism to their actions, decided to give up similar armed attacks and announced they would give preference to the political road.

In the months of July and September 2007, the EPR claimed responsibility for a series of bombings of pipelines operated by PEMEX, the national oil company. Several pipelines transporting oil and natural gas were severed by the explosions in different points in the States of Guanajuato, Querétaro, Veracruz and Tlaxcala. (*See Map Bombing of Pipelines 2007.*) EPR statements said the group carried out "surgical harassment actions" and that their purpose was to pressure the Mexican government into clarifying the disappearances of some of their members.

These "harassment" or "sabotage" actions were officially considered "criminal acts"[10] and a threat to national security, and in spite of the fact that the perpetrators avoided any direct human injuries, thousands of people were rushed from their homes in order not to be affected by the gas leak and oil burnings. If we also take into consideration the high cost of repairing the damage, the enormous economic loses of hundreds of millions of dollars due to the disruption of energy to huge industrial conglomerates, the many populations that were also affected, and the frightening effect that these kind of actions have on the international influx of capital and investment towards Mexico, we are able to talk about "economic terrorism".

It is interesting to note that in April 2008 the EPR proposed the creation of a "mediating commission"[11] to start a dialogue with the central government in order to obtain the liberation of

---

[8] A total of 8 bombs were placed in various places. Three of them exploded in buildings of the PRI, the Federal Electoral Tribunal, and an office of the Scotiabank-Inverlat very late at night, avoiding human casualties. The location of 5 others was communicated to the police and they were deactivated. It seems that the organizations were conscious of the negative impact that this kind of action could have on Mexican public opinion because in the present situation, they could easily be classified as terrorist activities and as a strong threat to national security, affecting considerably the legitimacy of the organization's political criticism and opposition to the governmental attitudes and actions. During the Fox administration, 33 investigations related to explosives attacks were developed. There are no final conclusions in any of the cases. '33 averiguaciones por explosivos sin resolver', *Milenio* (November 7, 2006), at http://www.milenio.com/mexico/milenio/.

[9] The groups were: Movimiento Revolucionario Lucio Cabañas, Tendencia Democrática Revolucionaria-Ejército del Pueblo, Organización Insurgente 1 de Mayo, Brigada de Ajusticiamiento 2 de Diciembre y las Brigadas Populares de Liberación.

[10] Gustavo Castillo García, 'Exige Calderón deslinde claro ante actos criminales', *La Jornada* (September 15, 2007), at http://www.jornada.unam.mx/2007/09/15/index.php?section=politica&article=013n1pol

[11] According to the EPR, the commission should be incorporate distinguished personalities such as Carlos Montemayor (writer), Samuel Ruiz (archbishop), Miguel Angel Granados Chapa (journalist), Gilberto López (anthropologist), and The National Front Against Repression headed by Rosario Ibarra. 'Propone

two of its militants that had disappeared since May 2007. The personalities suggested by the EPR accepted to participate in this effort, and the armed movement expressed its compromise of not developing any kind of violent action during the future negotiations, suggesting at the same time that the central government should stop its "harassing and intimidating actions against family members, friends and NGOs that showed solidarity with the disappeared militants".[12]

Although the president of the National Action Party, Germán Martínez, refused to develop any kind of negotiation with groups that put "weapons on the table", Calderon's government gave a positive answer to the negotiating proposal in the next 24 hours, but established some conditions that could complicate the whole process from the beginning:

1- Developing a "direct dialogue" between the government and the EPR – the Mediating Commission should act only as "social witnesses"

2- The EPR must adopt a public compromise and suspend permanently all its violent and sabotage actions

3- The government will continue its investigations in order to clarify the case of the two EPR members, but at the same time will go forward with its work to identify the people responsible for the actions against PEMEX installations.[13]

Carlos Montemayor, one of the members of the new negotiating commission, said that it was very important that both parties opted for negotiating a political alternative, neutralizing the most recalcitrant tendencies inside each one that opposed dialogue, but insisted that 'dialogue' must not be confused with 'capitulation', nor 'mediator' with a 'stone guest' that will be able to be present during the process. "When a guerrilla force starts a political negotiation, it does not mean that it is proposing its own capitulation".[14]

In May 2008, the role of the negotiating commission was accepted by the government, and a new opportunity for a dialogue seemed to be borne.

Crime and Drug Trafficking Organizations

Robbery, assaults, kidnappings, murder, trafficking, and many different illegal activities are common elements of daily life in Mexico. Cities such as Mexico City, Tijuana, Mexicali,

---

EPR a gobierno crear un grupo de mediación', *Milenio* (April 28, 2008), at http://www.milenio.com/index.php/2008/04/25/229775/.

[12] 'Acepta el EPR suspender acciones armadas, a propuesta de la comisión de intermediación', *La Jornada* (April 29, 2008), at http://www.jornada.unam.mx/2008/04/29/index.php?section=politica&article=010n1 pol.

[13] 'Condiciona Gobierno federal el diálogo con EPR', *El Sol de Cuernavaca* (April 29, 2008), at http://www.oem.com.mx/elsoldecuernavaca/notas/n680765.htm.

[14] Blanche Petrich, 'Limitan el diálogo las condiciones que el gobierno plantea al EPR, dicen mediadores', *La Jornada* (April 30, 2008), at http://www.jornada.unam.mx/2008/04/30/index.php?section= politica&article=005n1pol.

Monterrey and others, are centers of concentration for a high proportion of these acts.[15] According to the International Crime Victimization Survey, a study sponsored by the United Nations, Mexico holds first place in armed aggression and armed robbery, bribery, and in the index of number of weapons per home.[16]

'Ordinary' crime is commonly explained by the huge unbalances between extremely rich sectors and very poor people, the failure of many development programs, the deterioration of the social security system and public education, as well as the accelerated decomposition of the social fabric and the system of values.

Organized crime is also an example of this decomposition, but it has a different magnitude, with greater operational capacities, and involvement in highly rewarding activities linked to blackmailing, robbery, and kidnapping. The use of terrorizing strategies with extremely cruel acts and body mutilations is very common. This entire situation generates a permanent 'high-risk' sensation for the society and this is reinforced by the inefficiency of judicial power, and the permanent corruption that prevails in the police structures.

But the most violent actions and challenges to Mexican national security come from the very powerful drug cartels, which commonly commit crimes with the clear purpose of terrorizing state structures and the society.

A country with more than 11,000 deaths related to drug killings in seven years (1,691 in 2005; 2,221 in 2006; 2,673 in 2007)[17] and with a projection of more than 3,000 in 2008, seems to be one facing a strong circle of violence and instability.

In Mexico there are hundreds of groups linked to illicit drug activities, but the most important cartels are: the Gulf, Tijuana, Juárez, Sinaloa, Milenio, and Itsmo cartels. The Federation, formed in recent years by representatives of the Juárez, Sinaloa, and Milenio cartels, was considered as the most important and powerful in 2007 and at the beginning of 2008,[18] but in the middle of 2008 started experiencing internal fractures.[19] The Federation, whose nominal head is Sinaloa trafficker Joaquin 'El Chapo' Guzman, has been rattled recently by the reported desertion of the Beltran Leyva clan, considered a major trafficking gang. It joined the Gulf Cartel.

Fighting between the Beltran Leyvas and the Gulf Cartel's gunmen, the Zetas, has caused much of the nation's violence. The Federation and the Gulf Cartel reportedly negotiated a truce in 2007,

---

[15] Regina Moctezuma and Regina Reyes-Heroles, 'Las ciudades más peligrosas de México', *CNNExpansión.com* (April 19, 2008), in: http://www.cnnexpansion.com/actualidad/2007/3/30/las-ciudades-mas-peligrosas-en-mexico/view.

[16] 'México primer lugar en delincuencia con violencia', Terra, noticias (April 23, 2008), at http://www.terra.com.mx/articulo.aspx?articuloId=644347.

[17] 'Estiman en más de 700 muertes violentas en este 2008 en México', *El Universal* (March 22, 2008), at http://www.eluniversal.com.mx/notas/491921.html.

[18] 'La Federación, el cartel más poderoso de México', *El Universal* (January 22, 2008), at http://www.correo-gto.com.mx/notas.asp?id=55171.

[19] 'El pacto del cártel del Golfo y Beltrán', *El Universal* (May 19, 2008), at http://www.eluniversal.com.mx/nacion/159611.html.

which diminished the violence for several months. But the bloodshed resumed in the spring of 2008 as the cartels wrestle for dominance.[20]

In general, we can say that sometimes cartels work together, but remain independent organizations. On many other occasions, they are strong rivals and fight one another in order to control areas of influence and trafficking routes. Divisive, formative and restructuring dynamics are also present. (*See Map Cartel Areas of Influence.*)

The fight against drug-trafficking violence, considered since long time ago as a threat to stability and national security, received top priority in the new administration of President Felipe Calderón, who has used the army as the driving force in his effort to destroy the cartels, sending 25,000 troops into action in an unprecedented campaign.

Part of this new strategy was the creation by President Calderon of a new Public Security Superior Academy[21] and an elite military special operations force, the Corps of Federal Support Forces, which is an army unit specializing in anti-drug efforts and that will answer directly to his office, and will deal with "critical situations that endanger social peace and public security".[22]

But the great and costly operations developed by the Mexican armed forces to destroy local areas of production, intercept trafficking routes, and fight the cartels directly, seem to have been only partially effective since the start of this offensive in December 2006.

In a first stage, the impact of military operations produced the so called "cockroach effect" – a chaotic dispersion and a certain level of surprise to the cartels. But afterwards, the drug cartels started to challenge the government initiative in an open and defiant manner, attacking and killing police officers, members of the security and intelligence institutions and even threatening high ranking officials, governors, and the President himself.

The first semester of 2008 showed an intensification of warfare between cartels themselves and between the government and cartels. In May, there was a particularly strong spiral of violence, when the daily average of deaths and assassinations related to drugs increased from 7 to more than 13.

During those months there were some fruitful operations by the government, with shipments interdicted, leaders detained, weapons confiscated an so on, but at the same time the drug cartels answered in an even stronger manner, and were able to eliminate some very high ranking security officials in charge of the main operations, for example, Esteban Robles, Commander-in-Chief of

---

[20]   Dudley Althaus, 'Shifts in Cartel Alliances Fuel Shootouts in Mexico', *Houston Chronicle*, Mexico City Bureau (May 20, 2008), at http://www.chron.com/disp/story.mpl/chronicle/5793702.html.

[21]   'Labor Improvement for the Federal Policemen and Their Families', Gobierno del Estado de San Luis Potosí, Sala de Prensa (October 15, 2007), at http://www.slp.gob.mx/en/ver_noticia.cfm?id_cont1=3164.

[22]   'Decreto por el que se crea el Cuerpo Especial del Ejército y Fuerza Aérea denominado Cuerpo de Fuerzas de Apoyo Federal', *Diario Oficial de la Federación* (May 8, 2007), Presidencia de la República, at http://www.senado.gob.mx/comisiones/LX/defensanacional/decretofuerzasdeapoyo.pdf.

the Judiciary Policy of Mexico City,[23] and Edgar Millán, regional coordinator of Preventive Federal Police.[24]

The case of Millán's assassination was a very illustrative of the infiltration and treason inside the security structures. He was shot dead in his own home in Mexico City in a plan masterminded by the Sinaloa cartel. He was the highest-ranking law enforcement responsible for overseeing most of Mexico's counternarcotics efforts.

For many observers and analysts, Mexico is enduring a situation that is very similar to a country at war, with so many deaths related to drug trafficking. The public is getting used to watching this tragedy on television, with murders and horrifying beheadings that turn into a bigger challenge to the authorities, renew pressures on traditional collaborators of the cartels, and terrorize society with 'warning messages in order to freeze any possible cooperation with the authorities.[25] So we can talk about 'narco-terrorism'.

This war is especially hard given the drug cartels' high fire power (with the latest and most advanced military weapons – on many occasions better that the ones the police and other state forces have) with strongly armed and well-trained organizations such as the Zetas and the Kaibiles,[26] both working in the Gulf cartel, or the Negros and Pelones, working for the Sinaloa cartel.

Some Los Zetas members are former Mexican Special Forces soldiers with expertise in the use of heavy weaponry, specialized military tactics, sophisticated communications equipment, intelligence collection, and counter-surveillance techniques. Many of them were trained in US sponsored programs. They have a sophisticated spy network employing taxi drivers, store clerks, street vendors and members of the local police to keep them informed of the movements of federal officers.

In May 2008, there were strong indications that the Zetas were becoming a new drug cartel independent of their previous leaders of the Gulf cartel. They were re-dividing sections of Mexican territories and starting a war against The Federation. This new organization could be transformed in the most violent cartel ever seen in Mexico and, according to some officials, it could beat any cartel currently known "and become a real national security problem for Mexico and the United States".[27]

---

[23] Arturo Angel Mendieta, 'Ocupó judicial asesinado mando en 17 cargos de dos décadas', Notimex (May 9, 2008), at http://mx.news.yahoo.com/s/09052008/7/mexico-ocup-judicial-asesinado-mando-17-cargos-d-cadas.html.

[24] 'Lo esperaba en su casa para ejecutarlo', *El Universal* (May 8, 2008), at http://eluniversal.com.mx/notas/505286.html.

[25] The assassination of journalists following drug issues is also frequent and occurs in an atmosphere of impunity and with no application of justice. Some of the beheadings are followed by the exhibition of the heads in public places.

[26] Former Guatemalan Special Forces soldiers.

[27] 'Zetas fundan su cártel, afirma DEA', *El Universal* (May 19, 2008), at http://www.eluniversal.com.mx/nacion/159612.html.

Today, there is a new factor that is increasingly becoming involved in narco-terrorism: the extremely violent gang Mara Salvatruchas. The Maras Salvatruchas originated in Central America and is notoriously expanding its presence in Mexico. Ten years ago, it was a gang concentrated in the State of Chiapas, but today it has about 5,000 elements, organized in 200 cells (of 25 elements each) and it is present in the capital of the country and in another 23 states, with more than 50% of young Mexican citizens being part of it. The Maras in Mexico are decisively contributing to higher rates of criminality, have very strong links with drug webs, and many are trained in military and guerrilla tactics.[28]

The high level of corruption inside the police and federal agencies is another big obstacle in this fight. The army cannot be confident about local security structures because many of them act in complicity with drug cartels, distorting intelligence information, and giving early warnings to the drug dealers. "There are municipal police forces that have collapsed, that function more as an aid to organized crime than as a protection for the public".[29] Several local police chiefs have resigned, and even a few policemen have started to ask for asylum in the United States.

Due to the huge amounts of money at their disposal, the cartels are able to influence authorities, politicians, businessmen and local political electoral processes, corrupt security officers, and even try to reach some kind of understanding and negotiations with high ranking military officials. They are able to bribe, intimidate and negotiate.

Military men from generals to foot soldiers say they are being offered some times hundreds of thousands of dollars to turn a blind eye. General Sergio Aponte, who co-heads the military operation in Baja California, told reporters, "These groups are coming to us to try to negotiate, to take us over to their side, trying to break us down".[30]

These attempts have been officially rejected by President Calderon, who gave an assurance that: "My government does not negotiate with criminals".[31]

Since the late 1990s, Mexico has convicted at least five army generals for taking drug money, including the man who was once its anti-drugs czar and led the war against the gangs but was later found to provide protection to the Juarez Cartel: General Jesús Gutiérrez Rebollo.[32]

---

[28] The Mexican National Commission of Human Rights made a three-year research study on this topic, and presented its results in April 2008. Daniel Blancas Madrigal, 'Operan células de maras en el DF y en 22 estados; el 60% es de origen mexicano; en el sureste aparecen chiapatruchas: CNDH', *La Crónica de Hoy* (April 3, 2008), at http://www.cronica.com.mx/nota.php?id_nota=355146.

[29] Declaration of the Attorney General, Eduardo Medina Mora, quoted by Manuel Roig-Franzia, 'Mexican Drug Cartels Threaten Elections', *The Washington Post* (January 5, 2008), p. A11, at http://www.washingtonpost.com/wp-dyn/content/article/2008/01/04/AR2008010403706.html.

[30] Quoted in Lizbeth Díaz, 'Mexican Gangs Try to Bribe Army as Drug War Flares', Reuters (February 8, 2008), at http://www.reuters.com/article/latestCrisis/idUSN08562036.

[31] 'Mi gobierno no negocia con criminales: Calderón', *La Crónica de Hoy* (March 27, 2008), at http://www.cronica.com.mx/nota.php?id_nota=354020.

[32] 'Dan cuarenta años de prisión a Jesús Gutiérrez Rebollo', *La Jornada* January 29, 2007), at http://www.elporvenir.com.mx/notas.asp?nota_id=110295.

The cartels also have intelligence capabilities, striking directly against officials and politicians at propitious moments, as well as frightening, kidnapping or killing some of their family members. The message is that no one is safe, no matter how high his rank or how well protected is, if he works against cartel interests. There is great pressure on the officials and politicians involved because even the most incorruptible is going to be cautious in executing operations against the cartels, or at least get worried.

The occasional use of excessive military force against civilians, some established violations of human rights, together with the persistent risk of corruption of the army (considered to be one of the most prestigious institutions by Mexican public opinion), are arguments used to criticize the current strategy and support pulling the army out of anti-drug operations and handing responsibility back to the internal security structures. The main challenge is to modify and purge the police and security forces in order to plan a more efficient strategy against drug cartels and violence, and diminish the direct involvement of the army in those activities in the future.

According to various surveys, the army holds a high level of popular confidence. For example, a Consulta Mitofsky's survey in February 2008 indicated the levels of citizens' confidence in this way: [33]

High: Universities (7.9%), Church (7.9%) Army (7.8%), Media (7.5%).

Medium: Banks (6.9%), Federal Electoral Institute (6.9%), Businessmen (6.8%), President (6.8%), Supreme Court of Justice (6.7%).

Low: Members of Congress (5.9%), Senators (5.9%), Trade Unions (5.9%), Police (5.8 %), Political Parties (5,5%).

This is not the first time that the army has directly participated in a declared war against drug cartels and organized crime. Previous experiences, such as Operation Secure Mexico, developed by Vicente Fox's administration did not yield good results.

In February 2008, President Calderón declared that once civil and police structures get stronger, the need for military support will lessen.[34] This had to readings: first, a kind or recognition that the strategy must be changed and there is a need to pull back the army; second, the task of purging and strengthening civilian institutions and police structures is so hard that we will see the army in the streets for many more years.

Calderón's government has removed almost 300 federal police commanders across the country, demoting dozens of career officers and putting in command new officials, most of whom have military backgrounds. But the administration "has yet to purge the force of thousands of career officers with roots in the old force, which was rife with corruption. Many of these officers

---

[33] Research: Consulta Mitofsky, Roy Campos, 'Confianza en las instituciones. Ranking Nacional', at http://www.consulta.com.mx/interiores/99_pdfs/12_mexicanos_pdf/20080220_NA_ConfianzaInstitucion es.pdf.

[34] Notimex, 'Fortalecemos policías para bajar intervención del ejército: Calderón' (February 6, 2008), at http://mx.news.yahoo.com/s/06022008/7/mexico-fortalecemos-polic-as-bajar-intervenci-n-ej-rcito-calder.html.

have dubious loyalties and made money from graft, especially those assigned to highways, ports and airports, according to criminologists and police officials".[35]

Another very serious factor is desertions from the Mexican army. According to the Under Secretary of Defense, Tomás Ángeles Dahuajare, during the 2007 a total of 17,758 soldiers, 119 officers, and 8 high ranking officers abandoned the army. During the last seven years the total figure of desertions is higher that 100,000. Some of these elements have been recruited by drug cartels.[36]

Although the military offensive against drug cartels has had some positive results in terms of members detained, weapons confiscated and volumes of drugs detected, the impact is still considered to be limited. At the same time, the drug trafficking organizations' capacity to recover is very high due to:

1- New leaders immediately take the seat of their previous chiefs.

2- There is a constant influx and smuggling of weapons from the US to Mexico that guarantee the replacement of lost armaments and the acquisition of new, advanced weapons. In the US there are 100,000 stores selling weapons. Of these, 12,000 are located on the US-Mexican border with a double the average of sales in comparison with the others. This is obviously linked to an intense flow of arms from the US to Mexico.[37]

3- The total volume of drug trafficking is so high – at least 10 billion dollars annually – that the cartels can lose tons of merchandise without deeply affecting their economic.[38] According to John P. Walters, director of the US Office of National Drug Control Policy, marijuana is "the center of gravity" for Mexican drug cartels, because of the $13.8 billion that Americans contributed to Mexican drug traffickers in 2004-05, about 62 percent, or $8.6 billion, comes from marijuana consumption.[39]

---

[35] James C. McKinley, 'Mexico's War Against Drugs Kills Its Police', *The New York Times* (May 26, 2008), at http://www.nytimes.com/2008/05/26/world/americas/26mexico.html?r=1&th&emc=th&oref=slogin.

[36] 'Reconoce Sedena que narco ha reclutado ex militares', *El Universal* (January 22, 2008), at http://www.el-universal.com.mx/notas/476295.html.

[37] 'Llegan de EU 10 mil millones de narcodólares: Medina Mora', *La Prensa* (December 11, 2007), at http://www.oem.com.mx/laprensa/notas/n521403.htm. The cartels have acquired FN Herstal 'Five Seven' pistols with high penetration power; FN Herstal P90 machine guns; M-72 Light Anti-tank Weapons, Multiple Grenade Launchers, Barret 50-caliber sniper rifles, and so on. 'Cártel del Golfo posee armas exclusivas del Ejército de EU', *El Universal* (January 19, 2008), at http://www.correo-gto.com.mx/notas.asp?id=54869.

[38] 'México recibe 10 mil mdd al año de EU por el narco: PGR', *La Jornada* (December 11, 2007), http://www.jornada.unam.mx/ultimas/2007/12/10/al-ano-unos-10-mmdd-salen-de-eu-a-mexico-producto-del-narco-medina-mora. There are other analysts that estimate that cartels make between 10 and 40 billion dollars every year.

[39] These are the only figures available because this was the first time the agency conducted a market analysis. 'Drug Czar Says US Use Fueling Mexico Violence', *The Dallas Morning News* (February 22, 2008), at http://www.marijuana.com/drug-war-headline-news/93060-usa-drug-czar-says-u-s-use-fueling-mexico-violence.html.

This panorama is also complicated by the links that are argued to exist also between narco-money and the church, which is a very delicate topic.

Although many representatives of the Catholic Church have insisted several times that "money coming from drug-trafficking is a dirty money that cannot be purified through compassionate acts" and that drug trafficking is a "serious sin", there have arisen many suspicious about contacts since the beginning of the nineties when cardinal Juan Jesús Posadas Ocampo was killed in the middle of an armed fight between cartels.

In this sense, a declaration in April 2008 by the President of the Conference of Mexican Bishops[40], Carlos Aguilar Retes, was a very controversial one. He recognized that there have been contacts between narco-dealers and representatives of the Church, and proposed that a new law must be passed to guarantee the protection of the identities of those drug-dealers that what to change their lives, based on the Catholic practice of confession. But he also said that these drug-traffickers: "Are very generous with the people of their communities and towns, sponsoring electric light, communications, roads, and even building churches and chapels".[41]

The reality of geography with a 3,326 km-long border between México and the United States is also a key factor. Beside drug trafficking, an illegal trade of weapons, and the constant flow of migrants (from Mexico, Central American countries, and others) as brought some violence linked to drug trafficking organizations on to US territory. Murders and attacks against US border patrol officers are becoming increasingly common along the border.[42]

It is impossible to think in terms of sealing the border or developing perfect controls there. Through this border both countries carry out the greatest part of their trading bilateral activity, valued at approximately 350 billion dollars.

Because of geography and this long border, Mexico is obviously one of the most attractive routes for potential terrorists interested in reaching US territory. This explains, partially, the very restrictive visa policy that the Mexican government has applied for many years to citizens coming from Islamic countries.

The Mexican Islamic community is a small one and has no signs of political activism or threat generation, so there is not so much worry about possible 'contamination' from other Islamic extremist groups from abroad. But the possibilities of finding common ground between that kind of Islamic inspired groups coming from abroad, and other local factors such as drug trafficking organizations or the famous gang Maras Salvatruchas cannot be excluded. At a specific moment, they could all become interested in acting violently against the Mexican state and they could work in a coordinated manner.

In fact, one clear example of the 'Islamic threat' from abroad can be found in February 2007, when an article entitled 'Bin Laden and the Oil Weapon', published in *The Voice of Jihad*, called

---

[40] Conferencia del Episcopado Mexicano.

[41] 'Iglesia católica mexicana sacudida por presuntos aportes de narcotraficantes', *AFP* (April 7, 2008), at http://mx.news.yahoo.com/s/afp/m__xico_iglesia_narcotr__fico.

[42] 'Cloned' vehicles, that is vehicles displaying the logos of FedEx, Wal-Mart, DirecTV and the US Border Patrol, are used by the drug cartels to smuggle drugs, human cargo and weapons across the border.

on the Saudi branch of al-Qaeda to strike "oil interests that provide the Crusaders with oil".[43] Those interests, the article stated, could also include facilities in Venezuela, Canada and Mexico.

This mobilized the Mexican national security structure, a higher level of alert was adopted, and many security measures and surveillance activities on strategic installations were reinforced.[44]

Cooperation with the US

According to the Congressional Research Service's Report for Congress, *Mexico's Drug Cartels*, published in October 2007: "Mexico, a major drug producing and transit country, is the main foreign supplier of marijuana and a major supplier of methamphetamine to the United States. Although Mexico accounts for only a small share of worldwide heroin production, it supplies a large share of heroin consumed in the United States. An estimated 90% of cocaine entering the United States transits Mexico".[45]

This data has very strong elements that show the enormous impact the Mexican factor has in the drug consumption statistics of the United States. There is no way of dealing with the narcotics problem in the US without considering the Mexican source as the main focus of any strategy. That is a fact. Part of the drug is produced locally but the enormous flows come from abroad. As Markus-Schultze-Kraft has said: "Mexico will continue to experience serious problems with drug trafficking as long as the drug flow from the Andean countries is not considerably reduced".[46]

Although the National Addiction Survey of 2002 considered drug consumption in Mexico as a very low one, there is a growing consumption trend for marihuana, cocaine and methamphetamines detected during the last ten years, especially in large cities and in the northern territories near the US border.[47]

However, on the other side of the coin, we find a very strong Mexican argument that considers the US to be mainly responsible for this situation due to the fact that it remains the world's biggest market for illicit drugs. It is also reasoned that there are legal imbalances between the two countries: while all kinds of drugs are strictly prohibited in all Mexican territory, some States in the US have decriminalized marijuana or have passed "medical cannabis laws", despite the US government's position against the drug trade.

President Felipe Calderón and the Mexican ambassador in the US, Arturo Sarukhan, have declared that the US is not doing enough to lower US drug consumption or to help Mexico combat traffickers. More cooperation is needed. The US should increase its aid, deep intelligence

---

[43] George Kindel, 'Al Qaeda Publication Calls on Jihadists to Attack Oil Facilities That Supply US', *Fox News* (February 14, 2007), at http://www.foxnews.com/story/0,2933,251942,00.html.

[44] 'Minimiza Gobernación la posible amenaza', *La Jornada* (February 15, 2007), at http://www.jornada.unam.mx/2007/02/15/index.php?section=politica&article=005n1pol.

[45] Colleen W. Cook, 'CRS Report for Congress', *Mexico's Drug Cartels* (October 16, 2007), at http://ftp.fas.org/sgp/crs/row/RL34215.pdf.

[46] Quoted by Henry Mance in 'Lessons from the War on Drugs', *BBC News* (May 28, 2008), at http://news.bbc.co.uk/2/hi/americas/7423090.stm.

[47] Carlos Benavides, 'Tenemos crecimientos relevantes en el consumo de drogas: Medina Mora', *El Universal* (June 27, 2007), at http://www.el-universal.com.mx/nacion/152087.html.

exchanges, and make bigger efforts to stop the flow of weapons, laundered money and chemicals for the production of methamphetamines.[48]

According to February 2008 editorial by *The New York Times*: [49]

Nothing can be achieved unless this country curbs its own demand for illegal narcotics (…) Washington announced a new $1.4 billion assistance package for Mexico and Central America to combat the drug trade. Then the White House unveiled its 2009 budget, which calls for a 1.5 percent cut in spending on domestic drug prevention and treatment programs (…) spending on prevention has fallen every year since 2002. Mexico and Central America certainly need help to better fight the drug gangs moving narcotics into the United States. But it is clearly not enough. Washington has funded coca eradication efforts in the Andes for years. It has given the Colombian government more tan $5 billion since 2000. Thousands of police have died in Latin America fighting the traffickers. Yet all the blood, tears and cash have had virtually no impact on the amount of drugs in the United States. The federal government needs to do more to slow the flow of money and guns that finance and arm the cartels in Mexico and Central America. There is little hope of ever defeating the traffickers abroad if the government isn't doing enough to reduce demand at home.

The United States must give a bigger support in this fight against drug violence. This is a very costly matter for Mexico, so the US must share the burden.

A partial answer to this Mexican claim is the new assistance package in favor of strengthening the regional cooperation, known as the Merida Initiative. This new security cooperation initiative between the US, Mexico and the countries of Central America has the main purpose of combating the threat of drug trafficking, transnational crime, and terrorism. But different sectors of Mexican society have expressed worries about the possible future presence of US military in Mexican territory and its negative impact on national sovereignty.

The Bush administration proposed to allocate 1,400 million dollars to provide:[50]

- Non-intrusive inspection equipment, ion scanners, canine units for Mexican customs, for the new federal police and for the military to interdict trafficked drugs, arms, cash and persons.

- Technologies to improve and secure communications systems to support collecting information as well as ensuring that vital information is accessible for criminal law enforcement.

---

[48] Karen De Young, 'Mexican Envoy Highly Critical of US Role in Anti-Drug Effort', *The Washingto*n *Post* (March 23, 2007), p. A11, at http://www.washingtonpost.com/wp-dyn/content/article/2007/03/22/AR2007032201853.html.

[49] Editorial 'The War on Drugs Starts Here', *The New York Times* (February 13, 2008), at http://www.nytimes.com/2008/02/13/opinion/13wed4.html?_r=1&th&emc=th&oref=slogin.

[50] US Department of State, 'The Merida Initiative: United States-Mexico-Central America Security Cooperation', Fact Sheet, Office of the Spokesman (October 22, 2007), at http://www.state.gov/r/pa/prs/ps/2007/oct/93800.htm.

- Technical advice and training to strengthen the institutions of justice – vetting for the new police force, case management software to track investigations through the system to trial, new offices of citizen complaints and professional responsibility, and establishing witness protection programs.

- Helicopters and surveillance aircraft to support interdiction activities and rapid operational response of law enforcement agencies in Mexico.

- Includes equipment and assets to support counterpart security agencies inspecting and interdicting drugs, trafficked goods, people and other contraband as well as equipment, training and community action programs in Central American countries to implement anti-gang measures and expand the reach of these measures in the region.

While Bush administration requested $500 million in funding for 2008, the House approved $400 million and the Senate approved only $350 million. The Mérida Initiative – also known as Plan Mexico – will provide resources, equipment, and training to the Mexican government, police, and military. It will not give Mexico liquid funds. Besides reducing the Bush administration's request, the Senate and the House established some conditions: the US "would hold up a quarter of the money until the State Department ruled that Mexico was meeting certain human rights markers".[51] Mexico must guarantee that its military and police forces are not involved in corruption or in violations of human rights, have to start legal and judiciary reforms, and must create a data bank that enables the US to scrutinize the police and the army, among others aspects included in the bill.[52]

These preconditioning factors were strongly criticized by various sectors of Mexican public opinion and by the Mexican government when Jose Luis Santiago Vasconcelos, Deputy Attorney General for International Affairs, said that it seems "a step backwards with respect to a previous phase of our relations with the United States on the matter of illicit drug traffic control that comprised the unilateral certification. It is up to the Mexican State to accept or reject the funding and to define the circumstances".[53] He added that money the United States government proposed to support Mexico might be better spent bolstering that country's Customs' Service and Border Patrol in order to prevent arms trafficking from entering Mexico, due to the fact that 97 per cent of the arsenal used by organized groups in Mexico is coming from the north.

Interior Secretary, Juan Camilo Mouriño, said that conditions and unilateral evaluations by the US were "counterproductive and profoundly contrary to the object and spirit" of the initiative and, in their current version, are "unacceptable for our country."[54]

---

[51]   Marc Lacey, 'US Congress Trims Bush's Mexico Drug Plan', *International Herald Tribune* (May 23, 2008), at http://www.iht.com/articles/2008/05/23/america/23mexico.php.

[52]   'EU condiciona Fondo Plan Mérida a México', *CNNExpansión.com* (May 18, 2008), at http://mx.news.yahoo.com/s/18052008/65/n-business-eu-condiciona-fondo-plan-m-rida-m-xico.html.

[53]   'EU debe reforzar su frontera vía fondo Plan México: PGR', *La Jornada* (May 24, 2008), at http://www.jornada.unam.mx/ultimas/2008/05/24/eu-debe-usar-fondo-de-plan-mexico-para-reforzar-frontera-pgr.

[54]   'Inaceptables, las condiciones al Plan Mérida: Mouriño', *La Jornada* (June 2, 2008), at http://www.jornada.unam.mx/ultimas/2008/06/02/defiende-mourino-plan-merida.

This US conditioning of the aid had a very disappointing effect on the Mexican perception of the US projected compromise. Mexico is involved in a fierce fight against drug trafficking organizations, with a high cost in human beings and economic resources, so US involvement should be more decisive and speedy. In any case, a yearly support of 350 or 500 million dollars would represent a very limited part of the Mexican security expenditure. Mexico is assigning a budget of almost 8 billion dollars for public security,[55] so the possible support would only represent between 4 and 6%.

Carlos Rico, Mexico's Under-secretary of Foreign Affairs, has also emphasized that all negotiations with the US will exclude the presence of the US military on Mexican territory. This is different from the case of agreements signed with US Drug Enforcement Administration (DEA) officials that enable offices and dozens of agents to work in Mexico. Rico has insisted that instead of talking about hundreds of million dollars in possible US assistance for the Mexican anti-drug effort, it is much better to promote wider and enhanced bilateral cooperation. This more effective cooperation must include, for example, a higher level of US action inside its own jurisdiction, and developing north-south operatives in order to avoid weapons fluxes towards Mexico, as Mexico develops south-north operatives in order to intercept drug flows.[56]

Multi-dimensional Strategy

After identifying various sources of violence in Mexico and classifying some acts as 'limited terror', 'economic terrorism' and 'narco-terrorism', we can suggest, that in order to combat violence and terrorism, Mexico has to develop a more efficient multi-dimensional strategy that should take into consideration:

1- The urgent need of diminishing the huge socioeconomic unbalances that exist in the Mexican society. This extreme polarization between rich sectors and poor people, and the unfair and unequal access to basic guarantees and opportunities must be transformed.

2- Fight corruption, improve the efficiency of the internal security structures, and develop better intelligence work in order to penetrate, strike, punish and destroy the strong webs of the organized crime. It is also an imperative to improve the efficiency of the judiciary system, deeply affected by corruption, contradictory laws and practices.

3- A better intelligence work is also needed in order to follow the dynamics of armed groups, and neutralize other violent actions in the future. But it is even more important to open channels of communication and dialogue with those groups in order to make them renounce armed action and incorporate them into the political life of the country, in a progressive process of confidence building measures.

---

[55] The Federal Government expends 84 billion pesos in public security. 'Propone PGR analizar condiciones de EU para aprobar Iniciativa Mérida', *Notimex* (May 24, 2008), at http://mx.news.yahoo.com/s/24052008/7/mexico-propone-pgr-analizar-condiciones-eu-aprobar-iniciativa-m-rida.html.

[56] Carlos Rico's comments during the international semminar *Nuevas orientaciones en las políticas para controlar drogas y criminalidad*, sponsored by El Colegio de México (April 28-29, 2008).

4- The war against the drug trafficking organizations should not be fight with the army in the streets of different states of the country, nor expose the main structure of the Mexican state to the corrupting power of these drug cartels. It is a war that needs better security and police institutions freed of the strong corruption that they have suffered, and a long term strategy based on intelligence work, penetration and neutralization. It is impossible to think in terms of eliminating the drug trafficking and consumption phenomena, but it is possible to keep it under a tighter control avoiding freedom of action and terrorizing strategies.

5- It is important to continue the extremely difficult debate on decriminalizing the possession of small amounts of drugs in order to explore the possible diminishing impact it could have on violence, prices and drug trafficking organizations' financial flows. The only way of effectively fighting drug habits is by means of a permanent and strong health and education campaign.

6- The combat against drug trafficking organizations must also include a difficult strategy to weaken the strong links that the cartels have with some political structures, and deep intelligence work to detect and interfere with the financial webs, investments activities, façade enterprises and money laundering mechanisms at their disposal.

7- Cooperation and coordination at a regional level is a must, based on a mutual interest in reducing and eliminating these common threats. Participation, support and compromise from the US must be a central element of this strategy.

The New Taliban Warlords and Organization

Syed Manzar Abbas ZAIDI[*]

Abstract: *This paper traces the resurgence and reorganization of the Taliban into a new organizational entity, the Taliban in Pakistan. The Taliban, forced to flee Afghanistan, have found a haven in Pakistan's tribal areas, re-organizing and recruiting anew in the process. Pakistani Taliban are ideologically similar to the Taliban in Afghanistan, but are organized in distinct organizational entities. They are, in effect, the new face of the Taliban. A comprehension of the evolution of this phenomenon is a vital aid to any research into the gravity of the geopolitical situation. The study traces the profiles of their warlords, organizations, and terror tactics.*

Keywords: Taliban, Terrorism, Fundamentalism, Jihad.

Introduction

The 1978-92 Afghan war caused a regional and human rights catastrophe, and in its aftermath created a radicalization of the tribal mind set in Afghanistan and Waziristan.[1] In Afghanistan, it created the Taliban; in FATA,[2] it has resulted in their reorganization in the shape of the new Taliban.

When a jihadi model was used in evicting the Soviets from Afghanistan, little thought was given to its after-effects, which have included, amongst others, a severe radicalization of tribal thought in Pakistan. It may be argued that the FATA areas were conservative from the very start. However, there is a difference between the early separatism-oriented tribalism of FATA and the

---

[*] Syed Manzar Abbas Zaidi is a lecturer in Policing and Criminal Investigation at the University of Central Lancashire, U.K.

[1] The most troubled tribal territory of Pakistan in terms of Talibanisation.

[2] FATA stands for "Federally Administered Tribal Areas" in Pakistan. For more details, see the author's article 'The New Taliban-1: Emergence'.

contemporary Islamist agenda.[3] This is not a war with physical targets to be achieved; it is ideological, and thus based on emotive elements.

 From 1978-1992, $ 66 billion worth of weaponry was introduced into the region, working out at $134 million per person.[4] A result of Pakistan's reliance on the jihadist intervention model, led to the creation of a worldwide network of Afghan war veterans of all nationalities. The widespread prevalence of radicalization prevailing in Pakistani tribal areas has created a nexus between the local jihadist and the ordinary unemployed youth. This has led to the rebirth of the Taliban movement in the area.

The military's use of proxy warriors in the shape of the tribals had become common after the Afghan Jihad. These were the perfect weapons which compensated for the unbalanced military strength between India and Pakistan; ideologically motivated, ferocious, and cheap to maintain. The Pakistani military began more active proxy penetration into Kashmir and Afghanistan after the start of jihad against the Soviet Union in Afghanistan from 1978-92, with the help of these readily available weapons. These weapons have now turned inwards against the state, and the world of the 'unbelievers' in general.

In trying to pin the contextual parameters in which the Taliban in Pakistan have arisen, one can lay down some basic defining characteristics:

The New Taliban is composed mainly of Pakistani tribesmen who have been radicalized by the rhetoric of jihad, specifically due to the invasion of Afghanistan by the coalition forces. They are thus a post-afghan Taliban phenomenon, but intimately related to it.

They have a natural suspicion of strangers, and a tradition of resistance, fuelled by the tribal code of *Pashtunwali*.[5]

They have constantly been used since the inception of Pakistan as proxy warriors, to fill a capacity gap between India and Pakistan, their natural warrior instincts having been used to the fullest in Kashmir by the ISI (Inter Services Intelligence, the premier intelligence agency of Pakistan).

During the Soviet jihad, the tribals were freely exposed to radical doctrines by the presence of committed fighters in their midst. The misfortune of the area has been due to close proximity with Afghanistan, thus it was used as a training and indoctrination base by the ISI-CIA nexus and the Islamist parties. By then, the example of Taliban had favorably captured the imagination of the people, and local parties mimicking the Taliban arose. Many of the Waziristan tribesmen took part in the Afghan Jihad against the Soviets from 1989 and later joined the Taliban in their civil war.

After the disintegration of the Taliban in 2001, a new jihad against the allies in Afghanistan has started, but the venue is the tribal belt of Pakistan abutting Afghanistan. The writ of the state does

---

[3]   For more details see author's article: 'The new Taliban-2: Idological Sanction'.

[4]   Steve Coll, *Ghost Wars, the Secret History of the CIA, Afghanistan and bin Laden* (London, The Penguin Press, 2004), p.238.

[5]   *Pashtunwali* is the pre-Islamic Pashtun code of conduct which regulated the intra and inert tribal dynamics. It is more of a set of principles, rather than codified laws. Honor and chivalry occupy a central theme in this tradition, along with undying loyalty to the tribe, and fierce opposition to occupation.

not run here; warlords like Baitullah Mehsud in South Waziristan, and Sadiq Noor in North Waziristan or the Iraqi Arab Abu Kasha in Mirali have more power.

At the conclusion of the Soviet-Afghan War, the militant Taliban, forced to flee from Afghanistan, found a safe haven in the FATA and Waziristan. It was here that they engrossed themselves in the process of reorganization and undertaking fresh recruitment directly or through madrassahs (religious seminaries), which were flourishing after the collapse of the state educational system. Emotionally charged locals, the Pashtuns, had been living well below subsistence level for a long time under successive governments in Pakistan. A combination of abject poverty and an ultra orthodox religious zeal and hatred for the Western powers, provided a fertile nursery for this new class of militants.

These militants have become so powerful in the area that the life of more moderate residents has become unbearable. Investments made in tribal region for development, were nullified by the militants forcibly discouraging female education to the extent, that the schools and colleges meant for female education were torched. Life has become extremely hard for the tribals by denying them even the meager facilities which they were used to. Music and television are banned. This new generation of Taliban is under the influence of al-Qaeda, and is supplemented by militants of different localities, like Chechens, Bosnians, Uzbeks, Kazakhs, Arabs, and Egyptians, who have started dictating their terms based on the conservative interpretation of Islam as per the beliefs and practices of a distorted version of the Deobandi school of thought. To them other sects like Barelvis and Shias are Kafirs (infidels), and, therefore, Wajib-ul-Qatl, or liable to be killed without evoking any legal or religious sanction. A new organizational technique adopted by these New (Pakistani) Taliban is their organization district-wise, which facilitates hitting their targets in settled districts like Peshawar, Dera Ismail Khan, Hazarajat, and the capital city of Islamabad, etc.

Amongst these terrorists, Baitullah Mehsud has established his stronghold in South Waziristan, Sadiq Noor is ruling North Waziristan, Iraqi Arab Abu Kasha is holding the fort at Mirali and, similarly, Najmuddin Uzbek is also in the FATA. Out of these militants, Baitullah Mehsud has had the most meteoric rise. He is fighting a pitched guerilla war against Pakistani Defense and Para-military forces with alarming success so far. He is now heading the Tehreek-e-Taliban-e-Pakistan (TTP) formed on December 15, 2007, and is commanding a well-organized force of 20,000-30,000 fighters, who are always at his beck and call. Suicide human bombers are sent by him to inflict heavy casualties on military, paramilitary, and the police personnel on a regular basis. This is the first experience of this kind that the state forces are confronting.

Another surprise in the hitherto peaceful district of Swat is the emergence of a militant leader known as Maulana Fazlullah, who is working under the guidance of Baitullah Mehsud and following his instructions for the carnage and murder of tribal elders, setting music and television shops aflame, torching girls' schools and colleges, and ordering compulsory beards for all males. He is the son-in-law of Sufi Muhammad, Commander of Tanzeem-e-Nifaz-e-Shariat-e-Muhammadi (TNSM).

In this paper, I undertake an examination of the profiles and organizational strengths of the more prominent leaders of the new Taliban, which is vital to any strategic comprehension of the geo-politics in the area. This is a focused area study, which would tend to rely on locally originating reports and intelligence. The Implications of the spread of the phenomenon are,

however, regional and even global, since the New Taliban are, in essence, a legacy of the old one in Afghanistan, and arguably just as organized and dangerous.

A Profile of Baitullah Mehsud

I have endeavoured in this section to trace the ascent to power of Baitullah Mehsud, considered in some intelligence circles as a threat as big as, or bigger than, even Osama bin Laden. His rise from a relatively little known entity, to the head of a fully fledged Taliban movement in Pakistan, has not only grave repercussions for local security, but also for the global war on terror. The rise of this movement in Pakistan is not just a local disturbance, but the phenomenon of resurgence of the Taliban after their setback in Afghanistan, with Mehsud as a protégé of Mullah Omar taking charge.

Baitullah Mehsud has recently been named in Time magazine's 100 most influential people in the world. Newsweek has labeled him "more dangerous than Osama bin Laden". Certainly, he has become a household name in Pakistan, and an almost endless source of worry for intelligence and strategic circles. His meteoric rise to infamy is coupled with an almost mysterious shroud of secrecy, which has surrounded him from the very inception of his career. It is be a worthwhile exercise to trace his ascent up the extremist ladder, to the head of the Taliban in Pakistan.

Baitullah Mehsud, a Pashtun from the Broomikhel branch of the Shabikhel sub-tribe of Mehsuds, was born to late Muhammad Haroon in the early 1970s in a village called Landi Dhok in the Bannu region of the North Western Frontier Province at a distance from the Mehsud tribe's stronghold[6] in South Waziristan. Geographically, the whole of Waziristan is a single unit. However for administrative convenience it has been split into two agencies, i.e. North and South Waziristan. The area has been described as inhospitable terrain, with high and difficult hills and deep and rugged defiles.

In the family, Baitullah Mehsud had four male siblings[7] by the names of Muhammad Yaqoob, Muhammad Ishaq, Yayha Khan and Zahir Shah. One of his brothers is a major in the army on active duty, and is purportedly helping the forces to capture him.[8] Twelve years ago, as a young student of a local religious seminary, i.e. madrassah, Baitullah Mehsud was immensely inspired by Taliban ideology, and made frequent visits to Afghanistan as a volunteer to participate in the process of enforcement of Sharia by the Taliban. As a traditional tribal man, he is evidently a

---

6   *Daily Times* newspaper, March 31.It is important to understand the modalities of publishing of Pakistani newspapers to understand the style of referencing, which broadly follows the Chicago manual of style. All newspapers quoted are national editions, unless stated otherwise, and most references are extracted from the news sections, again unless specifically stated to be from a different section. Most have an online version, which takes the researcher to a home page, from where the archives can be accessed. Unfortunately, some newspapers have a tendency to cancel links to the more diverse pages in the archives without notice, in which case accessing the hard copy has to be the only option.

7   Sohail Abdul Nasir, 'Baitullah Mehsud: South Waziristan's Unofficial Amir', *Global Terrorism Analysis*, Vol. 3, Issue 26 (July 5, 2006), http://jamestown.org/terrorism/news/article.php?articleid=2370054.

8   Qudssia Akhlaque, 'Hunt Launched for Key Ultras', *The Tribune Chandigarh*, online edition (December 18, 2004) , http://www.tribuneindia.com/2004/20041219/world.htm#4.

skilled marksman and expert in using small arms. Baitullah calls himself a Talib, and swears by Mullah Omar, despite signing a deal with the Pakistani army in February 2005,[9] in which Baitullah and three other tribal leaders furnished an unconditional guarantee to the government that he or his tribe would not support or shelter al-Qaeda terrorists.

Baitullah never went to a formal school or finished his religious education in any religious seminary. Mehsud, believed to be around 35, is suffering from diabetes and is permanently under treatment for his aforementioned physical handicap[10].

A local tribal chieftain divulged to IslamOnline.net on condition of anonymity, that "despite his diabetes, he is a very active man and keeps changing his hideouts frequently and briskly in order to be clueless to the hostile agencies," he noted.

"Personally, he is a very generous and polite man. I have met him once some six months back. I found him a good person, and felt nothing extraordinary about him."[11]

As a guerrilla fighter, Mehsud sharpened his skills under the guidance of legendary Pashtun commander Maulana Jalaluddin Haqqani,[12] who is widely believed to have helped Osama bin Laden escape the targeted bombing by the United States in the Tora Bora mountains of Afghanistan in early 2002.

Known as Amir (commander) among his followers, Mehsud was an unknown figure on the tribal scene until late 2004, when he filled the vacuum left by the famous tribal militant leader, Nek Muhammad Wazir,[13] who was killed in a missile attack in June 2004.

His name appeared for the first time in newspapers after the abduction of Chinese engineers about two years back as an aide to Abdullah Mehsud, a former Guantanamo detainee who later played an important part as a commander of the local Taliban.

Baitullah was earlier more or less in the shadow of Abdullah Mehsud, but has come into his own now.

Baitullah and Abdullah, both hailing from the powerful Mehsud tribe of Pashtuns, were inseparable initially, but parted their ways soon. Abdullah [14]fought for the Taliban in Afghanistan against the Northern Alliance and in 1996 lost a leg when he stepped on a land mine. He was taken captive by warlord Abdul Rashid Dostum who turned him over to American forces. Abdullah Mehsud was sent to Camp Delta at Guantanamo Bay Naval Base in Cuba and held prisoner for two years, insisting the whole time that he was just an innocent tribesman. He was released in 2004 for reasons remaining unclear, and returned to Waziristan. Soon after his return, he

---

9   Mohammad Shehzad, 'Why is the Pakistan Army Scared of This Man?', *rediff News*, special report, online edition (March 2006), http://in.rediff.com/news/2006/mar/10pspec.htm.

10   Latif (2008)

11   Ibid.

12   'Profile - Baitullah Mehsud', *BBC News*, UK online edition, South Asia section (December 28, 2007), http://news.bbc.co.uk/1/hi/world/south_asia/7163626.stm.

13   Nasir (2006)

14   Bill Roggio, 'Pakistani Taliban Commander Abdullah Mehsud Killed during Raid', *Long War Journal*, (July 24, 2007), http://www.longwarjournal.org/archives/2007/07/pakistani_taliban_co.php.

orchestrated the kidnapping of two Chinese engineers working on a dam in his region, proclaiming that Beijing was guilty of killing Muslims. He also ordered an attack on Pakistan's Interior Minister in which 31 people perished.

Abdullah, upon whom Baitullah had once had suspicions of being a double agent,[15] was killed in a shootout in July 2007, in Zhob district of south western Baluchistan province on the Afghan borders. This happened in a clash with Pakistani military forces as they raided his residence, as a result of which he detonated a grenade and killed himself. His death was a crucial element in catapulting Baitullah to the top leadership slot in South Waziristan and areas in its vicinity.

On February 7, 2005, Baitullah Mehsud signed a deal with the federal government which the latter interpreted as his surrender, though denying this claim his associates called it merely a peace agreement. One might call by whatever term one might prefer, but it is a fact that Baitullah Mehsud and scores of his supporters laid down arms in a tribal Jirga meeting.[16] It is also an undeniable fact that he was wanted by the government for allegedly sheltering and assisting al-Qaeda fugitives in areas dominated by the Mehsud tribe. [17]

As a part of the peace agreement, Baitullah pledged that he and his associates would not provide assistance to al-Qaeda and other militants, and would not launch operations against government forces. Baitullah, at that time, explained that the peace agreement was in the interests of the tribal regions as well as in the interest of the government of Pakistan, since hostile forces like India and Russian-backed former Northern Alliance fighters were benefiting from the lack of unity between the government and the tribesmen. This has been more or less a consistent theme in his communications. He has referred to the Pakistani army as a national institution which he does not see weakened by infighting.[18] "We understand fighting against Pakistani security forces did not help the Taliban at all," he told an assembled audience of press: "Pakistan has also realized that fighting tribal people is undermining it. Pakistan's enemies are India, the Northern Alliance and Russia."[19]

In return for amnesty, Mehsud promised not to attack security posts or cross into Afghanistan for jihad, though he backed out of this commitment in late August 2007 following the Red Mosque military operation in Islamabad. If nothing else, this treaty has tremendously raised his stature amongst his own men, and established him as a negotiating entity on a par with the government, also allowing a respite to widen and further strengthen his support base. Mehsud further consolidated his hold, and established his warlord credentials, when the government conceded to his demand to free militant prisoners in return for releasing more than 240[20] Pakistani soldiers,

---

[15] Latif (2008)

[16] Nasir (2006)

[17] *The Nation* newspaper (February 8, 2005).

[18] Ibid.

[19] *Daily Times* and *Dawn* newspapers (February 7, 2005).

[20] *Dawn* [Karachi edition] newspaper (December 31, 2007).

seized by his fighters, and held hostage for two and half months. Among the released militants were presumably a number of would-be suicide bombers.[21]

According to his aides, Mehsud has taken an oath of allegiance to the Taliban supreme leader, Mullah Mohammad Omar. Apart from sharing the same ideologies on sharia and jihad, Mehsud also shares with his spiritual leader an aversion to publicity and photographs.[22]

The militants have established their bases and strongholds in the rugged terrain of the tribal belts of Waziristan and Wana, straddling the border with Afghanistan.[23] They have been implicated in more than 60 suicide attacks in Pakistan over the last year, including the assassination of Benazir Bhutto on December 27, 2007.

The assassination of Benazir has catapulted Mehsud into the mainstream as much as Mullah Omar. Baitullah was a relatively unknown entity to lay Pakistanis until an English daily in October 2007 quoted a "low-profile tribal leader" as threatening to exterminate Benazir Bhutto if she returned to Pakistan. Bhutto was largely seen to have returned to Pakistan riding on a wave of American support.[24]

Dr. Abdul Qadeer Khan, the founder of Pakistan's nuclear program, was quoted as saying that, upon Benazir Bhutto triumphant return to Pakistan in October 2007,[25] Baitullah instructed al-Qaeda militants in Karachi to kill her for "three major offences against Islamists." First, she stated in clear terms that the Pakistani military's operation on 'Lal Masjid' (the Red Mosque) in Islamabad on July 10, 2007 as justified and proportionate. Lal Masjid is an extremely emotive issue on the Pakistani radical scene; one hundred and sixty-four Pakistani special-forces commandos stormed the mosque and madrassah, killing at least 20 and injuring over 100 radicals holed up inside. Second, Bhutto had engaged in a vigorous shuttle diplomacy with Washington and, probably as a corollary, had stated in unequivocal terms that if she succeeded in taking power in Pakistan, she would allow an American search for Osama bin Laden inside Pakistan's borders. This is anathema to extremists. Finally, she made a pre- electoral statement that she would allow the International Atomic Energy Agency to question A. Qadeer Khan. Mehsud has indicated that he considers the detention of Dr. Qadeer over alleged nuclear contraband smuggling to radical buyers as unjustified and unsubstantiated, and an American ploy.

The militant commander is said to be the man who has masterminded most of the recent suicide attacks in the country. A UN report released in September last year blamed Mehsud for almost 80 percent of suicide bombings in Afghanistan.[26] According to some reports, Mehsud has

---

[21] Ibid.

[22] Sohail Abdul Nasir, 'Baitullah Mehsud: South Waziristan's Unofficial Amir', Jamestown Foundation (July 5, 2006).

[23] Carlotta Gall and Ismail Khan, 'In Pakistan, Doubts Over the Fight in Tribal Areas', *The New York Times*, online edition, Asia Pacific section (February 12, 2008) http://www.nytimes.com/2008/02/12/world/asia/12pakistan.html?_r=1&pagewanted=1&th&emc=th&oref=slogin.

[24] Latif (2008)

[25] BBC (2007)

[26] *Daily Times* newspaper [Lahore edition] (September 30, 2007).

compiled his own hit list of political leaders and high-profile government officials, and has formed special squads for carrying out such terrorist acts.[27] While he has admitted targeting military personnel in reprisal attacks, he has usually denied attacking any political figures. In particular, he denied on October 18, 2008, that he had anything to do with the assassination of Benazir Bhutto in December 2007.

He claimed that it was against tribal custom to kill women. However, the truth of this is arguable since Benazir was hoping to return to the Pakistani political scene as an icon of the war against terror. It is also an undeniable fact that there was a strong anti-Benazir feeling among the militants. When a BBC reporter[28] spoke to some of them in October, days before the first attack, most regarded her as an "American pawn" and some openly condemned her for belonging to the minority Muslim Shia sect,[29] which makes her apostate in the eyes of many of these ultra orthodox Sunnis. Many of them are of the opinion that Benazir Bhutto got what she deserved. Some investigators maintain that extremists from radical groups such as the sectarian Lashkar-e-Jhangvi could have been responsible for the October attack, and conspiracy theories abound regarding her assassination. Be that as it may, for the moment, however, the media-shy Taliban[30] commander is very well poised to grab first spot as Pakistan's public enemy number one, both within the country, and internationally.

Mehsud's name regularly began to emerge in daily news reports, after President Pervez Musharraf imposed a state of emergency, which marked a watershed in Pakistani political history. Some have tended to portray Baitullah as merely an annoying thorn in Musharraf's shoe, while others have consistently seen him as a key figure that can disturb the political equilibrium in Pakistan. It is pertinent to mention here that the Mehsud is the biggest belligerent tribe in South Waziristan, with 60 per cent of the 700,000 population, while the rival Waziris make up 35 per cent. Michael V. Hayden, the director of the CIA, has gone on record to mention the level of threat. Hayden said in a 45-minute interview with *The Washington Post*: "What you see is, I think, a change in the character of what's going on there," adding, "You've got this nexus now that probably was always there in latency but is now active: a nexus between al-Qaeda and various extremist and separatist groups." Hayden added, "It is clear that their intention is to continue to try to do harm to the Pakistani state as it currently exists."[31]

This young and committed jihadi has consistently acted as a liaison and more, for the Pakistani Taliban and those on the other side of the Pak-Afghan border. Mehsud's Taliban connections are a moot point now but it was not always so as earlier his Taliban connections were sometimes a point of conjecture. Many had believed that Mehsud had been involved in the Taliban insurgency in

---

[27]   *Daily Times* (May 31, 2007).

[28]   BBC (2007)

[29]   Syed Shoaib Hassan, 'Venturing into the Taleban's Backyard', *BBC News*, online edition, international version, South Asia section (October 11, 2007), http://news.bbc.co.uk/2/hi/south_asia/7039661.stm.

[30]   BBC (2007).

[31]   Joby Warrick, 'CIA Places Blame for Bhutto Assassination', *Washington Post*, online edition, World section (January, 2008), http://www.washingtonpost.com/wp-dyn/content/article/2008/01/17/AR2008011703252.html.

Afghanistan by dispatching his men to fight against the U.S. led Coalition forces, a point which seems quite probable in hindsight. A close aide of Mehsud, Hakimullah Mehsud, was captured by NATO forces in the border region while trying to cross into Afghanistan with five foreign fighters.[32]

Mehsud was initially intensely media-shy; one would suspect that he was in this respect emulating his spiritual and religious mentor, Mullah Omar, but he has recently become far less reclusive and is not above flaunting his power occasionally. His operations now boast of more or less openly operating terror training camps near the Afghan border, and the destruction of a suicide bombing 'nursery' in Spinkai by Pakistani troops was flouted in the media as evidence of his operational strength. Even more intriguingly, there is evidence that he is in possession of state of the art intelligence monitoring equipment, which relies on encrypted information to monitor Pakistani troop movements in real time.[33] Pakistani intelligence circles have so far been unable to decrypt these signals.

Brig (r) Mahmud Shah, ex-secretary security Fata, suggested the government should dislodge local militants from foreign fighters who, he said, were the actual players of the game. "Their actual masters are these foreigners and our government should seriously work towards separating both of them. Otherwise these jirgas would have no role to play in resolving the conflict," he declared.[34]

Baitullah seems to be obsessed with the concept of jihad, which is the militant's hallmark. He draws his authority from verses of the Holy Koran, citing several verses to defend his stance that non-Muslim foreign forces must be evicted from Islamic countries. "Allah on 480 occasions in the Holy Koran extols Muslims to wage jihad. We only fulfil God's orders. Only jihad can bring peace to the World," he says.[35] The militant leader has been active in fighting foreign troops in Afghanistan, and apparently the traditional Pashtun aversion to invaders also runs in his blood. "We will continue our struggle until foreign troops are thrown out. Then we will attack them in the US and Britain until they either accept Islam or agree to pay jazia (a tax in Islam for non-Muslims living in an Islamic state)." Suicide bombers are a vital tool in his arsenal; he has predicted that they are capable of giving a bloodier nose to foreign forces in Afghanistan "in the years to come." "The mujahideen will carry out even more severe attacks. If they [theWest] have air power we have fidayeen [suicide bombers]... They will leave dishonoured."[36] The militant leader has contested an American general's claim that a Taliban leader, Jalaluddin Haqqani, was present in the tribal region and was organising attacks across the border. "This is all lies. They don't have any evidence."[37]

---

[32] *Dawn* newspaper (March 8, 2007).

[33] *The News* newspaper (August 5, 2008).

[34] Outstanding disputes, *News on Sunday* (April 13, 2008), http://jang.com.pk/thenews/apr2008-weekly/nos-13-04-2008/spr.htm,

[35] 'Pakistan Taleban vow more violence', *BBC News* online edition, international version (January 29, 2007), http://news.bbc.co.uk/2/hi/south_asia/6292061.stm

[36] Ibid.

[37] Ibid.

Thus, he is playing a definite and pivotal role in the upsurge of militancy in the North-West of the country, in turn having a direct bearing on the political situation in the country, with grave ramifications for international security.

"Tehreek-E-Taliban" – The Face of the Taliban In Pakistan

The Tehreek-e- Taliban, the movement of Taliban in Pakistan (TTP), was formed on Dec 15, 2007, and launched attacks against the security forces and government installations after their demand for halting military operations in the tribal areas and Swat valley was turned down by the government. Their main demand was to end military operations in North and South Waziristan tribal areas as well as Swat, but they also demanded the release of Maulana Abdul Aziz Ghazi, Imam of Lal Masjid (mosque) in Islamabad. Even though various sources seemed to be reporting a rift between Mullah Omar and the Afghan Taliban on one hand, and Baitullah Mehsud and Omar on the other in late January 2008, it was not a stumbling block for his appointment as Head of the Taliban movement. The reports seemed to suggest that the rift arose because he was focusing on attacks in Pakistan, rather than in Afghanistan. It seems probable that the rift has healed or otherwise did not exist. The phenomenal rise of Baitullah Mehsud played a significant role after President Pervez Musharraf loosened his grip on power, simply because, amongst other factors, the Taliban in the tribal areas and the Northwest Frontier Province have united under the aegis of Baitullah Mehsud, which provides them with a single banner and a single leader.

In December 2007, a shura, or council, of 40 senior Taliban leaders, formalized his appointment as head of Pakistani Taliban, which gives him centralized control of not only militant groups in Waziristan, but also Swat and adjoining areas. "The *shura* was made up of Taliban representatives from the seven tribal agencies of North and South Waziristan, Khyber, Orakzai, Bajaur, Mohmand, and Kurram, as well as the settled districts of Swat, Bannu, Tank, Lakki Marwat, Dera Ismail Khan, Kohistan, Buner, and the Malakand division."[38] The Tehrik-i-Taliban Pakistan has a straightforward agenda: they have reiterated their continuation of jihad against coalition forces in Afghanistan as their main point. At the same time, they issued a warning to the Pakistani establishment; cease military operations against the Tehrik-i-Taliban, desist from hostilities, and release prisoners or face the consequences. "The meeting participants have demanded an immediate end of the military operation being carried out in Swat, and given a 10-day ultimatum to the government to pull its troops out of the area," the *Nation* reported. The Tehrik-i-Taliban Pakistan also demanded "the closure of the military check posts in North and South Waziristan and release of all Taliban activists including former Lal Masjid Khateeb Maulana Abul Aziz."

"Our main aim is to target the US allies in Afghanistan but the government of Pakistan's ill-strategy has made us to launch a defensive jihad in Pakistan," spokesman Maulvi Omar stated. "The government of Pakistan would be paid in the same coin now," Mehsud said.[39] "The consolidation of the disparate 'local Taliban' movement is a logical step in the Taliban's

---

[38] Bill Roggio, 'Pakistani Taliban unites under Baitullah Mehsud', *Long War Journal* (December 15, 2007), http://www.longwarjournal.org/archives/2007/12/pakistani_taliban_un.php.

[39] Ibid.

insurgency campaign in north-western Pakistan. The Pakistani Taliban, while allied with al-Qaeda and the Afghan Taliban, has operated as local groups. The creation of a unified Taliban movement in Pakistan will allow them a better coordination with Afghan Taliban and al-Qaeda thus affording better military and political advantages inside Pakistan."[40]

Mehsud has superseded some able and influential Taliban leaders in his nomination as the Amir of the Pakistani Taliban in North and South Waziristan, including Sadiq Noor, Mullah Nazir, and Noor Islam. It is unclear if Faqir Mohammed of Bajaur and the outlawed Tehrik-e-Nifaz-e-Shariat-e-Mohammadi (TNSM, the Movement for the Implementation of Mohammad's Sharia Law) were represented at the meeting, but one cannot rule out its possibility.[41] A representative of Maulana Fazlullah's Swat branch of the TNSM was also in attendance. "Abu Kasha, a key link between al-Qaeda's *Majlis-e-Shura* [central organizing committee] and the Taliban, is also said to hold a senior position in the Tehrik-i-Taliban Pakistan."[42] Furthermore, these dissident terrorist forces are equipped with the weaponry of suicide bombers, the like of which has never before been seen aside from some classical references in antiquity of the assassins' cult. Obviously, it is a threat to humanity, as well as the human progress made by man over centuries, and its consequences become direr by the possibility of the indiscrete use of nuclear energy falling into the hands of these people. This has certainly not gone unnoticed in intelligence circles; the director of the CIA, Hayden, has been quoted as saying: "The Afghan-Pakistan border region has been an area of focus for this agency since about 11 o'clock in the morning of September 11, [2001] and I really mean this," adding, "We haven't done a whole lot of retooling there in the last one week, one month, three months, six months and so on. This has been up there among our very highest priorities."[43] Terrorists, as a part of their worldwide strategy in Pakistan, are displaying a more or less identical pattern in North Western Frontier Province, North and South Waziristan as they are in Afghanistan. The borders between the two countries are by no means impervious, so militants are infiltrating to and simultaneously from the adjoining areas of Afghanistan. These routes had traditionally been offering easy access to members of the tribes existing on either side of the border, and then the supplies of Afghan Mujahideen. These terrorists in FATA are sharing commonalities of objectives with the Afghan Taliban inasmuch as enforcement of Shariah is concerned, hence their tactics of defying government writ by putting the schools to torch, especially the girls' schools. Mullah Omar's leadership of the Taliban is, therefore, not very different from the one provided by Baitullah Mehsud to his private army, i.e. Lashkar in FATA.

Maulana Fazlullah

Once considered a haven for tourists from all over the country as well as the globe, Swat[44] has long depended heavily on the revenue generated through the tourism industry.[45] A rough estimate

---

[40] Ibid.

[41] Ibid.

[42] Ibid.

[43] *Washington Post* (2008).

[44] Population: 1,257,602; area: 5,337 sq. km; sub-divisions: Matta and Swat; population density: 235.6 persons per sq km; urban ratio: 13.8 per cent; main clans: Yousafzai Pathans, Mians, Kohistanis, Gujars

puts the dependence of more than 60 per cent of the region's inhabitants upon the hospitality industry, which has ground to a complete halt in the wake of violent clashes between militants and security forces, leaving almost 1200 hotels and thousands of people unemployed and suffering from an identity crisis of faith.

The advent of this pervasive movement can be traced back to July 2006, when Maulana Fazlullah came into the limelight. His religious lineage can be traced to Maulana Sufi Muhammad of Tehreek-e-Nifaze-Shariat-e-Muhammadi (TNSM), who is the father-in-law of Fazlullah. It is worth mentioning here that Sufi Muhammad passed a decree declaring military training compulsory for every Muslim. Hundreds of TNSM workers, paying heed to this call, reportedly went for military training in Afghanistan. Sufi was imprisoned for leading an 'army' of 10,000 men to Afghanistan to fight alongside the Taliban against the US-led coalition forces and the Northern Alliance. He had been in the Dera Ismail Khan jail for more than six years but has recently been released into the custody of Fazlullah under the auspices of an agreement reached between the militants and the government. (See news report by Riaz Khan, 'Cease Fire in Pakistan's Swat Valley', Associated Press of Pakistan (May 9, 2008).)

Maulana Fazlullah devised a novel strategy of radical preaching; he installed an FM radio channel in 2004, which is now being clandestinely operated. His message was simple: anti-US and anti-government rhetoric, interspersed with a call for support of Taliban[46] in Afghanistan and the establishment of an Islamic state. The title of 'Radio Mulla' given to him is apt. According to one estimate there are about 30 FM Radio channels being operated in Swat churning out an indigenous mix of jihadi propaganda.[47] The government has tried to counter this by stepping up the frequencies of the local channels to block this transmission, but these propaganda machines have proved quite effective at covert relocation and transmission.

News reports coming out of Swat give measure to his meteoric rise to popularity by the fact that when he gave a call for the establishment of a madrassah on the banks of the Swat River, Rs. 3.8 million were collected, reportedly within 24 hours, and this later rose to Rs 35 million.[48] The Mulla preaches an essentially fundamentalist and Talibanised ideology. This has prompted attacks on CD shops, a mandatory ban on shaving of beards, and threats to girls' education, all purportedly based on the Shariah. The threats have also materialized now in the form of the

---

and Pirachas; religion: Muslim 99.7 per cent, Christian 0.02 per cent, Hindu 0.01 per cent, Ahmadi 0.25 per cent; literacy rate: 28.75 per cent.

[45] Swat hotel industry on verge of collapse, Tauseef-ur-Rahman, *The News* (May 14, 2008).

[46] The Mulla has conceded that he had thrice crossed over to Afghanistan to fight alongside the Taliban. The last campaign was to accompany Maulana Sufi Mohammad and his 10,000 followers, in November 2001, to fight the US-led coalition forces and the Northern Alliance.

[47] Reportedly, Maulana Masood Azhar formed the militant Jaish-i-Muhammad in Swat after being released from prison in India due to a deal being brokered between the two countries. This organization later imparted jihadi training to TNSM activists.

[48] SWAT analysis**,** Mushtaq Yusufzai, *The News*, can be accessed at http://www.jang.com.pk/thenews/ nov2007-weekly/nos-04-11-2007/spr.htm.

destruction of women's colleges in Swat.[49] This has dealt a crippling blow to the educational prospects of women in that area. It is worthwhile mentioning here that this area of the country had achieved the highest literacy rate for women compared with neighboring districts.[50] Even the religious class was tolerant of women's education, music, movies, internet, etc. which have become taboo under the new religious leadership. It was only after some time that it was realized by the policy echelons of government that a FATA-type situation was developing in a hitherto open society, which was unprecedented in Pakistan. The measures taken by the Mulla echo images of Taliban whipping women in Afghanistan, which has just been a media report for most Pakistanis until now, but seems to have assumed cataclysmic proportions in a major commercially thriving city which had a robust hospitality culture. Curfew was finally imposed when gun battles between Maulana Fazlullah and security forces failed to resolve the issues in four subdivisions of the Swat district, namely Matta, Kabal, Charbagh and Khwaza Khela.

The situation took an ominous turn when the Fazlullah-led militants joined Tehrik-e-Taliban Pakistan (TTP), formed by top Pakistani militant Baitullah Mehsud on December 14 last year, in a bid to provide an umbrella to all insurgent movements operating in several tribal agencies and settled areas of NWFP. With this, the movement fell into the hands of tribal-areas-based Taliban and Maulana Fazlullah lost his authority to make decisions independently. The Swat-based Taliban were previously insisting only on the promulgation of the Shariah but they have started making increasingly strident demands from the government. Now they want the government to kowtow to Baitullah's tough conditions, or else they are not going to end the insurgency. A negotiated agreement was reached regarding a cease fire on May 31, 2008, which has fallen to pieces, with both sides blaming each other for the failure of the negotiation process. Given this situation in the ongoing insurgency, "Baitullah Mehsud has the last word on the agreement, and until his permission we cannot resume talks aimed at the enforcement of the accord," spokesman for the Swat Taliban Muslim Khan told TNS.[51] In the peace deal, the government has accepted the pressing demand of the militants, besides others, to enforce Shariah but they are now toeing Baitullah's line. In fact, Swat's problem has become further complicated and now there is little chance of a lasting solution, whether military or peaceful. The success of any peace deal is conditional on the situation in the tribal agencies. According to Swati Taliban, in case of any action in tribal areas, the pact would automatically stand terminated.

The NWFP government and Swati Taliban have their own compulsions and could not implement any deal despite sincerity from both sides. It would be wise for the government to realize the ground reality and directly talk to Baitullah for an effective peace accord in Swat since Fazlullah is no more the person calling the shots, or it must devise another strategy to eliminate militancy.[52]

---

[49] Militants razed the government girls' high school in Charbagh to the ground using a combination of explosives and incendiary materials, *The News* (May 5, 2008).

[50] Without sustenance, Javed Afridi, http://www.jang.com.pk/thenews/nov2007-weekly/nos-04-11-2007/spr.htm

[51] *News on Sunday* (July 6, 2008), http://jang.com.pk/thenews/jul2008-weekly/nos-06-07-2008/spr.htm

[52] *News on Sunday* (July 6, 2008), http://jang.com.pk/thenews/jul2008-weekly/nos-06-07-2008/spr.htm

"Though Swat was the epicenter of the Maulana Fazlullah-led militancy and suffered heavily due to acts of violence by militants and as a consequence of military operations, other parts of Malakand region too faced fallout of the volatile situation in the valley. Taliban fighters affiliated to the faction of Tanzim Nifaz e Shariat-i-Mohammad (TNSM) headed by Fazlullah also briefly occupied Alpuri, headquarters of adjoining Shangla district, and received reinforcements and support from Upper Dir, Lower Dir and Buner districts and Bajaur and Malakand agencies. The original TNSM, banned by the government after its founder and Fazlullah's father-in-law Maulana Sufi Mohammad took several thousand fighters on a misguided adventure to fight alongside the Afghan Taliban against the US military and its Northern Alliance allies, still has pockets of support in these places, particularly in Bajaur where Maulana Faqir Mohammad remains defiant and ready to battle the government. Thus it would be wise to form a *jirga* with representatives from all of Malakand region even though the immediate focus would be to defuse the situation in Swat, where more than 20,000 troops are still deployed after having launched military operations last winter."[53]

"The provincial government's writ runs in Swat and other districts in the so-called settled area while the Federally Administered Tribal Areas (Fata), which includes Bajaur and six other tribal agencies, are managed and controlled by the federal government through the Governor of NWFP. It is, therefore, obvious that the ANP-PPP coalition government would be required to first resolve the problems in Swat before contributing to a solution of the more serious and hitherto intractable conflicts in tribal agencies such as South Waziristan, North Waziristan, Bajaur and Darra Adamkhel. Swat valley doesn't border Afghanistan and this single factor has resulted in reduced US interest in the conflict there. The Americans are more concerned about the situation in the two Waziristans and rest of the tribal region as they believe the al-Qaeda leaders including Osama bin Laden are hiding there and Taliban militants based in the area are easily able to cross the border to attack soldiers from the US, Nato and Afghan armies. Any negotiated political solution in Swat would not alarm the US and its allies and they are unlikely to object to such a move. But it would be an altogether different story if the new, democratically elected PPP-led coalition government at the centre attempted a similar political settlement of the conflict in tribal areas over the objections of the US."[54]

Terror Tactics

Baitullah runs a tight ship; deserters are summarily executed and even Taliban not following a tightly regulated code of conduct are summarily dealt with. Similarly, he does not tolerate opposition; and according to reliable intelligence sources at least 100 Waziri[55] tribal leaders have been purged on his orders. His methods may be questionable, but his leadership is not in doubt; in late 2007, a Taliban *shura*, a 40-member consultative council, chose him to unify its operations in

---

[53]   *New frontier*, *News on Sunday* (April 13, 2008), http://jang.com.pk/thenews/apr2008-weekly/nos-13-04-2008/spr.htm

[54]   Ibid.

[55]   'Baitullah Mehsud', *The New York Times*, online edition, People section, http://topics.nytimes.com/top/reference/timestopics/people/m/baitullah_mehsud/index.html?inline=nyt-per.

Pakistan. The methodology of the Pakistani variant is equally violent as their Afghani counterpart's, not allowing civil liberties & fundamental human rights to this society; they are asking for strict conformity to their code of conduct – i.e. banning music and burning all music and video shops, confiscating vehicles equipped with stereo, and stopping barbers shaving beards – because all of these activities have been regarded by them as *haraam*, i.e. sacrilegious. Baitullah Mehsud has established his own parallel government and he has set up his own judicial system wherein Pashtuns, i.e. tribals, approach him for delivery of justice rather than resorting to judicial courts set up by the government. According to a tribal barber, all hair cutting saloons in the area have been ordered by Baitullah Mehsud to display warning signs to the effect that, since shaving beards has been forbidden, that service is not offered. Not only this, but those violating this order are punished with their saloons being reduced to ashes whereas others have been put to death for undertaking this sacrilegious act. In the words of Hayatullah,[56] a barber in Makeen, "Earlier I would shave my customers, but now I don't because, if I do, my shop will be torched and I will be punished to death by Baitullah Mehsud." Hayatullah further mentioned that about three months earlier, Baitullah ordered a couple, who had committed adultery, to be stoned to death.

Baitullah receives money from al-Qaeda and the Taliban to run the affairs of his newly founded 'parallel state'. "People dance to his tune. On his command, they can sacrifice their lives," says the editor of a Peshawari newspaper on the condition of anonymity. Baitullah has used local clerics and he is illegally operating twenty FM radio channels in Pakistan's Federally Administered Tribal Areas to enforce his writ. Evidently, differences of opinion exist. Some are of the opinion that not much has changed in the tribal areas. An officer of Frontier Constabulary holding the rank of an Army Major emphasizes: "It is a question of how you look at things. Jirga has along been a part of tribal tradition and cannot be equated with a parallel government. People in tribal areas were already keeping beards. The women were already in purdah. So, you can't say that a Taliban-like Shariat has been imposed". In my opinion, it is imperative to contrast the present situation with the rather laissez faire variety of tribal religiosity that existed before the emergence of this phenomenon. Admittedly, the tribals did keep beards and women were in purdah, but this was more or less done out of a spirit of long standing tribal tradition than an intense religious fervor. As any one having some knowledge of the Pathan way of life would know, the Pathan is a delightfully confusing mix of contradictions. He can be a lifelong friend and a deadly enemy, a paradox of honesty and a shameless cheat; a jovial person who would watch Pashto movies, while taking a break to say his prayers. I quote from Rashid Ahmed: "Anyone who has been touched by an Afghan or visited the country in peace or in war will understand when I say the country and the people are amongst the most extraordinary on earth. The Afghans have also been affected by one of the greatest tragedies of this century – the longest running civil war in this era which has brought untold misery.

"Their story and their character involve immense contradictions. Brave, magnificent, honourable, generous, hospitable, gracious, handsome, Afghan men and women can also be devious, mean and bloody-minded."[57]

---

[56] *Shehzad* (2006)

[57] Ahmed Rashid, *Taliban: the Story of the Afghan Warlords*, London: Pan Macmillan Ltd. (2001), p. xiii.

In essence, the pre-Taliban tribal scenario was quite different from the one now prevailing, a case in point being the number of educational institutions for women in FATA. These, even though previously not well attended, are now dwindling to zero. Thus, a moot point would be the consolidation of areas that do not have even the vaguest semblances of the writ of the state. This formation of an al-Qaeda and Taliban-run 'state within a state' is an alarming development, and certainly cannot be written off as if 'nothing much' has changed.

The locals' opinions tend to mirror the above portrayed situation. Gul Zameen, a local trucker, told *Islam Online*, "Playing music and watching videos are against the law here."[58] Baitullah's camp followers give him credit for bringing peace, but detractors argue that this semblance of peace was a creation of Baitullah's Mafia and his lieutenants, whose Godfather is Baitullah himself, squeezing the local population of their entire financial and other resources. Allegedly he was in close association with the Taliban leader Mullah Omar for the enforcement of an extreme form of Shariah, without being mindful of the changed scenario. His dictates in the twenty-first century include, "Women must observe a strict form of purdah, and men are forbidden to have their beards shaved. Playing music and watching videos are against the law." M I Khan, a journalist with the *Nida-i-Millat*,[59] describes how Mehsud kills pro-government tribal leaders: "First, he would confirm that the guy is an informer and then he would send him a Rs.1,000 note along with a thread and a needle, telling the person to buy and have his *kafan* (shroud) stitched within 24 hours," Khan says. "And the guy is murdered within 24 hours."

He has ordered the murder of adulterers by stoning. There are a few judicial courts in the region run by the Pakistan government, but their services have seldom been availed of by the Waziristanis, who prefer approaching Baitullah Mehsud for the dispensation of a primitive form of justice in South Waziristan and parts of North Waziristan. In these areas, this man is the law.

Fazlullah also operates in similar fashion. After consolidating control of the area, Fazlullah tried to enact his own brand of the Shariah within the area he controlled. The extent of his control can be assessed by the fact that he has set up his own parallel system of administration of justice, by setting up self administered Shariah courts. Public lashings in Mamdheray[60] resonate to the media images emanating from Afghanistan during the Taliban's heyday.[61] "They were bringing a bad name to my organization. People were complaining that my men were involved in criminal activities. I believe the lashing would serve as a deterrent to others."

Organizational Efficiency

Baitullah commands a force of 20,000 to 30,000 fighters[62] in the tribal areas of northwest Pakistan. Without discriminating between Muslims and non-Muslims, he has dispatched suicide-bombers to kill Pakistani police and soldiers in Swat, Kohat, Bannu, Dera Ismail Khan, and

---

[58]   *Latif* (2008).

[59]   Ibid.

[60]   Fazlullah's religious headquarters on the banks of Swat River.

[61]   The News newspaper, 04.11.07.

[62]   (Latif 2008).

Peshawar. On August 30, his forces brazenly captured more than 200 Pakistani soldiers and held them hostage for two months until his demands were met. One day after declaring a state of emergency on response to political scenarios in the country, General Musharraf reached a settlement with Baitullah, exchanging 25 militants in government custody for the captured troops. Musharraf later admitted that these men were trained suicide bombers, and one of them was under indictment for participating in a suicide bombing. As part of the deal, Baitullah agreed to expel foreign militants from his territories and stop attacking the army. However, Baitullah has signed peace accords with the Pakistani government before and gone back on his commitments. This can be seen as part of a wider strategy to further entrench his hold on his area of control. As an analogy with Swat, whenever there is a peace treaty with the militants, they use the time available to consolidate their hold on the area.

This is done by giving a sense of security to the locals. This attitude can be examined in light of a local's statement: "Baitullah succeeded in establishing peace in the area". Thus, the local people started trusting him. Unfortunately, the Pakistan army failed to act against Baitullah's private army taking up the self-assumed responsibility without any governmental mandate to establish law and order in the area. Pro-government and pro-US tribal people are being killed in Waziristan – sometimes on the basis of hearsay and in the absence of any formal evidence, which is really alarming in any civilized country.

As regards organizational skills, "Baitullah's lashkar (army) is well organised. He has divided it into various units and assigned particular tasks to each unit. One of the units has been tasked to kill people who are pro-government and pro-US and support the US occupation of Afghanistan. The last person to be killed was Malik Arsallah Khan, chief of the Khuniakhel Wazir tribe, who was killed on February 22 in Wana (in South Waziristan)," says a source in the Frontier Constabulary.[63]

The number of fighters he has at his command has remained open to conjecture: some sources claim 25-30,000 while others have quoted a figure of nearer to 20,000. However, a local tribal chief has put the number between 8,000 and 10,000 well-trained fighters. "He is no doubt the most influential and powerful person of South and North Waziristan areas," he said.[64] "His state stretches from South Waziristan to Bajur and from North Waziristan to Kurram agency (approximately 2700 square kilometers)." Around 2500 to 3000 foreign fighters, mostly of central Asian origin, are thought to be the forte of his force. Baitullah was recently elected as Amir (commander) of Taliban Tehrik (movement) Pakistan. "He is now the head of all the tribes harbouring sympathies for Taliban. Tribesmen (local Taliban) from South Waziristan to Bajur agency have gathered under his flag, making him the most powerful and influential person in the tribal belt," reported a local journalist.[65]

Baitullah has a long list of major victories to his credit up to the start of 2008 – the capture of two important military forts in South Waziristan on January 16and 17[66]and the much flaunted

---

[63]   *Shehzad* (2006).

[64]   *Latif* (2008).

[65]   Ibid.

[66]   Ibid.

capture of Pakistani army men last year, being just two of the many. Lt General Ali Mohammad Jan Orakzai, the governor of the North Western Frontier Province and a former corps commander of Peshawar, resigned in December 2007 ostensibly because of the central government's inept handling of the Waziristan situation.

There abound many opinions about the exact role of Mehsud within the overall Pakistani paradigm. Lt General (rtd.) Hameed Gul, a security analyst and a former head of the powerful Inter Services Intelligence (ISI), believes Baitullah is not at war with the army as an institution. "He is acting against only those who have been there (in tribal area) at the behest of America. Otherwise, if not his brother, I am sure his many cousins would be in Pakistan army." He insists that the military interventions in the tribal area and last year's fiasco of the Red Mosque onslaught have boosted Baitullah's popularity.[67] "His only strength is a tribal system, which has given him so much power. In tribal system, everyone is your brother or cousin. So it's very hard for a tribesman to sit idle if his brother, cousin or even fellow tribesman is fighting." Gul also maintains that there was no personal animosity towards slain Bhutto. "Taliban came into being during her stint. Her government fully supported Taliban and they too never considered her an enemy," said the former ISI chief. "She was personally conveyed [a message] by Mehsud that he was not her enemy. She accepted that clarification that is why her party men reject the government claims about Mehsud's involvement in her assassination." The veteran expert contends that the issue of Baitullah is being played for political reasons. "This is just a hype being created by the US intelligence agencies about him to provide an excuse to their force to enter Pakistan and attack," he told IOL. "There is no comparison between Mehsud, and bin Laden or Ayman Zuwahiri……The militants say they don't wish to fight Pakistani security forces because it only benefits the Americans." He argues that Baitullah is not the first 'victim' of such a hype campaign.

"He is not the first one who is being presented as a big fish. Before him, there were Naik Muhammed, Abul Firaj Al-Libbi, Amjad Farooqi and Abdullah Mehsud," said Gul, naming local al-Qaeda chiefs killed by security forces in recent years. "It has become a trend here to make villains and then kill them."[68]

Meanwhile, the fundamentalist movement of Fazlullah in Swat has continued to expand at a rapid pace. "Fazlullah has become a spiritual figure now. A lot of foreign elements, including Arabs, Uzbeks and Chechens moved out from Mirali, Darra Adam Khel and Bajaur, and reached there. "They are in full control of the region and are directly involved in carrying out actions against our security forces," disclosed by a senior security officer to the media.[69]

"Maulana Fazlullah has a fighting strength of 4600, with an added 400-member Shaheen[70] Commando Force that patrols the streets of Swat with guns placed on their vehicles. The

---

[67] Ibid.

[68] Ibid.

[69] *The News* newspaper (November 4, 2007).

[70] 'Shaheen' means 'eagle'. The symbolism used connotes a sense of urgency and a sharp eye on affairs, which is not wholly undeserved. Reports are that the Mulla's forces are arranged with an almost military precision and discipline.

Maulana's stronghold remains the 59 villages of Matta sub division," said the Home Secretary (the most senior official in charge of law and order for the NWFP province) to the media last year.[71]

Even the Mulla's zeal has paled in comparison with some of his followers who have reportedly joined him from Mirali in North Waziristan, Darra Adam Khel, Bajaur and other tribal areas to fight the security forces. Some sources have claimed that he has lost control over some of his more overzealous fighters. The ruthless beheadings of captured security personnel are being ascribed to these fighters, which reportedly have a large foreign element within them. It is reminiscent of jihadi fighters joining the conflicts in Bosnia, Chechnya and Kashmir. This suggests that there is an inherent power vacuum in a Terromodel, where a positive tactic stimulus for jihad attracts fractionalization of militant ideologies, complicating the circle of violence. This facet of the Terromodel in Swat merits further research and in-depth strategic analysis.

The New Taliban and Social Justice

As espoused by Maudoodi, jihad is a binding duty of all Muslims, but they must begin this jihad first by correcting themselves *(Amar bil-ma`ruf )*, and then go on to correcting others through instructions *(Nahi `an al-munkar)*, entering into a war only if the conditions set for the justification of jihad make it necessary. It is demonstrable by the almost obsessive zeal of the Taliban to start implementing penal laws and controlling unruly elements in the society, that they are justifying the device of jihad by correcting their society first. The new Taliban have done the same; even when Pakistani military operations were going on against them, they have engaged in organizing penal punishments against offenders. Certainly, Baitullah Mehsud has engaged in these tactics, and so has Fazlullah.

It does seem that the inherent structural imbalances, in distributive social justice in FATA, have left gaping wounds, which the fundamentalist project is quick to exploit. Hussein Khan, who owns a pharmacy in Wana, the capital of South Waziristan, says local tribesmen like Baitullah for some of his "good acts". "He has restored law and order in the area. Dacoits and thieves have left the area fearing harsh punishments," he told a media person. According to him, "Some people also believe that there are many bad people in his militia," citing the killing of 13 family members of the federal government's political agent in Khyber agency, an adjacent tribal area, in an armed attack by Baitullah's militia about four months. "He (Baitullah) publicly apologized for the incident," Khan said. "The Taliban involved in the attack have been languishing in (his) jail for the last four months. They would have been punished if anti-security sentiments against military action had not been aroused[72] and the military option had not been exercised."

"Mehsud is gaining the advantage of indiscriminate bombing and killing of common tribesmen. Sympathies are increasing for him with every passing day. I am not a literate person, or a security expert, but I know that no military operation will succeed against him," he added.[73]

---

[71] Javed Aziz Khan, 'No Operation Yet: a Compilation of Official Versions even as Senior Officers Refuse to Talk to the Media' , *The News* newspaper (November 4, 2007).

[72] Latif (2008).

[73] Ibid.

"Those who are not supporters of Osama [bin laden] or Baitullah, even they have been forced by the indiscriminate military operation to harbour sympathies."

Aslam Awan, a journalist working with the jihadi publication *Weekly Takbeer*, mentions the setting up of a 'special task force' in June last year to purportedly crack down on criminals in South Waziristan. "This force launched a number of crackdowns and made a feared kidnapper Abdul Rashid Bakakhel free some of his hostages. Baitullah also collected donations from the local people to establish peace. It was a kind of protection money," Awan continues.[74]

Similarly, Fazlullah seems to be playing out the Robin Hood theme; after consolidating control of the area, Fazlullah has tried to enact his own brand of Shariah within the area controlled by him. The extent of his control can be assessed by the fact that he has set up his own parallel system of administration of justice, a claim which he has been quick to deny in his self contradictory statements. "This is not true. We did arrest some killers, drunkards and other criminals and would have delivered them over to the police had the cops been doing their duty instead of locking themselves inside police stations for fear of an attack. The murderers are still in our custody and the seven young students who were caught drinking were released after they sought forgiveness from Allah. We gave them Rs. 100 each so that they could pay for the transport and reach their homes," he said.[75]

As mentioned above, public lashings in Mamdheray resonate to the media images emanating from Afghanistan during the Taliban's heyday.[76] "They were bringing a bad name to my organization. People were complaining that my men were involved in criminal activities. I believe the lashing would serve as a deterrent to others."

It is pertinent to mention here that many of these acts are endorsed by the local populace since these are seen as non-discriminatory acts aimed at punishing criminals masquerading as Taliban and committing acts of robbery. In an area where the locals have traditionally complained of ineffective governance by successive governments, which allegedly indulged in nepotism and inadequate resource allocation, a heightened local sense of security may be a driving factor swelling the ranks of his followers. A Terromodel hypothesis does seem to suggest a governance imbalance. In a 'closed' society(like Waziristan) which is sequestrated from the mainstream society at large, it is easier to comprehend the negative spiral effects of ineffective governance, but in an area which is relatively affluent by FATA standards, there is a complex interplay of different centrifugal forces which need to be researched in their context. The amount of aid and government resource allocation also needs to be accounted for to appreciate the dynamics of the process. Marc Sagemen[77] suggests that the commonplace stereotypical conception of penniless, opportunity-denied Muslim youths turning to violence is not necessarily true. Instead, the desire to reconstruct, or put more suitably, deconstruct the existing society for a more egalitarian one drives some of

---

[74] Shehzad (2006).

[75] Rahimullah Yusufzai, 'Inside Fazlullah's Headquarters', The News on Sunday, special report on Swat, The News newspaper (November 4, 2007).

[76] Ibid.

[77] Marc Sageman, *Leaderless Jihad: Terror Networks in the Twenty-First Century*, Philadelphia: University of Pennsylvania Press (2007).

them to acts such as suicide bombing. Thus, in a Terromodel, existing socio-economic variables would have to interpolate with psycho-social and other juxtaposing factors.

Conclusion

With the collapse of the institutional structure in Waziristan, the districts of NWFP are rapidly succumbing to the ruthless onslaught of Talibanisation. Taliban pockets have appeared with impunity in the southern districts of Tank and Bannu, as well as Hangu. Police posts from Tank to Jandola have tended to be abandoned, the police being out gunned and outnumbered. The commercial hub of the Indus highway connecting Karachi with Peshawar is no longer safe. Even convoys of trailers are being hi-jacked at will. Suicide bombers have repeatedly struck Peshawar, killing the head of city police along with fourteen other senior police officers in January 2007. It is most probable that the suicide attacks are emanating out of Waziristan, at the behest of Baitullah Mehsud.

The insurgency is particularly dangerous because it has sparked an identity crisis throughout the North West Frontier Province of Pakistan. The local population, although at varying levels of development ranging from the contemporary to the conservative, maintains a common heritage in Pashtunwali or the Pathan way of life. Depending on the perspective from which the problem is approached, the Pashtun way of life is under threat from extreme radicalism for modern Pashtuns, and from the satanic forces of modernism in the case of the conservative ones. Either way, a battle has commenced for cultural identity.

Many analysts would argue that the Taliban only succeeded in Afghanistan because the country had been in a state of anarchy for more than a decade and a half .The local populace was wholeheartedly willing to support any entity that could provide security under such circumstances. There is little doubt that the Taliban initially emerged as a stabilizing force that took on rapacious warlords. Some of the same analysts would argue that in Pakistan, the situation is totally different. Despite increasing sectarianism and socio-economic problems, there exists a strong, organised, and a functioning institutional set up, despite all its lapses and shortcomings. Thus, according to these analysts, there is no Islamist peril in the long run.[78] I argue differently. The danger is not from the creation of a Taliban state in Pakistan, but the disorder and chaos resulting in the attempts by Taliban to do so. The state may be able to withstand the separatism or regional autonomy of the Taliban in the long run, but at a huge cost of geopolitical instability in the region. The Taliban in Pakistan have become a populist movement in Pakistan, otherwise they would not have blossomed in the incremental manner that they have. There is a grave peril, and it has to be recognized in its context.

---

[78] Freeric Grare, 'Pakistan: the Myth of an Islamic Peril', *Policy Brief*, No 45 (February 2006), Washington: Carnegie Endowment.

REFERENCES

- Abdul Nasir, Sohail, 'Baitullah Mehsud: South Waziristan's Unofficial Amir', Jamestown Foundation (July 5, 2006).
- Coll, Steve, *Ghost Wars, the Secret History of the CIA, Afghanistan and bin Laden* (London, The Penguin Press, 2004).
- Grare, Freeric, 'Pakistan: the Myth of an Islamic Peril', *Policy Brief*, No 45 (Washington: Carnegie Endowment, February 2006).
- Rashid, Ahmed, *Taliban: the Story of the Afghan Warlords* (London: Pan Macmillan Ltd., 2001).
- Sageman, Marc, *Leaderless Jihad: Terror Networks in the Twenty-First Century* (Philadelphia: University of Pennsylvania Press, 2007).

Theorizing Terrorist Behavior: Major Approaches and Their Characteristics

Özgür ÖZDAMAR [*]

Abstract: *This paper reviews the major theoretical approaches to the study of terrorism. Despite the abundance of policy-oriented research in the field, terrorism, as an immensely complex subject, is underdeveloped in terms of theorizing. In this essay, I aim to present basic theoretical frameworks that evaluate terrorist behavior and discuss their potential to further develop as scientific theories. Instrumental, organizational, political communication, economic, and psychological theories of terrorism are discussed and some conclusions are drawn as to the future of terrorism studies.*

Introduction

Although terrorism and rule by terror are well-known practices in the history, theoretical literature studying terrorism has not been developed to its fullest extent. In earlier examples of Western political thought, such as in the Greek epics, Thucydides, Roman political thought, Machiavelli, Hobbes and Montesquieu, one can observe examinations of terrorism, however, common characteristics of terrorist rules and insurgencies virtually escaped systematic analyses and rigorous theorizing (Spitz 1967).

Yet, interest in the study of terrorism has changed substantially in the last half century. Terrorism has increasingly become a focus of attention in social sciences since the 1960s. There are some practical reasons for the burgeoning of such literature. The main reason, according to many scholars like Wilkinson and Stewart (1987), Long (1990), Rice (1988), is that the state of the international system in the Cold War made engaging into conventional wars extremely costly. Therefore, the strategic balance favored unconventional warfare as a means of engaging rivals. As a result of these developments, terrorist organizations and their activities spread during the 1960s, 1970s and 1980s, and this increase in use of terror as a tactic by non-state actors brought with it a greater focus on terrorism in the social sciences.

---

[*] Özgür Özdamar teaches in TOBB-University of Economics and Technology, in Ankara, Turkey.

These academic perspectives on terrorism differ widely. They are influenced by disciplinary interests such as cultural anthropology, religion, social psychology, history, political science, geography, demography, weapons technology, communications, electronics, and forensics (Long 1990, Clutterbuck 1990 and 1994). Due to the limitations of this study, most of these various approaches are not included.

In this paper, I attempt to review the most important theoretical approaches to the study of terrorism in the political science discipline. Terrorism is primarily a political phenomenon. Therefore, the political science theories are the focus in this study. Instrumental, organizational and political communication approaches are taken as the principal representatives of political science theories of terrorism. In addition to those, economic and psychological theories of terrorism are evaluated from the other disciplines. The reason to evaluate economics and psychology literature is simple: these are two of the most developed social sciences.

An important point needs to be explained about this review. This paper has suffered from the basic characteristic of the terrorism literature, that is, there is not a fully developed, widely accepted theory of terrorist behavior. The theoretical approaches presented in this study are 'developing' at best. Although there are plenty of descriptive and prescriptive studies, attempts to theorize terrorism are rather rare. Therefore, at various points in the review, suggestions on how to achieve theoretical development are made.

In the following sections, first, a discussion of definitions of terrorism is presented. In part two, five major theoretical approaches to the study of terrorism are presented. Finally, a brief critique of the literature is presented and suggestions for theory building are made.

Definition

What is terrorism? Why is it there? Who are terrorists? What are the ways to deal with it? These are the major questions that concern researchers who studied this social phenomenon.

The term 'terrorism' suggests political violence or insurgency primarily. Terrorists kill people or destroy property for political purposes. But using the concept of terrorism as a synonym for political violence, which is done in political science literature, is a reductionist approach. According to Wilkinson and Stewart (1987), there is a general recognition that terrorism is a specific method of struggle rather than a synonym for political violence or insurgency. According to Brian Jenkins (in Wilkinson and Stewart 1987), terrorism can be described as a kind of weapons system. This is a useful definition to some extent because it provides a context to the researcher in which this weapon can be used by various actors. It is not the weapon of one group, organization or ideology but it is the weapon of various actors in the international system. It is indeed insightful to describe terrorism as the weapon of the poor. Terrorism is more likely to be used by 'poorer' groups who need to bring an expensive political change because terrorist activities induce lower costs but may bring significant political changes. However, a more scholarly description would require the broader context mentioned above.

It can be argued that there is a modest agreement in the literature about defining terrorism as a form of political struggle although there is not a consensus. But there is another question about the definition then: what distinguishes terrorism from other forms of violence? Is terrorism, guerilla

warfare, criminal violence or pyschopathological motives the same? Tillema (2002) suggests that the purposes behind these acts are not identical: while a terrorist seeks symbolic political effect, guerilla warfare aims to weaken the security forces. Or, for example, criminals may look for material gains while the psychopath may have no comprehensible reason. One of the accepted ways of distinguishing terrorism from other forms of violence is the deliberate and systematic use of coercive intimidation (Wilkinson and Stewart 1987). Terrorists terrify people to force them to do what they want. This means that terrorists aim to create fear among a wider audience than the targets themselves. So terrorists actually do not ask something specific from their victims, but terrorize these people – kill, injure, destroy their property – to create the environment in which they can ask for political changes, usually from governments (Bueno de Mesquita 2000). Therefore, a description of terrorism must include the actors in a terrorist act. According to this definition, there are at least five participators in the process of terror. Primary actors are the terrorists of course who exercise violence. Second, the immediate victims are those who unwillingly become a part of the process. Third, there is the society, or wider audience that terrorists aim to intimidate. Fourth, the neutral parts of the society as bystanders. The fifth part involves international actors, or international community and its opinion (Wilkinson and Stewart 1987).

Making these distinctions or defining these aspects of terrorist acts shows us a fact about the literature: terrorism is a difficult phenomenon to define. Usually there is no wide consensus on issues. On the contrary, terrorism is the kind of subject on which people tend to get involved in polemics. Due to its politically critical nature, who is a terrorist and what is 'terrorism' are very complicated to define.

The discussion presented so far shows difficulties associated with making a definition of terrorism that is accepted by many or all. However, we need to make one that is generally accepted. The basic and to a great extent academically accepted definition of terrorism suggests that, 'terrorism is use of violence aimed to change government's policies on a certain issue (or issues) but directed on people who actually are not related to the policies in consideration'. With this definition at our disposal, we can continue with the analysis of the various theoretical perspectives on the phenomenon.

Theoretical Approaches to the Study of Terrorism

The Instrumental Approach

Instrumental explanations of terrorism suggest that the act of terrorism is a deliberate choice by a political actor (Crenshaw 1988). According to this approach the terrorist organization acts to achieve political ends. Different acts of terrorism are explained as responses to external stimuli, like government policies..

According to Crenshaw (1995), in this approach, violence is assumed to be intentional for a terrorist organization. Therefore, violence is not the ends as suggested by some other approaches like the psychological theories. Terrorists are not lunatics who violate for the sake of violation. Rather, terrorism is a tool for these actors to achieve political ends. So governments and other actors are perceived as rivals whose actions are taken strategically and a terrorist organization aims

to change other actors' decisions, actions, and policies by using force. As given in the general definition, terrorism is a deliberate action aimed to change government policies; it is not a kind of typical warfare in which parties try to destroy each other militarily.

As to how the terrorist organizations decide particular actions, this line of literature suggested that terrorist groups as non-state organizations make cost and benefit analysis in shaping their actions (Hermann and Hermann 1990, Sick 1990, Crenshaw 1990). This approach suggests terrorist groups calculate the cost of doing and not doing an action and also the probability of success in their actions. In this respect, there are important similarities between instrumental approach and quantitative or formal studies of terrorism. Reviewing the examples from the instrumental approach, one can suggest that the rational choice approach's assumptions are quite similar to those of the instrumental approach. Rational choice studies of terrorism make similar assumptions: terrorists are rational and make their decisions in strategic interactions with other actors (Landes 1978, Sandler et. al. 1987, Enders and Sandler 2004).

One of the major questions in all theories is how one can define 'success' of a terrorist organization. Instrumental theorists suggested that the success is defined in terms of accomplishing the political ends for a given terrorist organization. For example, if a terrorist organization is nationalist-separatist in nature, success is achieving an independent state. However, we also know that a terrorist organization achieving its full ends is almost never the case. No matter how big or influential it is, the rival organization, i.e. the state, is usually significantly more powerful than the terrorist groups and finds ways to deal with the terrorists. According to Crenshaw (1988), very few terrorist organizations achieved their full ideological objectives. So is terrorism a failure at all? There can be a variety of answers to this question, perhaps political, even polemical answers. Different explanations from other theoretical approaches are there too. An advocate of the psychological approach may suggest that it is the act of violence in terrorist's mind that matters; so long-term ideological objectives would not be defining success. Or an organizational approach analyst might argue, as long as the terrorist organization survives, the success is achieved. For an advocate of the instrumental approach, attaining the political ends are important, so the survival of the terrorist organization even though the ultimate aims cannot be achieved could be explained by the achievement of so-called intermediary aims. Crenshaw (1988) suggests terrorism survives because the terrorist organizations achieve their tactical aims such as publicity and recognition. This explanation makes sense considering some political changes that terrorist organizations were able to achieve, despite their failure to reach their ultimate political ends.

Related to the problem of achieving ends, the literature dealt with another question: if there is no possibility of achieving ultimate success for terrorist organizations, how does the organization survive and how can theories explain the factions in the terrorist organizations? The pieces of the instrumental approach reviewed suggest that these factions are the result of disagreements about the political ends, ideological stands, or results of unsuccessful actions to achieve these aims (Crelinsten 1988, Crenshaw 1988, Long 1990). For example the factions in the IRA, or in extreme-left organizations in Italy and Turkey, or divisions born from the PLO are the examples of how terrorist groups are divided after serious concerns about political ends in the organization.

The instrumental approach to terrorism is one of the most developed approaches to the subject in the discipline of political science. It is simple and comprehensible as Crenshaw (1988) suggests. It is comprehensible because the intentions of actors are inferred from their behavior according to logical rules. Also, this approach is intellectually satisfying and provides researcher with a rather easier context of study since information requirements about secretive terrorist organizations are relaxed. It is substantially influenced by conflict studies, so its range is extremely broad as it is applied to all manner of conflict regardless of the identity of the actors (Crenshaw 1988). However this leads to a weakness of the instrumental approach: it cannot explain how the preferences of the actors are determined, since it does not incorporate analyses of the internal workings of terrorist organizations. So, if we assume actors are identical, we miss the differences in understanding how different terrorist actors act differently. In the next part, the organizational approach, which seeks answers to these questions, is presented.

Organizational Approach

This approach analyzes terrorist groups from the perspective of organization theories. As seen in other fields of social sciences, basic explanations about terrorist groups are based on the organizational perspective. The aim, the actions, and the internal dynamics of an organization are explained in relation to internal organizational processes.

The organizational approach suggests a terrorist organization's main goal is 'survival', like any other organization such as a state institution or a commercial enterprise. Hence this approach explains terrorism as a result of an organization's struggle for survival, usually in a competitive environment (Crenshaw 1988). Leaders of the organization deliver benefits, incentives to the members to provide for the survival of the organization. The organization responds to pressures from outside by changing incentives offered to members or through innovation. Maybe the most interesting explanation about terrorist organizations from this line of literature is that, terrorist actions do not necessarily or directly reflect ideological values (Crenshaw 1988, Oots 1986, Rapoport 1977).

As we elaborate more on the examples of this literature, one can observe that there is great significance given to the internal dynamics and processes of the organization. The determinants of political actions or violent policies by terrorist organization are organizational rather than political or ideological. These organizations are taken as self-sustaining and they do whatever necessary to survive. Organization delivers goods to the members to keep them in the organization. These can be tangible goods or public goods in Olsonian terms (Olson 1988), or even be intangible goods like respect, of feeling of belonging to a network of social relationships (Oots 1986).

Organizational theories suggest that what defines the actions of a terrorist organization is not purely political. But this approach does not provide us with the necessary simplification we need in theory building. Because it is difficult to understand the reasons behind terrorist acts since actions are assumed to depend on the internal, clandestine dynamics of a terrorist organization. However, in the instrumental approach, scholars infer the intentions of the actors from their behavior. This provides us with an easier framework to study in than some of the other approaches. Rather practical problems about the organizational approach are that understanding the internal dynamics, processes in the organization is challenging since terrorist organizations are

typically secret. How do we provide information about them, is it possible at all? The problem of imperfect information also affects the quality of the studies in this line of the literature.

Another problematic assumption in the organizational approach is that terrorist acts are assumed to appear inconsistent, erratic and unpredictable (Crenshaw 1988). It is so because terrorists do not act according to external pressures, like from governments. They do not make the cost and benefit analysis of purely political actions, and act strategically according to the political interactions between the actors. So although the instrumental theories and economic approach allows us to explain even surprise attacks that can be stimulated from external pressures, organizational theories do not provide such an insight, or it is at least difficult to explain the actions of terrorists by the organizational approach since we can have little information about the inner processes of these organizations. For example, this theory assumes that incentives promised to members of the organization are of great importance understanding why individuals subscribe to terrorism. How can we possibly achieve adequate information about the leaders, members and incentives of these organizations? Without these insights, can our explanations about terrorist actions be valid at all? These are difficult questions to be answered by the advocates of this approach.

Another basic argument about this approach is that terrorist organizations are like firms. Albert O. Hirschman's (1970) economic theory of organizations can be used to explain the maintenance of the organization in a competitive environment. This line of literature suggests that terrorist organizations are like firms competing in an environment in which they will always try to survive. Other terrorist organizations are like rivals in a market place: the Irish Republican Army competes with the Irish National Liberation Army. Moreover organizations are more sensitive to their members' stimuli than they are to government actions.

Related to the assumptions mentioned above, emphasizing organizational maintenance explains why terrorist organizations survive although they never achieve their ultimate goals. Because of a terrorist organization's aim is to survive, it focuses on and uses material benefits. For example, it becomes the center of social networks in a particular district of the city or in a rural area. It provides financial resources to its members. So it is possible to argue that terrorist organizations actually do not want to reach their ultimate aims. If the organization succeeds there are not enough incentives to keep the organization together. Leaders are likely to seek incremental gains sufficient to sustain group morale but not to end members' dependence on the organization (Crenshaw 1988).

The last part of this literature I would like to present deals with transnational terrorist organizations and suggest that transnational terrorist organizations are similar to political organizations in the sense of being political groups (Oots 1986). This line of literature argues that the major function of the organizations is to serve the collective interests of their members (Sandler 1992). In order to achieve this goal, they provide public goods to their members. For example, a Palestinian homeland, an independent Basque state or Marxist revolution are examples of public goods that these organizations aim to provide. Financial gains from terrorist or illegal activities are other examples of these goods. Another way of thinking of terrorist organizations as political interest groups is that they provide externalities (Oots 1986). For example, when a terrorist bombs a shopping center, people injured there experience negative utility over an activity

that they have no control over. It is argued that the difference between a terrorist group and other political organizations is that terrorist groups use political violence to provide these goods, but other groups usually use peaceful means.

This theory provides insights into the internal dynamics of terrorist organizations and how these dynamics influence terrorist acts. It helps us understanding different actors and their different policies. Therefore, it has the potential to accompany the instrumental approach in this sense. However, the approach is inherently complex and far from being parsimonious; it doesn't provide us with a context in which we can make general descriptions, find regularities or make predictions about terrorist behavior because it is assumed that most terrorist acts are random, and have sui-generic characteristics. Since we can know very little about the inside interactions of terrorist organizations, the actions of terrorists are difficult to explain in this context. Therefore, better theorizing and conducting empirical research is difficult to achieve by utilizing this approach.

Terrorism as Political Communication

This approach suggests that terrorism is employed for communicative purposes. That is terrorism is a set of actions that uses political violence for communicative aims. So, the ultimate aim of a terrorist organization in general is to spread political messages and make some segments of the society or state do something they want.

According to Crelinsten (1987), terrorism is a deliberate use of violence and threat of violence to evoke a state of fear (or terror) in a particular victim or audience. Besides that, the terror evoked is the vehicle by which allegiance or compliance is maintained or weakened. In this line of literature too, it is assumed that the terrorized group is not the real target to be communicated to, but the demands of compliance are directed towards on another group. As for the allegiances, there are two possible ways this relationship does work; by either weakening or strengthening the alliance:

> …the allegiance to be established or maintained is that between the terrorist and one group of targets, while the allegiance to be weakened is that between the same group of targets from whom allegiance is sought and other groups perceived by the terrorist to be enemies to this cause. (Crelinsten 1987)

To sum, terrorism's ends can vary – they can be a religious, leftist or right-wing terrorist organization – however, all these acts are designed to influence the relationship between individuals in society and the state (Kaplan 1978).

Terrorism as a communication approach is substantially different from organizational or instrumental approaches because their focus of inquiry is on the impact of terrorism according to the advocates of this approach. Causes of terrorism are not purely political ends or the organizational goals. How does a terrorist act influence different targets in a society? What kind of impact does it create on those target groups? And how do relationships between terrorists, terrorized group and the real target group change? These are the questions asked in this literature. For example let us take the Oklahoma bombing of 1996. In this case, the individual terrorist made this attack to protest against certain policies of the US government. Most of the people he killed had no direct effect on these policies. By doing this act, the terrorist used a way of political

communication in which he sought an allegiance from the American people. That is, he tried to strengthen the allegiance between himself and the rest of the society. On the other hand, by using violence and communication, he aimed to weaken the allegiance relationship between the society and the American government.

This approach is successful in bringing the communication dimension into the theory-building processes in studies of terrorism. It is really difficult to construct a comprehensive theory of terrorism without considering the terrorist action's impact on intended and unintended audiences and how these actions change and define relationships in society. However, this approach is not comprehensive itself. It is not capable of explaining the political ends of these organizations. It is insightful to suggest that action-reaction dynamics are to be understood. But why these actions are taken, on what grounds, with which political aims are at least as important as the communication characteristics. Likewise organizational aspects of the subject are treated as unimportant in this approach.

Hence I suggest using this approach as complementary, rather than as a comprehensive theoretical approach to terrorism. In terms of the original perspective it brings to the discussion, it is useful. But it does not involve very critical dynamics of terrorists' acts.

Economic Approach to the Study of Terrorism

Some terrorism studies employ theoretical and methodological tools from the field of economics (Sandler et al. 1983, Enders et al. 1992, Enders and Sandler 1993, 1995, 1999, 2000, 2001). Although, in the final analysis, terrorism is a political phenomenon, it is not surprising to see such approach due to increasing use of economic applications in political science and other social sciences.

According to Enders and Sandler (2004), the application of economic methods to the study of terrorism began with Landes (1978), who applied the economics of crime and punishment to the study of skyjackings in United States. This literature suggests that economic methodology is particularly well suited to provide insights over and beyond those from a political science approach. Hence scholars in this approach claim empirical superiority to the definitions, institutional analyses, case studies and inductive frameworks provided by political science.

This interpretation can be better explained by providing four different arguments from the supporters of this approach. First, they claim that economic analysis can account for strategic interactions among opposing interests. These relationships include terrorist-government, or two targeted countries relations in transnational terrorism cases. I agree that to explain strategic interactions using economic approaches in political communication, instrumental and organizational studies can prove very useful. Because strategic interactions are assumed in these approaches too, rational choice models (e.g. game theoretic models) can be incorporated in other approaches to explain relationships between terrorist organizations and the others. For example, in the organizational approach, defining relationships within terrorist organizations as problems of collective action can be useful.

Second, authors from this line of literature suggest that rational choice models can be applied to find out how terrorists are apt to respond to policy induced changes to their constraints. Same

methods can be applied also to the government's reaction to the terrorist induced changes. Many examples of the economic approach to the study of terrorism have utilized this advantage of formal modeling. Researchers applied game theoretic models in which strategic interactions between terrorist groups and governments were assumed and action-reaction based models are developed (Lee 1988, Hamilton et. al 1983, Sandler and Lapan 1988). These studies usually aimed to produce specific policy prescriptions.

Third, not only economic methodology, but also theories of economics are assumed to be useful in explaining terrorism. Sandler (1992 and 1997) suggest that theory of market failures can underscore how independent pursuits of well being by the agents maybe at odds with socially efficient outcomes. This approach is useful in understanding government failures: they can also stem from well-intentioned policies too.

Fourth it is suggested that various economic empirical methods can be applied to evaluate theoretical predictions and policy recommendations. Considering the advanced and successful methodologies that are used in economics literature using economic methodologies is a useful option if the researcher's aim is to make predictions and policy recommendations. Various studies with these aims in the literature employed these methodologies.

In terms of its advanced methodologies, economic approaches to the study of terrorism can help. This approach allows you to think and study the phenomenon in a broader sense. For example, in game theoretic studies on terrorism, scholars can focus on both terrorists' and governments' behavior; interaction between the two actors is not random but rather strategic and the researcher can assume uncertainty and imperfect information wherever necessary.

However, there are certain problems with this approach too. Economic theories are abstractions based upon simplifying assumptions. So, wherever these assumptions are not valid, these theories should be reevaluated. For example, how can rationality assumption be compatible with suicide missions? Can cost-benefit analysis of this action be made by economic theories where the actors know the final outcome is death? For such extreme incidents, rationality assumption becomes controversial. However, there are great insights that political science can borrow from economics in explaining terrorist behavior. In most cases, terrorist organizations seem to follow policy patterns that can be explained by rationality assumptions. These patterns show rational calculation than irrational or sporadic behavior. Terrorists calculate the costs and benefits of their actions, they usually react to external stimuli – i.e. government 'oppression' – they account for risks and diversify their portfolios of acts to limit risks. Even though terrorists risk their lives, the effort put to escape plans suggests that life is still important to them (Sandler et al. 1987).

Theories and methodologies of economics do help our understanding of terrorism. However, they cannot solely explain terrorism. They should be used with more elaborate political theories of terrorism. For example, the instrumental approach and economic approach could very well be united in terms of their assumptions about the phenomenon. Because the instrumental perspective assumes a context in which strategic interactions take place, the purposes of the terrorist groups are well simplified, and the patterns are assumed to follow action-reaction processes as mentioned. Similar assumptions are made by economic theory too, which makes using these two theories together reasonable.

Psychological Approach

Psychological approaches to the study of terrorism are concerned with the study of terrorists' profiles (i.e. personalities), their recruitment into terrorist groups, beliefs, motivations, and careers as terrorists. That is, this line of literature attempts to produce profiles of terrorist individuals to answer questions like: who are terrorists? why are they involved in terrorism?: what are the common characteristics of these individuals (if any)? Although there are many examples of such studies in the literature, it is difficult to find a consensus on terrorists' 'states of mind' in these works. Studies focus on substantially different issues from different theoretical and methodological perspectives. However, there are two approaches within psychological explanations that dominated these studies.

The first approach I present describes terrorists as mentally ill individuals. People who commit such horrible crimes are labeled 'abnormal'. By producing explanations about the mindset of terrorists, this approach achieved its own hypothesis about terrorism. Jerrold Post's definition of terrorist 'psycho-logic' is an important example of this:

[It is] argued that political terrorists are driven to commit acts of violence as a consequence of psychological forces, and that their special psycho-logic is constructed to rationalize acts they are compelled to commit. … individuals are drawn to the path of terrorism in order to commit acts of violence, and their special logic, which is grounded in their psychology and reflected in their psychology and reflected in their rhetoric, becomes the justification for their violent acts. (Post 1990: 25). There might be some insights to this approach. For example, terrorists may have personalities more tended to violence. However, such an approach is reductionist and far from being able to explain different dynamics of such a complex phenomenon. This approach excludes the political, ideological, economic, and sociological factors that lead people to become terrorists. Besides, I suggest that this argument takes terrorist organizations homogenous units. It is assumed that all terrorists display the same personalities. Considering there is not such a homogenous group where individuals involved, this approach is not a compelling one.

The second approach characterized terrorists as fanatics. This approach emphasizes the terrorist's rational qualities and views the terrorist as a cool, logical planning individual whose rewards are ideological and political, rather than financial. This approach characterizes terrorists as well-educated and sophisticated people who are capable of using advanced rhetoric and political analysis. As Wilkinson and Stewart (1987) suggests there are two main types of fanatics. First are religious fanatics. Some religious groups employ terrorism for their political purposes, specifically to overthrow 'evil' regimes and replace them with religious ones (Merari 1990). On the other hand, single-issue fanatics are characterized as an obsessive group of people who want a certain policy to be changed, like on abortion or animal rights. This line of literature does not profile terrorist behavior as pathological, but rather suggests that a terrorist's mindset is obsessed with a particular perspective about the world that is so powerful that it can produce such violent acts.

Some other examples of this literature have focused on different motivations that can lead to terrorism and their recruitment processes. Although the psychological approach shows connections between terrorist acts and ideologies, it is still not capable of providing a comprehensive account of terrorist acts. Without considering instrumentalist aims, organizational structures, or strategic

interactions among actors in terrorist acts, psychological approaches alone are cannot explain or predict terrorist behavior.

A Brief Critique of Terrorism Literature

Reviewing the literature on terrorism, one concludes that it has yet to develop a grand theory of terrorism. The preceding pages presented the best examples in the literature that suffers from serious problems. These theories are not as comprehensive, rigorous and parsimonious as theories in other fields of political science.

There are certain reasons that can be attributed to the underdeveloped state of theories analyzing terrorism. Wilkinson and Stewart (1987), Crenshaw (1988, 1992, 1995), Crelinsten (1987), Oots (1986), Thackrah (1987), and Wieviorka (1995) stated some important reasons. In the next pages these critics and my evaluations are synthesized.

First, in most of the examples of literature, researchers focus exclusively on terrorism by small groups or non-state actors. Crelinsten calls this weakness in the study of terrorism a truncated object of study. In fact, in almost all pieces covered for this review, I have hardly encountered any important example that does not take this approach. Terrorism is exclusively defined as insurgency in most of the studies. However, this leads us to limited analyses because in doing that, we reduce the domain of our studies to a single perspective. Actually terrorism can be defined in terms of a power relationship. We should be including this power relationship as it is exercised from top to bottom, as well as we do for bottom to top relations. So the definition of terrorism given at the beginning of this paper as the use of violence aimed to change government's policies on a certain issue should be broadened for better understanding of the phenomenon. By providing this larger domain of study, the researcher will have the opportunity to make comparative analysis (Crelinsten 1987). If we do not modify the object of our study as such, we will not have the opportunity to see the similarities and differences across contexts. Hence, terrorism is not only the use of violence by the non-state actors, but it is a tool of persuasion in a wide variety of power relationships.

The second critique of the literature is that most research on terrorism focuses on policy prescriptions. The most frequent type of study in the literature is a policy-oriented one.[1] From an economic perspective, one can argue that it is so because there is great demand for this type of research, especially from governments. The problem with policy-oriented studies is that they narrow the scope of scientific study. Because these studies are designed to help governments, they focus on the prevention and control of terrorism. This approach leads us to work with narrow conceptual frameworks (Wieviorka 1995, Crenshaw 1995, Crelinsten 1987). Terrorism is a broader and more complex subject, reducing the scope of analysis to prevention hurts theoretical development.

Third, studies in terrorism literature should refrain from being ahistorical, actor- or incident-oriented (Crenshaw 1995). That is, although we need the rigor of linear and causal models, we

---

[1] For example in Turkey, most of the literature on terrorism focuses on rather specific problems such as the PKK (Özcan 1999, 2008; Özen 2008), spread of WMDs (Kibaroglu 2004, 2007), or religious terrorism (Özen 2007).

should not fall into the pitfalls of these approaches. The importance of finding general patterns, trends and cycles is undeniable. However, although there are commonalities, each case is unique. Terrorism remains unpredictable in part because its multiple contexts are dynamic (Crenshaw 1995). So our studies must consider the historical, geographical and cultural contexts. There are great insights that we can learn from comparative case studies of terrorism.

Fourth, the literature has to find ways to change our focus from descriptive studies to more complex theoretical work. Terrorism literature largely includes descriptive studies in that researchers tend to describe and define terrorism and terrorists. We need more than that. That is, we need to developed theories, comprehensive case studies and we need to test our hypotheses against evidence, both with qualitative and quantitative methodologies.

After presenting the weaknesses found in the terrorism literature, lastly I discuss what kind of theories we need for better explanations of terrorism. First, the literature needs to determine proper scope and unit of analysis. As described in this paper, there are various approaches to this question. Social, organizational, political or individual levels of analysis are used. To build better theories, I suggest that the political level of analysis is the most appropriate one because, first and foremost, terrorism is a political phenomenon. Even though other explanations give insights, terrorists' aims are primarily political. I do not suggest excluding insights from other approaches, but rather they should complement political explanations. Second, in theorizing about terrorism, we need to construct our assumptions very carefully. These assumptions should take into consideration that terrorism is a political phenomenon. Thus assumptions should primarily be based on political motives. Third, we need to focus on the simplification of this complex phenomenon in building our theories. Terrorism is an extremely complex issue, so we need to focus specifically on simplification of the complex reality. Fourth, we need to construct theories that are falsifiable. That is, theories of terrorism should be testable against evidence.

In terms of these four criteria, I suggest that the theoretical approach that has the largest potential is the instrumental approach. We can develop instrumental theories and achieve a well-developed theory of terrorism because this approach can support the criteria mentioned above. The instrumental approach's scope of analysis is political. Terrorists attempt to achieve political ends. The intentions of actors are inferred from political actions, violent or non-violent procedures. Assumptions of this approach are simpler than others and intellectually more satisfying (Crenshaw 1988). And last, it is easier to test the hypotheses that can be drawn from this approach. As mentioned above, both qualitative and quantitative methodologies can be applied within this framework. To sum up, the instrumental approach provides a firm base to develop comprehensive theories of terrorism. If the instrumental approach can resolve the weaknesses mentioned in this section and develop itself to meet the four criteria, a rather developed theory of terrorism can be built on the bases of it.

REFERENCES

- Alexander, Yonah and Seymour Maxwell Finger (eds.), *Terrorism: Interdisciplinary Perspectives* (New York: The John Jay Press, 1977).

- Bueno de Mesquita, Bruce, *Principles of International Politics* (Washington, DC: CQ Press, 2000).

- Clutterbuck, Richard, *Terrorism in an Unstable World* (London: Routledge, 1994).

- Clutterbuck, Richard, *Terrorism and Guerilla Warfare* (London: Routledge, 1990).

- Crenshaw, Martha (ed.), *Terrorism in Context* (University Park, PA: Pennsylvania State University Press, 1995).

- Ghosh, Tushar K., *Science and Technology of Terrorism and Counter-Terrorism* (New York: Marcel Dekker, 2002).

- Hirschmann, Albert, *Exit, Voice and Loyalty: Responses to Decline in Firms, Organization, States* (Cambridge: Harvard University Press, 1970).

- Laquer, Walter, *The Age of Terrorism* (Boston: Little, Brown, 1987).

- Long, David E., *The Anatomy of Terror* (New York: Free Press, 1990).

- Olson, Mancur, *The Logic of Collective Action* (Cambridge: Harvard University Press, 1998).

- Oots, Kent Layne, *The Political Organization Approach to Transnational Terrorism* (Greenwood Press, NY, 1986).

- Özcan, Nihat Ali, *PKK / Tarihi, İdeolojisi ve Yöntemi* (Ankara: ASAM Yayınları, 1999).

- Rapoport, David C. (ed.), *Inside Terrorist Organizations* (London: Frank Cass, 1988).

- Reich, Walter (ed.), *Origins of Terrorism* (Cambridge: Cambridge University Press, 1990).

- Rice, Edward E., *Wars of the Third Kind* (Berkeley: University of California Press, 1988).

- Sandler, Todd, *Collective Action: Theory and Applications* (Ann Arbor: University of Michigan Press, 1992).

- Sandler, Todd, *Global Challenges* (Cambridge, UK: Cambridge University Press, 1997).

- Spitz, David, *Political Theory and Social Change* (New York: Atherton Press, 1967).

- Wilkinson, Paul and A .M. Stewart (eds.), *Contemporary Research on Terrorism* (Aberdeen, UK: University of Aberdeen Press, 1987).

WMD Terrorism and Pakistan: Counterterrorism

Zafar Nawaz JASPAL[*]

Abstract: *Terrorism has become increasingly more irrational in its thinking, more fanatical in its ideological manifestations, more global in its reach, and more mass-casualty-causing in its modus operandi. With this perspective, this article attempts to examine WMD terrorism and its likely repercussions for Pakistan security. Three central questions are: Is WMD terrorism myth or reality? What are the current trends in terrorism that undermine Pakistan security? What are the appropriate countermeasures to thwart terrorists' efforts to acquire WMD?*

Keywords: WMD, fissile material, smuggling, transnational networks

Introduction

Since the beginning of Operation Iraqi Freedom, if any concept has taken hold in global security discourse, it is the nexus of Weapons of Mass Destruction (WMD) and terrorism. Experts recognize that two to three dozen terrorist organizations are interested in acquiring WMD.[1] Contemporary trends in terrorism show that, because these weapons have the potential to wreak catastrophic damage on the target, the terrorists would not be deterred from using WMD. It is difficult to imagine a more effective terrorist tool than WMD material detonated in a densely populated area. There appears to be a working assumption that, with respect to terrorists and WMD, 'possession = use'.

American intelligence agencies report al-Qaeda's interest in pursuing nuclear, biological, chemical and radiological weapons. Increasingly, Al-Qaeda's efforts to acquire WMD more

---

[*] Zafar Nawaz Jaspal is Assistant Professor at the Department of International Relation, Quaid-I-Azam University, Islamabad, Pakistan.

[1] Although large-scale conventional weapons, such as the bomb that destroyed the Alfred P. Murrah Federal Building in Oklahoma or the airplanes involved in the September 11 attacks, are sometimes described as weapons of mass destruction, usually the term is used to refer to chemical, biological, radiological, or nuclear weapons. WMD terrorism, therefore, refers to terrorist use or threat of use of WMD.

closely resemble those of a state rather than those of a typical non-state actor.[2] The disturbing puzzle for Pakistan is that al-Qaeda maintains its stronghold in Pakistan's neighborhood and its Federally Administered Tribal Areas (FATA). As a partner in the War on Terrorism, Islamabad has been actively involved in military operations against al-Qaeda and its sympathizers in its tribal areas. Consequently, Pakistan is a major target for al-Qaeda in the region.

These days, terrorism has become increasingly more irrational in its thinking, more fanatical in its ideological manifestations, more global in its reach, and more mass-casualty-causing in its modus operandi. With this perspective, this article attempts to examine WMD terrorism and its likely repercussions for Pakistan security. Three central questions are: Is WMD terrorism myth or reality? What are the current trends in terrorism that undermine Pakistan security? What are the appropriate countermeasures to thwart terrorists' efforts to acquire WMD?

Terrorism

Although Terrorism is not a new phenomenon,[3] the term terrorism has neither a precise definition, nor one that is widely accepted. What is terrorism? The common understanding of this term is too vague, too broad, and too simplistic. For a long time, terrorism had remained categorized into two main variations: <u>traditional</u>, which is now identified as state terrorism, and <u>revolutionary</u>, which developed in protest against political and social injustice, and operated as a supplement to insurgency and rebellion in efforts to win freedom and bring about political and social change or as a response to state terrorism. In current academic discourse, terrorism is widely characterized as the 'weapon of the weak', as 'violence for effect' or as 'violence for political purposes'.[4] Richard M. Pearlstein argues, "Heated debates over how to define terrorism are a staple at any conference on terrorism. Even various agencies within the same government are unable to agree on a common definition of terrorism."[5] Precisely, despite the understanding of various types of terrorism, a consensus on the definition of terrorism remains absent. One researcher, in a review of writings on terrorism, found 109 discrete definitions.[6] In fact, terrorism has changed its character and meaning in time and space. What was true for one terrorist group in a certain place at a certain time does not necessarily apply to another such group in another country, at another time, espousing another political position or tradition. As a result, a consensus on a definition of terrorism has been elusive. The conceptual problem posed over the years is best reflected in the famous statement: "one man's

---

[2]   'Combating WMD: Challenges for the Next 10 Years', *A Report of the Center for the Study of Weapons of Mass Destruction*, National Defense University Press, Washington, D.C., February 2005, pp. 17, 18.

[3]   It is older than the ancient civilizations of Greece and Rome. Its early roots are in acts of assassination, regicide, and tyrannicide. Early examples include the assassination of Julius Caesar in 44 B.C., and various organizations such as the Zealots-Sicarii (a Jewish sect from the first century A.D.), the Assassins, Ismailis-Nizari (eleventh and twelfth centuries), the Thugs in India, 19th century European Anarchists and Social revolutionaries, Ku Klux Klan in the United States, etc.

[4]   Pearlstein, Richard M., *Fatal Future?: Transnational Terrorism and the New Global Disorder*, University of Texas, Austen, 2004, p. 1.

[5]   Ibid.

[6]   *A Military Guide to Terrorism in the Twenty-first Century*, US Army Training and Doctrine Command, October 12, 2004, p. 3.

terrorist is another man's freedom fighter."[7] For example, the destruction of the World Trade Center was denounced by many people around the world, yet that same event was also celebrated by others on all continents.

The word 'terrorism' is usually used to describe violence that is political, social, religious, or ideological in nature and that is designed to influence an audience beyond the immediate target or victims of the attack. The *Encyclopedia Britannica* defines terrorism as "the systematic use of terror (such as bombing, killings and kidnappings) as a means of forcing some political objective". According to the *Oxford English Dictionary,* a terrorist is "a person who uses or favors violent and intimidating methods of coercing a government or a community. Both definitions—the first implicitly by the examples, which it gives, and the second explicitly—confine the use of the term 'terrorist' to non-state actors who use violence to spread fear in pursuit of political aims.[8] The US Department of Defense approved definition of terrorism is: "The calculated use of unlawful violence or threat of unlawful violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious or ideological."[9] In terms of overall motivations, terrorist organizations may be classified as left-wing, right-wing, ethno-nationalist, or religious. Paul Wilkinson argues that terrorism is a special form of political violence. It is not a philosophy or a political movement. Terrorism is a weapon or method that has been used throughout history by states and by sub-state organizations for a wide variety of political causes or purposes.[10] Some conceptualize terrorism in the framework of symbolic communication theory, viewing 'terrorism as theatre' and as a medium of communication. Hence, as a symbolic act, terrorism can be analyzed much like other communication processes as consisting of four basic components: transmitter (the terrorist), intended recipient (target), message (kidnapping, bombing, ambush) and feedback (reaction of target). The terrorist's message necessitates a victim, but the target or intended recipient of the communication may not be the victim.[11]

WMD Terrorism: Myth or Reality

Though the use of unconventional weapons by terrorists has (fortunately) been rare, the possibility of WMD terrorism does not cease to exist. Admittedly, the acquisition of material,

---

[7]   Lodhi, Dr Maleeha, 'Concepts Lacking Consensus to Undermine WOT', *Global Terrorism: Genesis, Implications, Remedial and Countermeasures*, PanGraphics Ltd., Islamabad, 2006, p. xviii. Hoyt, Timothy D., 'The War on Terrorism: Implications for South Asia', in Hagerty, Devint (ed.), *South Asia in World Politics*, Oxford University Press, Karachi, 2005, p. 282.

[8]   Andrew Mango, *Turkey and the War on Terror: for Forty Years We Fought Alone*, Routledge, London, 2005, pp. 2-3.

[9]   *A Military Guide to Terrorism in the Twenty-first Century*, US Army Training and Doctrine Command, October 12, 2004, p. 3.

[10] Wilkinson, Paul, 'The Strategic Implications of Terrorism',

     http://www.ci-ce-ct.com/article/showquestion.asp?faq=3&fldAuto=595 accessed July 26, 2006.

[11] Lia, Brynjar, *Globalization and the Future of Terrorism: Patterns and Predictions*, Routledge, London, 2005, pp. 13-14.

experimentation with it, and the mastering of the procedures to execute an attack is certainly a cumbersome task. In addition, delivering toxic materials to targets in a sufficient quantity to kill in the same fashion as explosives is not easy. Therefore, the technical capacity of groups to produce or acquire and effectively deliver WMD varies considerably. Nevertheless, the dual-use nature of chemical, biological, nuclear, and radioactive materials opens up the possibility of pernicious weapons-development activities. The 9/11 terrorist attacks in New York and Washington have raised dramatically concerns about the potential for WMD terrorism. The consequences of an act of WMD terrorism would be devastating in many respects—human, social, psychological, economic, and political. Even before 9/11, then U.S. President Bill Clinton stated in January 1999 that the US would be subject to a terrorist attack involving chemical or biological weapons within the next few years.[12]

The Bush Administration's Operation Iraqi Freedom demonstrated that administration's belief that terrorist organizations would use WMD in their terrorist activities against the United States. That is why, the basic supporting proposition for Operation Iraqi Freedom was that Baghdad possessed WMD and, being a rogue state, it was capable of providing these weapons to terrorist organizations. President Bush said on October 7, 2002, "Saddam Hussein is a homicidal dictator who is addicted to weapons of mass destruction…has held numerous meetings with Iraqi nuclear scientists, a group he calls his 'nuclear mujahedeen'—his nuclear holy warriors…facing clear evidence of peril, we cannot wait for the final proof—the smoking gun—that could come in the form of a mushroom cloud."[13] Washington and like-minded states assumed that the coupling of WMD and terrorism was inevitable. In March 2004, while justifying his stance on Operation Iraqi Freedom, the British Prime Minister, Tony Blair, restated his pre-war position. He said, "It is a matter of time unless we act and take a stand before terrorism and WMD come together, and I regard them as two sides of the same coin."[14]

The Bush Administration's ambitious grand strategy for waging the war on terrorism, the Bush Doctrine, rests on two main pillars. First, the events of September 11 rudely demonstrated the inadequacy of deterrence, containment, or ex post facto responses when dealing with terrorists and rogue regimes bent on acquiring WMDs and, hence, the US cannot rule out the option of using force preemptively. Second, the root cause of 9/11 and similarly inspired aggression is the culture of tyranny in the Middle East, which spans fanatical, aggressive, secular, and religious despotisms; hence, the United States must promote democratic regime change in the region. Or, in the words of President Bush, "The gravest danger to freedom lies at the perilous crossroad of radicalism and WMD technology."[15]

---

[12]   Gurr, Nadine and Cole, Benjamin, *The New Face of Terrorism Threats from Weapons of Mass Destruction*, I. B. Tauris Publishers, London, 2000, p. 2.

[13]   'President Bush Outlines Iraqi Threat', *Remarks by the President on Iraq,* Cincinnati Museum Center, Cincinnati Union Terminal, Cincinnati, Ohio, October 7, 2002, http://www.whitehouse.gov/news/releases/2002/10/20021007-8.html, accessed on October 25, 2004.

[14]   Quoted in Freedmen, Lawrence, 'War in Iraq: Selling the Threat', *Survival,* Vol. 46, No. 2, summer 2004, p. 17.

[15]   Kaufman, Robert G., *In Defense of the Bush Doctrine*, The University Press of Kentucky, Kentucky, 2007, p. 1.

Theoretically, the new trends in terrorism indicate that WMDs suit terrorists' strategy, i.e. to cause a large number of indiscriminate casualties. The usage of WMD not only multitudinously increases the lethality of the terrorists' acts, but the government of a state attacked with such weapons would have difficulty controlling the resulting panic. Because chemical and biological weapons are silent killers, an attack could occur at any time without immediate awareness that an attack has taken place. In addition, a new breed of terrorists—including ad hoc groups motivated by religious conviction or revenge, violent right-wing extremists, and apocalyptic and millenarian cults—appears more likely than the terrorists of the past to commit acts of extreme violence. An overriding religious belief in Armageddon establishes a strong motive for some cults to use WMD weapons. Jessica Stern argues:

Religiously motivated terrorists might decide to use weapons of mass destruction, particularly biological agents, in the belief that they were emulating God. The fifth plague with which God punishes the Pharaoh in the story of the Israelites' Exodus from Egypt is murrain, a group of cattle diseases that includes anthrax. In I Samuel 5:9, God turns against the Philistines with a very great destruction, killing them with a pestilence that produces emerods in secret parts…Some terrorists might feel they were following God's example by employing these agents.[16]

Many recorded incidents indicate that since the 1980s terrorists have been acquiring crude chemical and biological agents. It was also reported that some of them have plotted or threatened to use them. For example, in 1984 in Oregon, a religious cult sought to depress voter turnout in a local election by clandestinely contaminating restaurant salad with salmonella, sickening at least 751 people. In 1990, in northern Sri Lanka, the Liberation Tigers of Tamil Eelam (LTTE) attacked a Sri Lankan Armed Forces (SLAF) base with chlorine gas, injuring more than 60 military personnel and enabling the LTTE to rout the fort. In March 1995, Aum Shinrikyo, a Japanese religious cult, attacked the Tokyo subway with liquid sarin. In May 1995, just six weeks after the Aum Shinrikyo incident in Tokyo, Larry Wayne Harris, a former member of neo-Nazi organizations, bought three vials of *Yersinia pestis*, the bacteria that causes bubonic plague. In 2001 anthrax attacks were initiated in the United States.[17] Notably, 100 kilograms of anthrax could kill up to three million people if dispersed under optimal conditions.[18] On April 6, 2007, a suicide bomber targeting a police station exploded his truck full of chlorine gas in a residential area, killing 27 people in Ramadi, Iraq and earlier 350 civilians were hospitalized after three chlorine bombs exploded near Ramadi in March 2007.[19]

Acquisition of WMD

Terrorist organizations could acquire WMD in various ways. It is an open secret that the WMD components and know-how are available on the black market. Compared with nuclear weapons, the materials and tools required to create biological warfare agents are easily accessible and cheap.

---

[16] Stern, Jessica, *The Ultimate Terrorists*, Harvard University Press, London, 2000, pp. 70, 71.

[17] Parachini, John, 'Putting WMD Terrorism into Perspective', *The Washington Quarterly,* 26: 4, autumn 2003, pp. 39-40.

[18] Gurr, Nadine and Cole, Benjamin, op. cit., pp. 3, 4.

[19] 'Chlorine Truck Bomb Kills 27 in Iraq', *Dawn,* April 7, 2007.

Therefore, biological and chemical weapons are often referred to as the poor man's nuclear bomb. A state-of-the-art biological laboratory could be built and made operational with as little as $10,000-worth of off-the-shelf equipment and could be housed in a small room.[20] In addition, hundreds of tons of nuclear material, the essential ingredients of nuclear weapons, were stored at vulnerable sites throughout the former Soviet Union, guarded only by underpaid, hungry, and disheartened people.

The record of nuclear material smuggling reveals that a great deal of nuclear material, equipment, and components for nuclear weapons programs have been, and are being, smuggled from the United States and the former Soviet Union. An early example of the illicit acquisition of nuclear material was the smuggling of enriched uranium to Israel between 1962 and 1965. About 100 kilograms of highly enriched uranium disappeared from a factory in Apollo, Pennsylvania, owned by the Nuclear Materials and Equipment Corporation.[21] A few recent examples are: in January 2003, Japanese officials admitted that their pilot plutonium reprocessing plant at Tokai-mura 'lost' 206 kilograms of weapons-usable plutonium (roughly 40 crude bombs worth) over the previous 15 years.[22] The British nuclear bureaucracy also admitted similar losses at their plutonium reprocessing plant at Sellafield. For instance, 19 kilograms of separated plutonium went missing in 2003, and another 30 kilograms of separated plutonium were unaccounted for in 2004.[23] Where might this material have gone? Moreover, there are many recorded cases of the theft of medical isotopes and other sources of radiation. These incidents are often overlooked because radioisotopes cannot be used to make detonable nuclear bombs. But terrorists could use them to draw attention to their cause, to wreak havoc, and to terrorize civilians.

The unearthing of the multinational nuclear Mafia in 2004, which included both the citizens of developed and underdeveloped countries, shocked the entire world and reconfirmed that there were individuals in various countries' scientific bureaucracies who will undertake illicit nuclear trading for mere monetary benefit. On February 7, 2004, General Pervez Musharaf, the then President of Pakistan stated in a press conference that one of his country's senior scientists, Dr. Abdul Qadeer Khan, and a few his associates were guilty of illicit nuclear trade.[24] Since then, the western media has published a lot on Dr. Khan's network. The chief of the International Atomic Energy Agency (IAEA), Muhammad El Baradei, stated Dr. Khan was merely the "tip of the iceberg." His reference to the tip was meant to remind the international community that there exists a large underground nuclear market. According to the IAEA, between 1993 and 2005 there were 16 confirmed incidents involving trafficking in highly-enriched uranium (HEU) or

---

[20] Chitkara, M.G. and Sharma, Girdhari, *International Terrorism*, A.P.H. Publishing Corporation, New Delhi, 2002, p. 89.

[21] Barnaby, Frank, *The Role and Control of Weapons in the 1990s*, Routledge, New York, 1992, p. 64.

[22] These reported losses were in addition to the 70 kilograms of plutonium Japan previously conceded remained unaccounted for at a plutonium-based fuel fabrication plant it was operating. Sokolski, Henry, 'After Iran: Back to the Basics on "Peaceful" Nuclear Energy', *Arms Control Today,* April 2005.

[23] Ibid.

[24] The then President of Pakistan claimed in his news conference on February 7, 2004 and went on to say that Pakistan's civil and military bureaucracy was not a part of this illicit nuclear trafficking.

plutonium.[25] The existence of an underworld nuclear market justifies concerns that a terrorist organization could acquire radioactive material for their nefarious designs.

The important question is whether terrorist organizations could develop the capacity to use WMD accurately, especially nuclear weapons. Published sources about these weapons reveals that it is easy to use chemical or biological agents to poison agricultural commodities or infect livestock, or to gas passengers on trains or planes. However, the general impression is that the manufacture and use of nuclear weapons are extremely difficult. It is appropriate here to distinguish between the kind of military weapons that states strive to develop and the rougher types of devices that terrorists would be satisfied with. A physics Ph.D. student could design a crude nuclear device that would satisfy terrorists' requirement for a radiological bomb, which is one in which radioactive materials are packed around a conventional bomb and incendiary material. With this type of weapon the explosion leads to a fireball, shooting the radioactive material into the air, which then falls back to earth over a wide area. The primary purpose of such weapons is to spread radioactive contamination rather than cause casualties through blast effects.[26] The radioactive contamination, obviously, serves the purpose of the terrorists' act.

A comparative study of the terrorist record of recent years, however, indicates that the possibility of the terrorist use of biological and chemical weapons is greater than that of nuclear weapons. This is because the security arrangements at nuclear facilities and the technological problems associated with manufacturing nuclear weapons make them less attractive for terrorist organizations. In contrast, the pertinent chemical and biological material is more readily available and the manufacture of weapons based on them is easier than those of nuclear weapons. Though it would be difficult for terrorists to acquire and use nuclear weapons, nuclear terrorism is still plausible, because of state-sponsored terrorism. Paul Wilkinson argues that "many terrorists movements are directly encouraged, sponsored and aided by regimes in order to weaken or subvert rival states."[27] It follows that pro-terrorist states may assist terrorist organizations by providing nuclear radioactive material. Moreover, the emergence of a black market in nuclear materials makes it clear that the risk of nuclear terrorism is growing. For example, in the summer of 1993 in Germany there were three seizures of plutonium and one of HEU, confirming fears of a black market in nuclear materials smuggled out of the former Soviet Union.[28] How much HEU is needed to make a nuclear bomb? A research team at the University of California found that three kilograms would be sufficient. By means of computer modeling of a simple fission weapon design, they found that a nuclear yield equivalent to more than 100 tons of high explosives could be

---

[25] International Atomic Energy Agency, 'Illicit Trafficking and Other Unauthorized Activities Involving Nuclear and Radioactive Materials: Fact Sheet', *International Atomic Energy Agency*, 2006.

[26] Gurr, Nadine and Cole, Benjamin, op. cit., pp. 44, 45.

[27] Wilkinson, Paul, 'Terrorism: International Dimensions' in Gutteridge, William, *The New Terrorism*, Mansell Publishing Limited, London, 1986, p. 29.

[28] These seizures were relatively small compared to the seizures of HEU that were also reported to have taken place: one involving six pounds in St. Petersburg in March 1994; 4.5 pounds in Lithuania in 1992, three kilograms in Czech Republic in 1994, etc. Bhushan, K. and Katyal, G., *Nuclear, Biological and Chemical Warfare*, A.P.H. Publishing Corporation, New Delhi, 2002, p. 137.

achieved with only one kilogram of HEU and a yield of half that of the Hiroshima bomb with five kilograms.[29]

More explicitly, nuclear terrorism could take many forms, any one of which would be a disaster by any measure. For instance, terrorist organizations could obtain fissile material to make a radiological dispersion bomb (RDD), aka 'Dirty Bomb', which is the most accessible nuclear device for any terrorist. The preceding discussion reveals that its manufacture and use is simple and it would be an effective weapon of terror because severe disruption would result from the widespread fear of radioactive contamination and the long-term health effects. A dirty bomb consists of waste by-product from nuclear reactors, which upon detonation would spew deadly radioactive particles into the environment, thereby augmenting the injury and property damage caused by the explosion. The capability of an RDD to cause significant harm is largely dependent on the type of radioactive material used and the means employed to disperse it. Other important variables include the location of the device on detonation and the prevailing weather conditions.

A "dirty bomb" is an expedient weapon in that radioactive waste material is relatively easy to obtain. Radioactive materials that could be employed in RDDs range from radiation sources used in medicine or industry, to spent nuclear fuel from nuclear power plants. Radioactive waste is widely found throughout the world and in general is not as well guarded as actual nuclear weapons. For instance, in the US, radioactive waste is located at more than 70 commercial nuclear power sites.[30] In addition, it is an open secret that in the Russian Federation security for nuclear waste is especially poor. There have been incidents of theft of nuclear radioactive material from Russian nuclear facilities.[31]

Alternatively, terrorists could target nuclear facilities. For instance, a terrorist attack on a commercial nuclear power plant with a commercial jet or with heavy munitions could produce an effect similar to a radiological bomb, and cause far greater casualties. If such an attack were to cause either a meltdown of the reactor core (as in the Chernobyl disaster), or a dispersal of the spent fuel waste on the site, extensive casualties could be expected. The power plant would be the source of radiological contamination, and the plane or the munitions would provide the explosive mechanism for spreading lethal radiation over large areas.

The theft of an intact nuclear device would be difficult, but not impossible. The majority of analysts from nuclear weapon states claim that the possibility that terrorists could obtain an actual atomic device or bomb-grade nuclear fissile material (highly enriched uranium or plutonium) is very remote. Nuclear weapons are heavily guarded in nuclear weapon states. Nonetheless, they are not inaccessible, so the possibility still exists that terrorists could steal or acquire nuclear weapons. The nuclear weapon states manufacture tactical nuclear weapons and miniaturized devices. These weapons are small and could be easily carried. In 1986, the NCI\SUNY International Task Force on the Prevention of Nuclear Terrorism raised concerns about the vulnerability of tactical nuclear

---

[29]   Ibid.

[30]   Blair, Bruce G., 'What if the Terrorists Go Nuclear?', *Terrorism Project,* Center for Defense Information, Washington, D.C., October 1, 2001; http://www.cdi.org/terrorism/nuclear.cfm, accessed on October 13, 2004.

[31]   Bhushan, K. and Katyal, G., *Nuclear, Biological and Chemical Warfare*, A.P.H. Publishing Corporation, New Delhi, 2002, p. 137.

weapons to theft. Since the 1991 collapse of the Soviet Union, the United States and Russia have removed nearly all their tactical nuclear weapons from overseas deployment. However, there has been continued speculation that a few 'suitcase bombs' (small one-kiloton portable nuclear weapons made by the former Soviet Union in the 1970s) remain unaccounted for, raising the concern that such weapons may have been sold by profiteers in the wake of the Soviet Union's collapse in the 1990s.[32] In January 2006, the Georgian authorities arrested a Russian who was carrying 100 grams of highly enriched uranium.[33]

Al-Qaeda's Pursuit of WMD

It is undeniable that the majority of world's more than one billion Muslims are not only moderate, but peaceful, law-abiding, and nonviolent. A minority of Muslims, on the other hand, have come to embrace what has been termed radical Islam or the al-Qaeda philosophy. Like members of other militant religious movements, radical Islamic fundamentalists and al-Qaeda harbor a 'holy rage' against those whose religious and political beliefs differ from their own. Al-Qaeda has led attacks against targets on every continent of the world. Indeed it provides the religious and political impetus for the most serious, sustained, and wide-ranging transnational terrorist campaign in contemporary global politics. It has targeted or otherwise involved scores of nations, including Pakistan. Pakistanis have fallen victim to a long string of suicide attacks, car bombings, truck bombings, shootings and other acts of terrorism.

Al-Qaeda is a transnational movement of extremist organizations, networks, and individuals. It is a global terrorist network that adheres to the cellular, or cluster, model in which many cells exist, but the members of any particular cell do not necessarily know one another or those in other cells. Thereby, if one member is caught, the risk to other members and other cells is minimized.[34] Counterterrorism officials describe it more as an organic structure that adapts to changing circumstances, including the loss of some senior leaders. Moreover, there is a great deal that remains unknown or debatable about the specific nature, size, structure and reach of the organization, despite many years of studying it. For example, experts are not exactly sure how many members it has now or has had in the past. Estimates are often based upon an approximation of how many people trained in al-Qaeda camps in Afghanistan and Sudan. The estimates range as high as 60,000 and as low as 20,000. These assessments are inexact in part because the total number of camps that operated is not firmly agreed.[35]

---

[32] Some experts have suggested that the technical expertise of a Soviet scientist familiar with their construction would be required for detonation, and there is some question about whether such weapons would even work after decades without maintenance. But the unknowns about such mini-nukes, combined with their portability, are cause for deep concern. 'Nuclear Terrorism: a Briefing Paper', *International Physicians for the Prevention of Nuclear War*, http://www.ippnw.org/ NukeTerrorism01.html, accessed on 13 October 2004.

[33] Williams, Phil, 'Terrorism, Organized Crime, and WMD Smuggling: Challenges and Response', *Strategic Insights,* Vol. VI, Issue 5, August 2007.

[34] Echevarria, Antulio J., II, 'Globalization and the Nature of War', U.S. Strategic Studies Institute, March 2003, p. 17, from http://www.carlisle.army.mil/ssi/index.html.

[35] Cronin, Audrey Kurth, 'Al-Qaeda after the Iraq Conflict', *CRS Report for Congress,* May 23, 2003, p. 3, from http://fpc.state.gov/documents/organization/21191.pdf accessed on February 15, 2007.

Even though al-Qaeda has consistently used conventional explosives in its attacks, movement adherents may also be willing to use WMD weapons on a grand scale.[36] The FBI's National Infrastructure Protection Center (NIPC) warns, "Al-Qaeda and affiliated groups continue to enhance their capabilities to conduct effective mass-casualty chemical, Biological, radiological, and nuclear (CBRN) attacks" and that al-Qaeda possesses "at least a crude capability to use" CBRN weapons.[37] According to American findings, Osama bin Laden has stated that acquiring nuclear weapons is a "religious duty" and the International Atomic Energy Agency had concluded that al-Qaeda was "actively seeking" an atomic bomb. In his testimony at the trial of those accused of the 1993 World Trade Center bombing, a former bin Laden associate, Jamal Ahmad al-Fadl, recounted his extensive but unsuccessful efforts to acquire enriched uranium for al-Qaeda.[38] Osama Bin Laden made an attempt to acquire uranium, presumably for the development of nuclear weapons, from a source in Khartoum, Sudan, in late 1993 or early 1994. Moreover, since the mid-1990s, the major nuclear smuggling routes have gone through the Caucasus, the Balkans, Turkey and Central Asia—all areas where the global jihad movement (al-Qaeda) has had a significant presence.[39]

U.S. intelligence agencies report that they learned in Afghanistan about al-Qaeda's nuclear agenda, which was described as ambitious in its pursuit of the materials and expertise required to construct a radiological dispersal device and possibly other kinds of nuclear devices. The Intelligence Community believes construction of a dirty bomb is well within al-Qaeda capabilities if it can obtain the radiological material.[40] The preceding discussion elucidates that radiological material is not out of al-Qaeda's reach. The organization is also interested in the production of more effective chemical agents such as mustard, sarin, and VX. According to an FBI report, al-Qaeda has experimented with procedures to make blister (mustard) and nerve (sarin and VX) chemical agents.[41] Though al-Qaeda has an interest in WMD, it is still extremely difficult to determine its true capabilities to use these lethal weapons.

Importantly, once al-Qaeda acquires WMD, it could use them without theological constrains. A *fatwa* issued by Sheikh Nasir bin Hamid al-Fahd in May 2003 declared the legitimacy of using weapons of mass destruction against enemies responsible for killing thousands of the faithful and

---

[36] Al-Qaeda's operations in Afghanistan included an extensive network of terrorist training camps, some of which conducted research and provided instruction in the clandestine use of chemical and biological materials. Parachini, John, 'Putting WMD Terrorism into Perspective', *The Washington Quarterly,* 26: 4, autumn 2003, p. 44.

[37] National Infrastructure Protection Center, 'Homeland Security Information Update: Al Qa'ida Chemical, Biological, Radiological, and Nuclear Threat and Basic Countermeasures', *Information Bulletin* 03-003, February 12, 2003, from www.nipc.gov/publications/infobulletins/2003/ib03-003.htm accessed May 13, 2003. (Hereinafter NIPC Information Bulletin.)

[38] 'Nuclear Terrorism: a Briefing Paper', op. cit.

[39] Williams, Phil, 'Terrorism, Organized Crime, and WMD Smuggling: Challenges and Response', *Strategic Insights,* Vol. VI, Issue. 5, August 2007.

[40] 'Combating WMD: Challenges for the Next 10 Years', op. cit., p. 18.

[41] Parachini, John, 'Putting WMD Terrorism into Perspective', *The Washington Quarterly,* 26: 4, autumn 2003, p. 38.

against whom this kind of weapon represents the only possible means of achieving final victory, even though this could involve killing innocent Muslims too.[42] Andrea Plebani argues, "This *fatwa* could have enormous consequences: *Al-Qaeda*—and radical Islamist organizations generally—now have a sentence permitting them to carry out attacks with WMD without the fear of criticism on the ideological or theological level, especially as no explicit, well-defined opinions to the contrary have been emitted."[43]

Transnational Terrorism and Pakistan

Pakistan's geographical position on the southern and eastern borders of landlocked Afghanistan is the best location for supporting the United States and the coalition air campaign against al-Qaeda and Taliban strongholds when operating from aircraft carriers in the Arabian Sea or bases in the Persian Gulf. Islamabad's consent to provide political, logistical, and vital intelligence about al-Qaeda and the Taliban in addition to three crucial air bases to Washington in its Operation Enduring Freedom has made it the primary target of the terrorist organization and its sympathizers.[44] Consequently, Pakistan has been suffering from international and domestic terrorism. The objective of terrorists is political and hence secular; to coerce the Pakistani leadership to change its policies regarding the war on terrorism. However, these terrorist organizations in Pakistan are effective in recruiting perpetrators and raising operational funds through the use of religion. Presently, more than two hundred thousand Pakistani military and paramilitary troops are fighting foreign terrorists in the Tribal Areas, where al-Qaeda and the Taliban have established sanctuaries. These terrorists encompass different nationalities. The terrorists in Pakistan seek to undermine and destroy the rule of law and even a way of life that is desirable or good. Their attacks are frequently directed against leaders, security agencies and innocent civilians and they are designed to cause indiscriminate causalities. Al-Qaeda backers in Pakistan are responsible for attacks on high-profile targets that have included the ex-President of Pakistan and former Prime Ministers, Shaukat Aziz and Benazir Bhutto.[45]

There is every reason to believe that the core of al-Qaeda or its affiliated operatives in Pakistan could use WMD in their terrorist activities in Pakistan. Concern that terrorist organizations may use WMD in Pakistan has been further intensified by a series of suicidal attacks in that country.[46] Suicide attacks are defined as attacks whose success is contingent upon the death of the

---

[42] Plebani, Andrea, 'Attractiveness of WMD for Radical Islamist Movements: Ideological Constraints, Black-Spots, and Failed-Weak States', *Strategic Insights,* Vol. IV, Issue 5, August 2007.

[43] Ibid.

[44] Pakistan placed a small airport in Sindh and two small airports in Balochistan at the disposal of the U.S. for logistical and communication support for their counter-terrorism operations in Afghanistan. The airbase near Jacobabad has been vital to U.S. Operation Enduring Freedom, and the airport of Dalbandin, near the Afghan border, is a key forward operational base.

[45] Benazir Bhutto, formerly elected as Prime Minister twice, was assassinated in a terrorist attack on December 27, 2007. A spokesman for the Interior Ministry of Pakistan attributed the assassination to Baitullah Mehsud, al-Qaeda.

[46] Jaspal, Zafar Nawaz, 'Suicide Attacks & Islamic Philosophy', *Weekly Pulse,* April 6-12, 2007, p. 13.

perpetrator. The perpetrator's death is a precondition for the success of his mission. The attacker is fully aware that if he does not accept to kill himself, the planned attack will not be implemented. Suicide attackers can direct their attacks more clearly on the target than competing means; even armies or paramilitary forces with the most advanced military technology find it difficult to deter an indoctrinated fanatical attacker with the purpose of getting into a crowd and blowing himself up. WMD terrorism is a perfect choice for a terrorist campaign not only in terms of the damage WDMs can inflict, but also in terms of the sheer terror these weapons create in society.[47]

Pakistan is a non-signatory NPT nuclear weapon state. Pakistani scantiest A. Q Khan involvement in the nuclear trafficking negatively impacts perceptions about its efforts to improve its nuclear command and control and security of nuclear management. Washington and likeminded states, however, are more concerned about proliferation prospects and Pakistan's nuclear management and security. Though Pakistan is not manufacturing chemical and biological weapons, it has a nuclear infrastructure for making nuclear weapons and for power generation. Therefore, the possibility, even though remote, of nuclear terrorism in Pakistan cannot be ruled out. Many analysts believe that nuclear facilities—power stations, research reactors and laboratories—are vulnerable to acts of sabotage and blatant terrorist attacks that could cause the release of dangerous amounts of radioactive materials.

Trends and Hypothetical Scenarios

Despite the ongoing War on Terrorism and Pakistan's wholehearted participation in it, terrorist activities have been increasing in Pakistan. Terrorism trends are not static. Consequently, people in Pakistan have been experiencing an alarming change in these trends. New adversaries, new motivations and new rationales, which have emerged in recent years, can couple with today's increased opportunities and capabilities to launch terrorism on a trajectory towards higher levels of lethality, mass destruction and mass killing, and to challenge conventional knowledge about it.[48] More precisely, a lethal transnational terrorist organization, whose main goal is the disintegration of the political, economic and social structures of the state, poses a serious challenge to Pakistan's security. The terrorist activities may not only begin and end in a single country, but may also cross national borders. At the start of the 21st century, most terrorists targeted citizens and property in external countries. Terrorist acts are spread throughout the globe, thereby the risks are widespread. Some of the important trends that have direct or indirect impact on Pakistan's security are that terrorist groups are operating globally as part of a worldwide network. They are integrated by transnational non-state organizations through global networks of terrorist cells located in many countries, including Afghanistan, involving unprecedented levels of communication and

---

[47] "The attack carried out by the Aum Shinrikyo sect on the Tokyo subway system in 1995 confirmed the exceptional efficacy of these weapons: even though the number of lives lost was relatively low (12 deaths, and 1030 people injured), the psychological impact was enormous and showed how the terror associated with these weapons goes far beyond the mere damage they can inflict on people and things." Plebani, Andrea, 'Attractiveness of WMD for Radical Islamist Movements: Ideological Constraints, Black-Spots, and Failed-Weak States', *Strategic Insights,* Vol. IV, Issue 5, August 2007.

[48] Jaspal, Zafar Nawaz, 'Pakistan's Judicial System: Curbing the Menace of Terrorism', *Pakistan Horizon,* Vol. 60, No.1, January 2007, pp. 41-43.

coordination. These criminal groups' activities have perilous effects on Pakistan's politics, economics and security.

Modern terrorism is very lethal. Terrorists have shifted their tactics from theatrical acts of violence seeking to alarm for the sake of publicity to the purposeful destruction of a target populated entirely by civilian non-combatants, with the intent of killing as many people as possible for the purpose of instilling fear in the public. In a few countries, they have used chemical and biological agents for their nefarious acts. There is also a fear that terrorists might one-day use nuclear weapons. Many Western security analysts opine that Pakistan is very much exposed to such danger.[49] The average number of casualties per terrorist incident is increasing. Nearly 3000 people were killed as a result of the September 11, 2001 attack. In Pakistan, 150 people were killed in an October 18, 2007 terrorists attack in Karachi. In the words of Bruce Hoffman, terrorism's lethality is increasing because the terrorists desire to obtain more and serious attention. Therefore, they consider bloody action as a viable strategy to attract the media and decision-makers.[50] A strategy of attracting the media could encourage terrorists to adopt tactics that cause more violence and destruction.

There are basically only two ways nuclear and radiological materials could be used by terrorists within Pakistan. The material could be purchased or stolen outside Pakistan and smuggled in, or it could be stolen within Pakistan and there used for malevolent purposes. The adversaries of Islamabad could use terrorist groups as proxies in their own fights against Pakistan. Significantly, the active role played by states in supporting and sponsoring terrorism has enhanced the striking power and capabilities of ordinary terrorist organizations, transforming some groups into entities more akin to elite commando units than the stereotypical Molotov-cocktail wielding or crude pipe-bomb manufacturing anarchist or radical leftist. In short, state-sponsored terrorist organizations could acquire WMD easily, which is very perilous for the target state. In addition, the terrorists might target nuclear facilities in Pakistan.

Countermeasures

Realistically, no readymade and simple solution exists to counter WMD terrorism. This is because counter terrorist operations are the most complex form of sub-conventional warfare. It is true that compared with fighting insurgents, partisans, resistance movements, and the like, the world has much less experience in combating what was once called 'urban guerillas' and now calls 'terrorists'. In short, countering WMD terrorism remains a largely unexplored discipline.

---

[49]   Jonathan Medalia chalked out hypothetical scenarios about the nuclear crisis in Pakistan. He argued that Pakistan might be the source of nuclear weapons or materials for terrorists under several scenarios: (1) Islamists in the armed services might provide such assistance covertly under the current government; (2) if the present government was overthrown by fundamentalists, the new government might make weapons available to terrorists; or (3) such weapons might become available if chaos, rather than a government, followed the overthrow. See Medalia, Jonathan, 'Nuclear Terrorism: a Brief Review of Threats and Responses', CRS Report for Congress, RL 32595, September 22, 2004.

[50]   Hoffman, Bruce, 'Terrorism Trends and Prospects', in Lesser, Ian O., Hoffman, Bruce, Arquilla, John, Ronfeldt, David F., Zanini, Michele, Jenkins, Brian Michael, *Countering the New Terrorism*, http://www.rand.org/pubs/monograph_reports/MR989/index.html.

Therefore, it is imperative to develop a proper understanding of the puzzle of WMD Terrorism and then chalk out a strategy to curb the menace.

First, there is a no single, universally accepted definition of terrorism. This poses a problem because if states want to combat terrorism at an international level, they must first agree on exactly what they are fighting against. In fact, responding effectively to both the risks and the opportunities that present themselves requires overcoming conceptual and organizational stereotype and marshalling all aspects of national power and international influence. Thus, in order to counter a threat, it is essential to understand precisely what that threat is.

Second, all biological, chemical and nuclear power plants must have a series of physical barriers and a trained security force. The plant sites are divided into three zones: an 'owner-controlled' buffer region, a 'protected area', and a 'vital area'. Access to the protected area is restricted to a portion of plant employees and monitored visitors, with stringent access barriers. Access to the vital area is further restricted, with additional barriers and access requirements.[51] In addition, improvements may be needed to the safety of reactors with additional structures, especially for nuclear plants, i.e. an additional protective surrounding of the steel-reinforced concrete containment structure. In fact, nuclear power plants were designed to withstand hurricanes, earthquakes, and other extreme events. But deliberate attacks by large airliners loaded with fuel, such as those that crashed into the World Trade Center and the Pentagon, were not analyzed when design requirements for today's reactors were determined. This new steel-cum-concrete structure would protect the reactor core (the area where the nuclear chain reaction occurs in the plant) from external attack.

Third, with the passage of UN Security Council Resolution 1540 (2004) on April 28, 2004, the international community is now on record as calling on states to refrain from supporting non-state actors in their pursuit of WMD and to adopt and enforce domestic laws and controls towards this end. In response, Pakistan's Parliament legislated an Act–the Export Control on Goods, Technologies, Material and Equipment Related to Nuclear and Biological Weapons and their Delivery Systems Act–in September 2004. The purpose of this Act is to further strengthen controls on the export of sensitive technologies, particularly related to nuclear and biological weapons and their means of delivery.[52] In addition, in April 2007, Pakistan established a Strategic Export Control Division (SECDIV) in the Ministry of Foreign Affairs. The purpose of the SECDIV is to further tighten controls over exports, by monitoring and implementing the Export Control Act of 2004.[53] Another serious attempt at augmenting the security of its nuclear infrastructure was made by issuing a National Command Authority (NCA) Ordinance,[54] promulgated on December 13,

---

[51] Holt, Mark and Andrews, Anthony, 'Nuclear Power Plants: Vulnerability to Terrorist Attack', *CRS Reports for Congress*, Order Code RS21131, updated August 2007, p. 2.

[52] 'N-control bill to be Introduced in NA Today', *The News International,* September 13, 2004.

[53] Baabar, Mariana, 'Nuclear-exports Control Further Tightened', *The News International,* May 1, 2007.

[54] The NCA likely structure and responsibilities were certainly conceived even prior to nuclear weapons testing in May 1998, but an informal structure was developed and put in place in 1999 and formal announcement came on February 2, 2000.

2007 by President Pervez Musharaf.[55] The enforcement of this Ordinance transformed Pakistan's de facto nuclear command and control system into a de jure arrangement. These developments manifest Islamabad's seriousness in securing its assets from the terrorists.

Fourth, Islamabad ought to improve its personal reliability program standards and take precautionary measures to avoid or disrupt the nexus between the employees of nuclear facilities/research institutes and organized criminal groups—more inclined today to accept the risk of nuclear trafficking because of the promise of financial gain.[56]

Fifth, Islamabad should have at least a small unit of law enforcement officers capable of investigating nuclear smuggling cases. These officers would have the training and equipment to distinguish between, for example, intensely radioactive cesium and weapon-usable plutonium, or between relatively innocuous low enriched uranium and weapon usable highly enriched uranium,[57] so that the theft and smuggling of nuclear weapons or the availability of essential ingredients to terrorist organizations can be prevented. It is equally important that nuclear supplier group states and the states that possess the sophisticated nuclear infrastructure for the peaceful use of nuclear technology also improve their laws to combat nuclear smuggling. Information on the Dr. A Q. Khan network and the International Atomic Energy Agency record shows that many countries' individuals were involved in the illicit nuclear material trade.

Finally, in addition to attacking the terrorist cells that are planning and preparing attacks, one has to target the terrorist organization's ideological bases. Terrorists, especially of the al-Qaeda and Taliban brand, have a very high capacity for recruiting through the exploitation of Islamic concepts like Jihad. The curbing of these organizations' recruitment processes is only possible through the negation of their ideologically motivating arguments. This objective would be achieved by a sustained and well-informed religious debate in Pakistani society. It is, therefore, necessary to initiate a serious Islamic scholarly debate aimed at rejecting the theses propounded by Osama bin Laden, Sheikh al-Fahd, al-Zawahiri, et al.

Conclusion

The WMD Terrorism combination represents an extremely serious and complicated threat, involving complex and differing dynamics and themes. Combating terrorism in all its forms and protecting against attacks using the range of possible weaponry terrorists might assemble remains a high priority challenge for Islamabad. Eliminating all possibility of terrorist groups or individuals using WMD is too difficult for Pakistan alone, especially when it is dealing with transnational or international terrorist organizations. Trying to limit the scope and scale of terrorist activities, however, may prevent WMD Terrorism. In this context, Pakistan should adopt strategies that are coercive and that win hearts and minds to defeat the terrorist organizations within its

---

[55]   'The Ordinance No. LXX of 2007', *The Government of Pakistan,* December 2007.

[56]   For more details see Jaspal, Zafar Nawaz, 'Nuclear Risk's Preventive Approaches in an Adversarial Indo-Pakistan Scenario', *IPRI Journal*, Vol. VI, No. 1, winter 2006.

[57]   Bunn, Matthew, 'A Detailed Analysis of Urgently Needed New Steps to Control Warheads and Fissile Material", in Cirincione, Joseph (ed.), *Repairing the Regime: Preventing the Spread of Weapons of Mass Destruction*, Routledge, New York, 2000, pp. 103, 104.

territory. Simultaneously, Islamabad should work closely with like-minded forces (Afghanistan-NATO-ISAF) to rein in the freedom of action and movement enjoyed by al-Qaeda and the Taliban in Afghanistan-Pakistan border areas. Lastly, national and international initiatives aimed at improving the system of controlling the import/export of sensitive materials and instruments should be developed so as to limit the risk of WMD smuggling.

REFERENCES

- Barnaby, Frank, *The Role and Control of Weapons in the 1990s* (Routledge, New York, 1992).

- Bhushan, K. and Katyal, G., *Nuclear, Biological and Chemical Warfare* (A.P.H. Publishing Corporation, New Delhi, 2002).

- Chitkara, M.G. and Sharma, Girdhari, *International Terrorism* (A.P.H. Publishing Corporation, New Delhi, 2002).

- Cirincione, Joseph (ed.), *Repairing the Regime: Preventing the Spread of Weapons of Mass Destruction* (Routledge, New York, 2000).

- Gurr, Nadine and Cole, Benjamin, *The New Face of Terrorism Threats from Weapons of Mass Destruction* (I. B. Tauris Publishers, London, 2002).

- Gutteridge, William, *The New Terrorism* (Mansell Publishing Limited, London, 1986).

- Hagerty, Devint (ed.), *South Asia in World Politics* (Oxford University Press, Karachi, 2005).

- Kaufman, Robert G., *In Defense of the Bush Doctrine* (the University Press of Kentucky, Kentucky, 2007).

- Lia, Brynjar, *Globalization and the Future of Terrorism: Patterns and Predictions* (Routledge, London, 2005).

- Lodhi, Dr Maleeha, 'Concepts Lacking Consensus to Undermine WOT', *Global Terrorism: Genesis, Implications, Remedial and Countermeasures* (PanGraphics Ltd., Islamabad, 2006).

- Mango, Andrew, *Turkey and the War on Terror: for Forty Years We Fought Alone* (Routledge, London, 2005).

- Stern, Jessica, *The Ultimate Terrorists* (Harvard University Press, London, 2000).

Case Study

Preventing the PKK's Misuse of Children by Introducing Community Policing: The Şanlıurfa Case

Ali DİKİCİ*

Abstract: *The PKK's actions have resulted in a huge loss of life and property, violence, forceful migration, international crises and instability. So far, various precautions, including military intervention, have been employed to deal with these problems. Although many institutions have great responsibilities to prevent the PKK terror, the burden falls mainly on the shoulders of the police force. The prevention of juveniles joining the terrorist organization is one of the essential tasks the police undertake. Community policing principles provide important opportunities for prevention strategies because the police can identify and have access to high-risk youth at a relatively early age. The Şanlıurfa Police Department has developed a strategy to enhance its work in preventing the PKK's recruitment of children and families by improving the use of existing community resources. In this paper, the role of community policing in attaining this aim in Şanlıurfa is examined as a case study.*

Keywords: PKK, Terror, Juvenile Delinquency, Street Children, Community Policing.

Introduction

A sharp rise in juvenile delinquency rates in recent years has led to growing concern and debate within Turkey.[1] This was closely followed by discussions on the subject of 'street children', who are assumed to be connected with the increase in juvenile delinquency. The rising numbers of street children in Turkey's major cities as well as in the eastern and southeastern regions of the country is a growing problem. The number of children living and/or working on the streets of Turkish cities has visibly increased in recent years. Many children who live at home are forced by

---

*   Dr. Ali Dikici is Police Superintendent (3rd grade) at the Turkish National Police, Eskişehir, Turkey.

1   Erkan Yücesan, "Çocuk Suçluluğu", *Çağın Polisi,* Year: 4, No. 48, (December 2005), pp. 47-48.

their parents to work on the streets in order to supplement household income. Some who come from abusive families seek refuge on the streets. Unable to apply themselves to study or even to attend school, many of these children have dropped out of the educational system and grow up with little hope of gaining the appropriate training or certification for a skilled job. While on the streets, many of these children are subject to maltreatment, physical and/or sexual abuse, disease, malnutrition and substance abuse.[2]

Although most street children are not orphans, their family links are often the reason they are on the street, working to supplement the household income or running away – trying hard to break those links. All the same, these children are 'orphans' of the street in that they are estranged from the society in the midst of which they scrape a living – they are often prone to drug abuse and delinquency. Street children are seen as vagrants, illegal vendors or truants by the majority of the general public. Many people view street children as irresponsible young persons who were 'criminals-in-the-making'. Reactions to such children thus tend to be punitive and their anti-social and delinquent behavior, stemming from poverty, should be considered in its proper social and psychological context. There is an important dimension of the street children problem that should not be ignored by the authorities. The street children are not only involved in the abovementioned ordinary criminal activities but they are also easily deceived, exploited and manipulated by gangs and terrorist organizations. In particular, the PKK terrorist organization takes advantage of this problem and recruits many young people, including children, to its illegal circle.

This negative view has translated into an increasing number of governmental and non-governmental organizations whose main activity is to help alleviate the plight of street children. "Police officers play a crucial role in the juvenile justice system, one that extends beyond enforcing the law. The police officer on the beat has first-hand knowledge of the community and its youth—knowledge that can prove a valuable asset in efforts to prevent delinquency. Not only are officers familiar with the youth in their communities, they are increasingly knowledgeable about risk and protective factors related to delinquency."[3] The Şanlıurfa Police Department has been employing community policing principles which provides great opportunity to use these prevention strategies. The police can determine and access many high-risk youths at a relatively young age by employing these principles. This article discusses some of the practical measures and activities that have been employed through the use of community policing principles by the Şanlıurfa Police Department in an attempt to target juvenile delinquency and protect children from the PKK's influence.

The Kurdistan Workers Party (PKK/KADEK/KONGRA-GEL)

The Kurdistan Workers Party (PKK), a Marxist Leninist terrorist organization, was formally established on November 27, 1978 in the village of Fis in Diyarbakir by Abdullah Öcalan and his

---

[2]   UNICEF Web Site, "Making a Difference for Children: Street Children", http://www.unicef.org/turkey/ dn/cp8.html, (February 22, 2007).

[3]   Phelan A. Wyrick, "Law Enforcement Referral of At-Risk Youth: The SHIELD Program", *Juvenile Justice Bulletin,* Washington, DC, U.S. Department of Justice Office of Justice Programs: Office of Juvenile Justice and Delinquency Prevention, November 2000, p. 1. Available at http://www.ncjrs.gov/html/ojjdp/jjbul2000_11_2/contents.html, (September 2, 2006).

friends. The PKK has its roots in the leftist movements of 1970s and the nucleus of the organization can be dated back to 1974.[4] It has always used ethnic Kurdish Nationalism as a rallying point with the aim of establishing an independent Kurdish state in a region that includes the southeastern part of Turkey and some northern parts of Iraq, Syria and Iran, all areas where the population is predominantly Kurdish. Bruinessen states that Öcalan's group was the only Kurdish organization whose members were drawn almost exclusively from the lowest social classes, half-educated village and small-town youths who wanted action rather than ideological sophistication.[5]

In the beginning, the organizational leaders especially focused on youth in order to provide ideological development and gain new members.[6] While the other Marxist-Leninist Kurdish groups were conducting assaults against governmental agencies or representatives, this organization targeted brutal assaults on its own political opponents, the conventional political upper class in the southeastern part of Turkey, and the Kurdish people who supported the Turkish government. They also used nationalism to motivate support of tribal people. As a result the organization became a powerful alternative to some small administrative authorities and much more powerful than other terrorist organizations in Turkey.[7] So, this terrorist organization became the most brutal terrorist organization and made itself heard for the first time with a series of bloody attacks in Eruh and Şemdinli in 1984. In the following years, the PKK increased its hit-and-run attacks in southeastern Turkey. The PKK also perpetrated violence in all parts of Turkey including metropolitan cities and some tourist resorts, although the majority of its operations were directed against citizens of Kurdish origin in the southeast. "Furthermore, the PKK continues to operate as a sub-contractor of the international terror network. It continues interactions with some Middle Eastern, African, European, and Latin American terrorist groups."[8]

After the Gulf War, the PKK increased its terrorist attacks against the security forces in Turkey, and Turkish diplomatic and commercial facilities in West European countries. In an attempt to damage Turkey's tourist industry, the PKK bombed tourist sites and hotels and kidnapped foreign tourists in the early to mid-1990s. Then the PKK moved beyond rural-based insurgent activities into urban terrorism. It attempted to gain public support in the region and to provoke the public to revolt against the Turkish state. The organization has received safe haven and modest aid from Syria, Iraq, and Iran. The PKK has developed over the years and has become one of the most comprehensive terrorist organizations in the Middle East. The PKK has been collecting money from the expatriate Turkish community living in Europe, under the name of

---

[4]   İEM (İstanbul Emniyet Müdürlüğü, Terörle Mücadele Şube Müdürlüğü) [Istanbul Police Department, Counter-Terrorism Division] (2004), PKK/KONGRA-GEL, Eğitim Serisi, No. 6/2004.

[5]   Martin Van Bruinessen, 'Between Guerrilla War and Political Murder: the Worker's Party of Kurdistan', *Middle East Report* (July-August 1988), pp. 40-46.

[6]   Necati Alkan, 'Gençlik ve Terörizm' (Youth and Terrorism), Publication of Anti-Terrorism Department/General Directorate of Turkish National Police (TNP), No. 9, Ankara (2002), available online at http://www.egm.gov.tr/temuh/mucadele1.html, (March 8, 2007).

[7]   Ümit Özdağ and Ersel Aydınlı, *Winning a Low Intensity Conflict: Drawing Lessons from the Turkish Case*, Portland: Frank Cass Publishers (2003).

[8]   Samih Teymur and Ahmet Sait Yayla, 'How did Change Help the Country of Turkey to Deal with Terrorism More Effectively?', in *Istanbul Conference on Democracy & Global Security-2005*, Ankara: Öncü Press (2006), p. 342.

membership fees and taxes, and gets income by way of organized criminal activities such as trafficking drugs, people and arms.

The Turkish authorities finally captured Abdullah Öcalan in Kenya in early 1999, a defining moment in the terrorist organization's history. He was found guilty of treason for leading an armed separatist campaign in Turkey and he was sentenced to life in prison. Although Öcalan is behind the bars, he is still the absolute leader of the PKK and the main goal of the organization has become freeing Öcalan from imprisonment. In August 1999, Öcalan announced a "peace initiative", ordering his members to refrain from violence and requesting dialogue with Ankara on Kurdish issues. This call for a collective ceasefire found support in the terrorist organization.

The PKK ended its ceasefire in August 2004 and restarted its terrorist attacks on military, civilian, police, and governmental targets. However these attacks have not reached the intensity of its offensives in the 1990s. Recently, there has been an increase in the number of terrorist attacks in southeastern Turkey, especially in the form of roadside bombings, ambush, sabotage, bomb attacks, kidnapping, assassination, suicide bombings, riots, and protests. The PKK still maintains terrorist camps in Northern Iraq, accommodating around 4,000 armed militants.[9]

Since 1984, the PKK's terrorist activities have claimed more than 30,000 lives, including security personnel and civilians. The struggle has cost Turkey more than a hundred billion US dollars, not to mention damage to the social fabric of the country. Women, children, and the elderly were not exempt from these PKK attacks. People were murdered in front of family members or kidnapped and summarily executed. The PKK also killed innocent Kurdish people for collaborating with the Turkish government as well as dissidents within the organization's ranks. "Because of PKK terrorist organization: 5,722 law enforcement officers have been killed including police, army personnel, and temporary village guards, 4,556 public employees have been killed including doctors, journalists, teachers, etc., 19,591 terrorists have been captured dead"[10] and "innocent people of the region were negatively affected by the struggle between Turkish army and terrorists and in return Turkey was criticized at home and abroad."[11]

Child Recruits in the PKK's Illegal Circle

The PKK is known to use children within its organization. The statistics show that 54% of PKK militants fall between the ages of 14 and 25.[12] The PKK targets Kurdish people; with its propaganda and brainwashing techniques and recruits many young people and tries to use them as tools for its terrorist activities.

In 1998, it was reported that "the PKK had 3,000 children within its ranks, more than 10% of whom were girls. The youngest child witnessed with the PKK was 7 years old. From 1994 it

---

[9]   Ahmet Kaya, 'Turkey's Experience against Terrorism', in *Istanbul Conference on Democracy & Global Security-2005*, Ankara: Öncü Press (2006), p. 112.

[10] Ibid., p. 112

[11] İdris Bal, 'Terrorism, Liberal State and International Co-Operation', in *Istanbul Conference on Democracy & Global Security-2005*, Ankara: Öncü Press (2006), p. 568.

[12] Alkan, op. cit.

appears that the Kurdistan Workers Party (PKK) started to systematically recruit more and more children and even created children's regiments. It was claimed, for example, that a children's battalion named *Tabura Zaroken Sehit Agit* was composed of three divisions and was, in theory at least, run by a committee of five children aged between 8 and 12 years."[13] The PKK is known to have recruited children from outside the region to serve with armed groups as well. It has held recruitment drives in Swedish schools as well as in the Kurdish community living in France, Germany and The Netherlands.

The PKK not only restricted itself to 'taxing' narcotics traffickers and refiners, who ran through their controlled areas in southeastern Turkey, but they were also directly involved in transporting hashish and heroin themselves through the Balkans into Europe, and its supporters were marketing drugs inside Western Europe. The PKK is employing children in this drug-trafficking. "Police in Hamburg arrested a group of 11 year-old Kurdish children who had been smuggled into Germany from Turkey in order to sell drugs for the PKK. Children and teenagers who have been moving drugs for the Kurdish terrorists have been caught throughout Europe on numerous occasions in the 1990s and as recently as 2000."[14] Likewise, on January 11, 2007, the Turkish police caught a 13 year-old girl with 9.236 kilograms of drugs trafficked by the PKK.[15]

In recent years, particularly after the capture of Abdullah Öcalan, the PKK started pushing children and women to the front of mass demonstrations in order to gain public sympathy and to legalize their activities as in the case of Palestinian children fighting against the Israeli army. So, the PKK deliberately uses women and children to hamper the security forces' response through having to act with less force.[16]

A recent study has examined the motivations of some terrorists captured from the organization. It revealed a prevalence of very low family income[17] and that 61% of these terrorists joined due to social and economic unfairness.[18] In return for joining the organization, they were offered care for their families; however, all the children reported that these offers were not fulfilled. The survey also revealed that 60% of those surveyed had an education level below than high school and 80%

---

[13] Global March against Child Labour, http://www.globalmarch.org/resourcecentre/world/turkey.pdf (March 8, 2007).

[14] Mackenzie Institute, 'Other People's Wars: a Review of Overseas Terrorism in Canada',

http://www.mackenzieinstitute.com/2003/other_peoples_wars7.htm (March 8, 2007).

[15] *Sabah* (January 13, 2007).

[16] Not only the PKK but Turkish Hezbollah is also trying to misuse children by recruiting them to their organizations. Hezbollah's methods of recruitment, finance, education, training, and operations are similar to those of the PKK. See Ali Çağlar, 'Terrorism and Terror Organizations in Turkey: an Overall Evaluation', in *Istanbul Conference on Democracy & Global Security-2005*, Ankara: Öncü Press (2006), p. 332.

[17] Uğur Esentur, *Devlet Aleyhine Suç İşleyen Teröristlerin Sosyo-Ekonomik Özellikleri* -The Socio-economical Characteristics of Terrorists who Commit Crime against State-, (Unpublished M.A. Thesis, Health Sciences Institute of University of Ankara), Ankara, 2007), p. 95.

[18] Esentur, ibid., p. 97.

of the children admitted they actively stopped their family members, usually younger brothers, from joining the organization.[19]

A police chief who has read the autobiographies of 150 young students within the illegal circle of the PKK points out the main reasons for them joining the organization: "Students were going to war not to solve a problem but to escape from their own problems that they are not able to solve alone. Economic difficulties, problems related to family and their social environment, etc. has made them hate the community they live in."[20]

Those youngsters, in particular, come from Diyarbakır, Şanlıurfa, Istanbul, Izmir, Adana and Mersin. An increasing number of street children in those cities provides a suitable ground for the PKK from which to recruit. This will be briefly explained in the following section.

Main Predictors of Juvenile Delinquency and Terrorist Acts in Şanlıurfa

The malleable factors of delinquency are arranged in five domains: individual, family, school, peer-related, and community and neighborhood factors.[21] There is an important factor in Şanlıurfa that should not be missed by the authorities: high number of children per family. According to a survey on PKK members, the average number of children per terrorist's family is 6.8.[22] The case in Şanlıurfa displays a negative picture in this regard. First, Şanlıurfa has a high birth rate compared with other cities. During the period between 1990 and 2000, Antalya, Şanlıurfa and Istanbul were the cities with the highest birth rates in Turkey with annual population rate increases of 41.8%, 36.6% and 33.1% respectively.[23] Likewise, in the period between 2000 and 2005, Antalya had the highest population increase at 16.7%, followed by Şanlıurfa with a rate of 14.6%.[24] For instance in 2004 alone, the population of Şanlıurfa increased by 19,562 males and 17,573 females.[25] Thus, while the percentage of population in Turkey below 15 years old is around 30%, this percentage is around 45.8% in Şanlıurfa and Diyarbakır.[26] A certain number of those children are born into unworkable home situations where poverty and overcrowding, physical or mental abuse might exist.

---

[19] Esentur, ibid., p. 97-102.

[20] Recep Güven, 'Lessons from Combating Terrorism', in *Istanbul Conference on Democracy & Global Security-2005*, Ankara: Öncü Press (2006), p. 339.

[21] J. David Hawkins, Todd Herrenkohl, David P. Farrington, Devon Brewer, Richard F. Catalano and Tracy W. Harachi, 'Predictors of Youth Violence', *Bulletin*, Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (April 2000), p. 2.

[22] Esentur, op. cit., p. 84.

[23] '2000 Genel Nüfus Sayımının Kesin Sonuçları' (Result of 2000 Census), T.C. Başbakanlık Devlet İstatistik Enstitüsü Resmi İnternet Sitesi http://www.die.gov.tr/nufus_sayimi/2000Nufus.pdf, (March 22, 2006),

[24] 'Şanlıurfa'nın Nüfusu 5 Yılda 210 Bin Arttı' (Population of Şanlıurfa Increased 210,000 in 5 Years), *Urfa İçin Hizmet* (July 22, 2005).

[25] T.C. Başbakanlık Nüfus ve Vatandaşlık İşleri Genel Müdürlüğü'nün Resmi İnternet Sitesi, http://www.nvi.gov.tr/11,2004ana_Sayfa_Dogum_Ve_Olum_Istatistikleri.html (September 14, 2006).

[26] 'Güneydoğu'nun Yarısı Çocuk' (Half of the Southeast is children), *Milliyet* (April 3, 2005); 'Şanlıurfa'nın Yarısı Çocuk' (Half of Şanlıurfa is Children), *Şanlıurfa İçin Hizmet* (July 31, 2006).

The second main factor for the rapid increase in the number of children in Şanlıurfa is migration from rural areas to the city center. In recent years, economic and security reasons initiated an influx of people to the city center. Another important factor triggering this influx is the construction of the Atatürk Dam. Those who had fields in the dam area were paid large amounts of expropriation fees by the government, which stimulated the people to migrate to the city center.[27] Rural migrants were also attracted by the possibilities that cities can offer, but they often settle in shanty towns and experience extreme poverty. Due to the abovementioned reasons, the number of the children per family is very much higher in Şanlıurfa than one finds in other cities.

This situation brings some challenges for social life in the city. In their efforts to adapt, many of them will add to the rapidly growing number of children living and working on the streets of the city. These children are seen to lack the primary socialization and modeling framework of the family that is thought to foster healthy growth and development. As such, they are seen to be developmentally at risk. "In our major cities where the population density is becoming more widespread and more complex especially due to increasing horizontal movement and migration, the formal social control means which substituted for informal ones – police force constitutes a significant part of these means – have eminent responsibility in fighting crime. In the ever-changing structure, not only the amount, but also the attributes of crimes are changing and new types of crimes are appearing. Being a result of various social, cultural and economical conditions, criminals create more victims of violence, robbery and purse-snatching."[28]

And worse than all these challenges is that overcrowded families, where parents lose control over their children, provide a 'free haven' to terrorist organizations, especially the PKK. The PKK offers these 'hopeless' juveniles large amounts of money and status, and brainwashes them with Kurdish nationalist propaganda.

The problems stemming from this negative situation are not only confined to the districts of Şanlıurfa – they can be found in other parts of Turkey. Street children, juvenile delinquents or children in mass demonstrations in big cities of Turkey, such as Istanbul[29] and Izmir,[30] predominantly come from the east and southeast of Turkey. It is also claimed that the PKK is using children for purse-snatching in order to collect money.[31]

---

[27] Zuhal Karahan Kara, 'Şanlıurfa'da Sokak Çocuklarını Çoğaltan en Önemli Neden: Köyden Kente Göç' (The Main Reason for the Increasing Number of Street Children in Şanlıurfa: Migration from Rural to Urban Areas), *Şanlıurfa İçin Hizmet* (February 21, 2005).

[28] Tülin İçli, 'Policies of Controlling Judicial Crimes in Turkey with Respect to Providing Global Security: the Importance of Some Current Applications and Some Suggestions', in *Istanbul Conference on Democracy & Global Security-2005*, Ankara: Öncü Press (2006), p. 590.

[29] According to research done in Istanbul, 44% of such children come from eastern Turkey. See: Kültegin Ögel, Harika Yücel ve Alper Aksoy, 'İstanbul'da Sokakta Yaşayan Çocukların Özellikleri' (Characteristics of Street Children in Istanbul), *Yeniden Bilimsel Araştırma Raporları*, No. 7, Istanbul (2004), p. 9.

[30] Hancı et al., ibid.

[31] In May 2007, the police revealed that some gangs are using the children as hackers to swindle the people on internet.

An Effective Strategy to Protect the Juveniles from Terrorist Activities: Community Policing

In recent years, law enforcement officers in Turkey have begun fighting to cope with the increasing rate of crime, in particular with juvenile delinquency. Various studies and work is being carried out with the aim of preventing crime. However, "Criminal justice scholars and administrators have come to recognize that one of the biggest mistakes in 'modern' policing was to place total responsibility and accountability for public safety on the shoulders of law enforcement agencies." [32] Because police effort is insufficient to prevent crime[33] and "law enforcement alone cannot prevent school-based violence, violence directed at youth, or factors that contribute to destructive behavior by young people. Providing the safest possible environment for learning and personal development is a shared responsibility and an essential part of community policing."[34] Therefore, successful crime prevention depends more on the community than on the police. "At the core of this new understanding is a deep appreciation of the importance of non-police resources in fighting the war on crime, and especially an appreciation of the role of the community as a partner of the police in fostering public safety."[35]

Additionally, "research findings indicate that crime rates are heavily influenced by social forces in the community and that community-based actions must play a central role in any program to prevent crime."[36] Traditional preventive patrols, rapid response to calls, and efforts to identify and apprehend offenders are not sufficient to reduce citizens' fears because, as numerous research studies have shown, fear of crime is not simply an objective response to one's risk of being victimized but is, rather, determined by a host of other personal, social and environmental factors.[37] The corrosive effects of disorder and squalor in the environment have been widely recognized. The environment sends powerful messages that regulate and release individual behavior: "If a broken window is unrepaired, all the windows will soon be broken. Broken windows are a signal that no one cares."[38] Indeed, studies have suggested that sordid environments beget sordid behavior.[39]

---

[32]   William A. Geller, 'Crime Prevention, Fear Reduction, and the Community", in *Local Government Police Management*, Illinois: ICMA Training Institute, p. 96.

[33]   David H. Bayley, *Police for the Future*, New York: Oxford Press (1994), pp. 3-4.

[34]   Dylan Presman, Robert Chapman and Linda Rosen, 'Creative Partnerships: Supporting Youth, Building Communities', *Cops Innovations – a Closer Look*, U.S. Department of Justice Office of Community Oriented Policing Services p. 1, http://www.cops.usdoj.gov/pdf/e03021471.pdf, (August 30, 2006),

[35]   William A. Geller, op. cit., p. 96; Francis J. Gladstone, 'Coordinating Crime Prevention Efforts', *Gladstone Report-Home Office Research Study*, No. 62, Home Office, London (1980), p. 5.

[36]   Albert J. Reis, Jr. and Michael Tonry, 'Why are Communities Important in Understanding Crime?', in *Communities and Crime, Crime and Justice: an Annual Review of Research*, Vol. 8, Chicago: University of Chicago Press (1986), pp. 1-34; Dennis P. Rosenbaum, 'Community Crime Prevention: a Review and Synthesis of the Literature', *Justice Quarterly 5* (188), pp. 323-95.

[37]   Mark H. Moore and Robert C. Trojanowicz, *Policing and Fear of Crime, Perspective on Policing*, No. 3, Washington DC: National Institute of Justice, 1988.

[38]   J. Q. Wilson and George L. Kelling, 'Broken Windows: the Police and Neighborhood Safety', *The Atlantic Monthly*, Vol. 249, No. 3, Boston (March 1982), pp. 29-38.

[39]   Robert J. Sampson and W. Byron Groves, 'Community Structure and Crime: Testing Social-Disorganization Theory', *The American Journal of Sociology*, Vol. 94, No. 4 (January 1989), pp. 774-802.

Therefore, the movement toward community policing has gained momentum in recent years as police and community leaders search for more effective ways to promote public safety and to enhance the quality of life in their neighborhoods. Community policing is policing that actively involves the community in order to reduce, prevent, and detect crime.[40] Community policing promises to mobilize numerous individuals and agencies in this effort. Police are encouraged to develop working partnerships with governmental, civic and other community groups to accurately survey community needs and priorities, to use the public as a resource in problem-solving efforts and in developing and implementing interventions. "As links between the police and the community are strengthened over time, the ensuing partnership will be better able to pinpoint and mitigate the underlying causes of crime."[41]

Another fundamental aspect of community based policing lies in bringing policing out of being the reactive work of just replying to emergency calls, and directing it towards a proactive, preventive approach that acts before crime is committed, as well as having more cooperative and closer contact with the public.[42] So, principles of community policing suggest moving from a "Reactive to a pro-active approach to policing."[43]

The threat of terrorism provides a unique opportunity to create a partnership with other public service agencies and with the community to effectively deal with terrorism. "The community policing philosophy is an important resource for preparing for and responding to acts of terrorism and strongly encourages engaging the community in the war against terrorism. External community policing elements recognize that the police cannot solve community crime and disorder and terrorism related problems alone. The police are only one of a host of other local government agencies responsible for responding to community problems and dealing with terrorism and terrorism related issues."[44] "Community policing can help law enforcement prepare for and prevent terrorist acts and respond to the fear such threats create by encouraging organizational change within law enforcement agencies, supporting problem-solving efforts, and seeking external partnerships."[45] These programs serve as examples of partnerships that law enforcement agencies, schools, and community organizations can form to address issues of juvenile crime, victimization and terrorist activities.

---

[40] *Community Policing Lesson Plans*, OSCE Spillover Monitor Mission to Skopje, Idrizovo-Skopje: Multi-Ethnic Police Academy (2001), p. 3. See also Wendy Kaminer, **'**Crime and Community', *The Atlantic Monthly*, Vol. 273 (May 1994), pp. 111-120.

[41] 'Understanding Community Policing...', Bureau of Justice Assistance.

[42] Michael D. Lyman, *The Police: an Introduction*, New Jersey: Prentice-Hall Inc. (2002), pp. 340-342.

[43] Reactive policing is about waiting for a crime to occur before responding. Pro-active policing is about taking positive steps prior to the occurrence of a crime to prevent it from happening. See OSCE, op. cit., p. 6.

[44] Matthew C. Scheider, Robert E. Chapman and Michael F. Seelman, 'Connecting the Dots for a Proactive Approach', US Department of Justice-Office of Community Oriented Policing Services, http://www.cops.usdoj.gov/mime/open.pdf?Item=1046, (March 12, 2007).

[45] Rob Chapman and Matthew C. Scheider, 'Community Policing: Now More Than Ever', US Department of Justice-Office of Community Oriented Policing Services, http://www.cops.usdoj.gov/Default.asp?Item=716, (March 14, 2007).

Community Policing Projects to Prevent Juvenile Delinquency and Terrorist Activities in Şanlıurfa

Youth who are not routinely involved in supervised activities and are away from the supervision of parents, and who lack significant connections to positive influences and role models are more likely to become perpetrators and/or victims of crime. The incidence of drug abuse, violence, involvement in terrorist acts and destructive behavior also increases without proper supervision. "Providing the safest possible environment for learning and personal development is a shared responsibility and an essential part of community policing."[46]

The Şanlıurfa Police Department analyzed the terrorism problem and the human source of terror, developed appropriate responses and reflected these efforts in the mission goals and objectives of the department. Since 2002, in Şanlıurfa the Office for Child Protection has been a catalyst for innovative community policing practices, facilitating local development of community-wide partnerships that promote safe environments for youth. So, the implementation of community policing principles in Şanlıurfa demonstrates how, by developing meaningful partnerships between law enforcement, schools, and the community, youth can be set on positive paths and youth crime, victimization and terrorist acts can be addressed. These sobering facts require a vigorous response from law enforcement professionals, educators, and communities alike. All the following programs are valuable assets in preventing and responding to acts of terrorism.

"While crime control and prevention remain central priorities, community policing strategies use a wide variety of methods to address these goals."[47] The following are the examples of the innovative ways that the Office for Child Protection has worked with local agencies to develop partnership-based programs for youth. These methods in Şanlıurfa can be classified under two headings:

1. Projects Concerning the Parents of PKK Terrorists

The clashes between the security forces and terrorists have caused tremendous casualties in Turkey. Military units equipped with 'extraordinary' authority fought to cope with the terrorist organization. However, finding the solution to this problem it is not and should not solely be the duty of military forces. As a substantial step the state should contact families who have had their children taken by the organization. Unfortunately, certain policies aimed to gain the hearts of the families of terrorists have not been or could not be implemented for a long time. However, families whose children recruitted by the PKK are in a complicated situation: On one side of the medal they see their children fighting in the circle of a terrorist organization and on the other side a huge pressure from the community and the image of being 'a parent of a terrorist' in the eye of law enforcement officers. This situation mostly drives them in a desperate situation as such 'voluntary supporter of the PKK'.

---

[46] Dylan Presman, Robert Chapman and Linda Rosen, 'Creative Partnerships: Supporting Youth, Building Communities', *Cops Innovations – a Closer Look*, U.S. Department of Justice Office of Community Oriented Policing Services p. 1, http://www.cops.usdoj.gov/pdf/e03021471.pdf, August 30, 2006).

[47] 'Understanding Community Policing…', Bureau of Justice Assistance.

However, an important point should not be disregarded by the authorities: Most of the members of the terrorist organization living in the mountains communicate with their families. So, by the use of legal regulations, employment opportunities and essential protection programs, those families should be contacted and some poisitive messages should be conveyed. They should be encouraged and supported. These contact meeting should be arranged in their own environments instead of police headquarters or military garrisons. With this aim, the Şanlıurfa Anti-terror department launched a project to contact those families. Families were interviewed based on the idea that they would contact their children and encourage them to leave the organization. Many families wanted to assist the police department and contacted their children to convince them to surrender to the security forces. Hence, children were given the chance to leave the organization, especially those who did not commit a crime. Between 2002 and 2006, 12 terrorist organization members surrendered to police officers following interviews with 50 families. Thus, the pressure of families put pressure on the organization.

Following surrender, the children were put on probation and assisted to reintegrate into society. Considering the benefits of the Turkish police officers successful negotiations with families of PKK members, one can see how fruitful this project is.[48]

However, civilians should become involved in this project since contact by law enforcement officers is not always sufficient to convince the families. For instance, civilian groups constituted of well-educated and experienced psychologists and other experts should also establish close relationships with the families. Particularly, politicians and professional experts would display more sincere effort.

When not only the parents but also the members of the terrorist organizations were approached with good will by the security forces, tremendous positive results were obtained as well. As one police chief stated, "When sincere and close relations were demonstrated to the members of the terrorist organization, most of them cooperated by their own will, and spoke to their friends in custody in favor of the state and its representative forces. This attitude left positive impressions on other members of the terrorist organization, and some of them discontinued their relations with the organization. Our experiences showed that some terrorist organization members departed their organizations completely, and they became supporters of the state through our positive relations."[49]

The following sections will provide information about the activities directly related to children, community engagement, and findings from local prevention projects as well as examples of strategies that have been tried in Şanlıurfa.

---

[48] Likewise, this project is also put into practice by other security forces, i.e. the gendarmerie. See, Aslı Aydıntaşbaş, 'Evladına Söyle Dağdan İnsin' (Tell Your Child to Surrender), *Sabah* (October 30, 2006).

[49] Güven, op. cit., p. 339. For more positive examples regarding this approach and the terrorists who left their organizations voluntarily, see, Serdar Bayraktutan, *İntihar Eylemcisinin Eve Dönüşü: Anne Ben Geldim*, (Homecoming of a Suicide Bomber: Mom I'm Here), Istanbul: Karakutu Publ. (2007).

2. Projects Concerning Juveniles

a. Children as Tourist Guides

The Şanlıurfa Police department launched a Tourism Volunteer Project in 2002 to train street children who give tourists wrong information and disturb them by begging for money. Having obtained necessary permission from their parents, 18 children were selected and they were trained in different topics such as English, computers, politeness, hygiene, theatre, chess, and folklore. After 6 months of training, these children were given special uniforms and authorization to guide tourists within the historical site of Balıklıgöl.

Through this pioneer project[50] in Turkey, 55 children have been rescued from the streets. They have become good individuals and citizens who are a credit to their parents and the community they live in. In this way, in a short time, many children who had dropped out school, were living on the streets and abusing volatile substances, and disturbing tourists by begging for money, became tourism volunteers. This project has gained great support from the other NGOs and the community.

These children have been given continuing education to keep them motivated and educated for the long-term. They have also been provided with facilities within Şanlıurfa Police Department's complex to play basketball, football, volleyball and other games such as swimming and table-tennis. Some of them are guided to attend vocational training so they can gain a certificate for a trade. These children are also taken to festivals, which will be detailed later.

This project has also had an impact on the truancy rates of these children. Teams of community-based officers follow these children during school hours, approaching suspected truants, identifying them, taking them to school, and contacting school personnel and parents about their attendance and other school-related problems (e.g., fighting, drug or gang involvement, etc.). Hence, truancy reduction efforts have been enormously successful and daily unexcused absences have decreased. The decrease in truancy should, in turn, result in a reduction in criminal activity.

b. Activities Concerning Juveniles Using Volatile Substances

Essentially, volatile substance abuse may be considered as such if it involves deliberate or intentional inhalation of gases or solvents for the sole purpose of achieving mental excitation or getting a 'buzz'.[51] In recent years, disorderly conduct by volatile substance-abusing juveniles has been increasing in Turkey and substance abuse has been linked to a number of psychosocial problems, associated risk behaviors and multiple crimes. The inhalant users are likely to have attempted other crimes such as stealing bags, damage to property, theft, unruly and offensive behavior, sexual assault, youth suicide and family conflict. These juveniles can easily be manipulated and snatched by organized crime gangs and terror organizations. In addition to this anti-social and criminal behavior, young people who chronically abuse these substances usually have a range of associated and inter-related risk factors including; homelessness, mental health

---

[50] 'Sokak Çocukları Rehber Olacak' (Street Children will be Tourist Guides), *Star* (February, 2005); Saygı Öztürk, 'Ateşkesten Sonra Güneydoğu' (Southeast after the Ceasefire), *Gözcü* (October 11, 2006).

[51] Kate Skellington Orr and David Shewan, 'Review of Evidence Relating Volatile Substance Abuse in Scotland', *Scottish Executive Substance Misuse Research Programme* (September 2006), p. 9, available online at http://www.scotland.gov.uk/Resource/Doc/147377/0038818.pdf (March 2, 2007).

problems, low or no income, family dysfunction, experiences of physical, mental health issues associated with physical, sexual, psychological or other forms of abuse, multi-drug use. Many young people become homeless because they choose to leave an abusive home.

The Şanlıurfa Police Department has launched a project to re-assimilate the 'sniffers' in Şanlıurfa to society by using proactive policing principles and community engagement. First, awareness among the police of appropriate responses to interactions with solvent abusers was raised. Police employed some types of treatment available to volatile solvent participants including psychotherapeutic approaches, individual or group counseling, family counseling, and temporary removal of young people from risk environments. Police respond with immediacy by discovering solvent abusers in action and by attempting to arrest them for antisocial behavior or public disorder offences, but police also participate in a developed long-term project. Hence, the pursuit of solvent sniffers by police is complemented by an awareness of harm minimization strategies, raising the profile of volatile substance abuse among professionals so that the risks are better understood, providing suitably targeted services and trained staff, restricting sales of dangerous substances, and working proactively with local communities to address issues associated with volatile substance abuse.

Young people who are abusing volatile substances are often interviewed by the police, given food and clothing, taken to health centers for medical care, and are encouraged to participate in activities and festivals. They are encouraged to join football and basketball teams to integrate and socialize with other juveniles and to gain self-confidence. Police officers approach them like friends rather than law enforcement officers and try to rescue them from their environment. The police do not use degrading or humiliating language or intimidate these children. Finally, the abusers feel free to approach police facilities, such as police stations and police guest houses[52], and they can easily contact police officers. Between 2003 and 2007, 82 'sniffers' had been contacted and 71 of them had given up sniffing. The remaining 11 are being monitored closely by the police.

The police have contacted family members to educate them about how to treat their children without violence and tell them to contact the police in case of need. Although volatile substance abuse was present across all social strata, the families of the children in Şanlıurfa have low socio-economic status, such as low, irregular or no income, a low rate of literacy, crowded families with an average of 8-10 children,[53] and almost all mothers are housewives. Most of the 'sniffer' children are illiterate and/or truant,and are either irregular attendees at school or drop out entirely. The police in Şanlıurfa use limited powers of detention if they have reasonable belief that a young person is likely to cause harm to him- or herself or to someone else. Police make an assessment of the situation, and decide, depending on the needs of the young person, to connect that young

---

[52] In Turkey, many organizations, including the National Police maintain small hotel-like buildings where people from the organization or their guests may stay when travelling for business. In the case of police guest houses, police officers work simultaneously as building staff, such as front desk clerks, and as officers.

[53] The larger the number of children per family, the greater the probability that the individual will engage in illegal and violent behavior. See, Özcan Köknel, *Kimliğini Arayan Gençliğimiz* (Our Youth Searching for Their Identitiy), Istanbul: Altın Kitaplar Publ, (2001), p. 356.

person to their family or appropriate carer: a hospital or health service, or if appropriate, an alcohol and drug agency. However, there are no dedicated services for working with volatile substance abusers nor are there treatment centers for young people with chronic solvent abuse problems.

c. Kites, School Reports, Kids and Tree Planting Festivals

Since 2002 orphan children, children of poor families, tourism volunteers, volatile substance 'sniffers' and children of police parents have gathered at the Police Guest House to celebrate and enjoy 'school reports' before their summer vacation. Another fantastic activity to gather these children is the kite festival. Every year, during spring, a kite contest is arranged and the children receive awards from the police. During summer all these children are invited to swim in the police swimming pool and are given swimming courses. Similarly, these children are guided to plant trees in different locations of the city. Thus they are given a sense of a 'green world and nature'. Every single child has his/her own tree tagged with a name to protect. In this way, children at risk have a chance to integrate with other children, to save the environment, and gain a sense of solidarity and self-confidence.

d. Movie Festival for Children

The movie festival is another significant activity used to protect and educate children who are living in the suburbs and on the streets, as well as those from the poor classes of the community, and volatile substance abusing children and orphans. These children are more liable to get involved in illegal activities and the manipulation of terrorist organizations. By way of these activities, children may integrate into society and have a sense that "they are important for the community". Police work together with the local community leaders to determine which children to invite to the cinema. The movie festival activities occur as follows. With the permission of their parents, children between the ages of 7 and 14 are picked up by police buses. Police officers start conveying positive messages even in the buses. These messages include but are not limited to the following: respecting the rights of others, raising awareness of diversity, obeying the rules, love of nature and animals, being a good individual in society, respecting elders (in particular parents), love for children, respect for property, trees and street animals. The children are not approached to educate them in a boring atmosphere but rather like a friend in cheerful manner. Once arriving at the cinema, the children are taken to the restrooms to be show hygienic practices. After washing, the girls are guided by policewomen and the boys by policemen to the hall. They sing and dance altogether there. The ones who display good behavior from the previous week are rewarded and honored before the children. Before the movie starts every single child is given a symbolic ticket and they are accompanied to their seats by police officers. During the movie they are served popcorn. In the cinema, the children watch selected popular movies that convey some positive messages. After the movie has ended, the children are dropped off again by police buses. More than 100,000 children have been invited to this kind of activity.

The aim of this activity is not merely to watch movies but to give the children messages. Interviews with children revealed that they are looking forward to joining such "children's happy hours". They stated in their assessment paper that "*their image of the police was totally changed,*

they will never scratch vehicles again, or break the trees, and they will observe hygienic principles, and this was the first time they had come into a cinema hall and they love the police officers very much." Further observations revealed that these promises are actually fulfilled by the children. For instance, the number of scratch repairs undertaken at car repair services has declined by 95% since 2002. This program has also had an impact on rates of truancy in Şanlıurfa. Thus, the police and the community have become partners "in addressing problems of disorder and neglect (e.g. gang activity, abandoned cars, and broken windows) that, although perhaps not criminal, can eventually lead to serious crime."[54] Since the implementation of this program, there have been significant changes in police approaches to juvenile delinquency and corresponding changes in results. The outcome may be indicated "by police officers' greater knowledge of the experience of children and greater appreciation for the potential benefits of collaborative intervention".[55] It is anticipated that these projects related to the children at risk will result in a reduction in criminal activity. This activity has gained the full support of the community and the media.[56]

e. Local Sports Fields

Communities on the outskirts of Şanlıurfa are mainly in diverse, low-income neighborhoods and are in need of quality recreational space. An overwhelming percentage of children in these communities live below the poverty line and most households need some form of public assistance. The Şanlıurfa Police Department implemented physical development projects to make use of open areas that have been left aside or abandoned. To date, 8 football fields and 5 basketball courts have been constructed in these neighborhoods. Future programming includes expanding the youth football program, youth football league games, tournaments and camps. Many other official institutions and NGOs are giving their full support to these activities. These areas are maintained and protected by police officers. The children using these fields are between 7 and 15 years old. They are given free sports materials and are trained regularly by police officers. In the past, police officers arranged football tournaments among these children and 12 football teams participated. Some businessmen and sports clubs provided funding and materials for the project. There is a Police Basketball Team comprised of girls from those quarters. Volatile substance sniffers and juvenile delinquents are included in these teams to separate them from a violent world and to help them adapt, adjust, and stay healthy. The children are instructed in football and basketball rules as well as the rules of fair-play.

f. Activities in the Schools

---

[54] 'Understanding Community Policing...', Bureau of Justice Assistance.

[55] Steven Marans and Miriam Berkman, 'Child-Development-Community Policing: Partnership in a Climate of Violence', *Juvenile Justice Bulletin*, Washington DC: US Department of Justice Office of Juvenile Justice and Delinquency Prevention, (March 1997), http://www.ncjrs.gov/pdffiles/164380.pdf (September 14, 2006).

[56] 'Urfalı Çocuklara Sinema Hizmeti' (Cinema for the Children in Şanlıurfa), *Sabah* (February 20, 2006).

As an outgrowth of police-community collaboration, the police have increased their involvement with Şanlıurfa's state schools. First, the Traffic Management Unit has been conducting traffic education seminars in the schools to teach basic traffic rules, making the pupils safer and familiarizing them with the police. Second, skilled police chiefs are giving seminars on effective communication, parent behavior and raising the awareness of illegal activities. Third, the Şanlıurfa Police Department is educating students to prevent substance abuse. The curriculum includes information on developing good communication skills, and promoting refusal skills for youth. It also includes raising awareness about community resources and general information about a variety of drugs and current trends. These courses are taught by friendly, experienced and certified police instructors. In addition to these courses, diving seminars are also given by expert police officers to the high school students. Last but not least, the Şanlıurfa Police Service coordinates the reconstruction of one school every year with the support of different sponsors.

While innovative efforts to address such issues as juvenile delinquency, street children, and child abuse by terrorist organizations have occurred through crime prevention programs, the community policing approach incorporates such prevention and intervention strategies into the mainstream of policing.

These programs are built on the philosophy of community policing and therefore require that the participating police department has implemented community policing strategies or is engaged in the process of implementation, particularly with regard to children, adolescents, and families. One of the fundamental goals of these programs is to broaden and shift the perspective of officers and community participating in the collaboration. It is believed that officers develop greater knowledge of child development and an awareness of the experience of children. Officers aslo gain insight into psychological contributions to human behavior and the implications for policing, and develop a capacity to reflect on and consider a broader range of options. However, preventing crimes is the most effective way to create safer environments in our neighborhoods. The value of crime prevention is also acknowledged in Şanlıurfa.

Conclusion

The widespread terror and fear in southeastern Turkey over the last two decades has caused the greatest harm to the people of the region. The rest of the country has also suffered from the economic and political consequences of the unrest. In addition to traditional responsibilities, Turkish law enforcement agencies have provided a visible security presence around potential terrorist targets, partnered with intelligence agencies, responded to an increasing number of terrorist attacks, and investigated a large number of terrorism related leads.

As Cerrah stated "a solution which depends on a solely military response, so far, has shown that this strategy is unlikely to be successful. This is what the British government found out in Northern Ireland, and the Spanish government has had similar experience in the Basque Region."[57] Therefore, using violent methods to combat terrorism is not enough to overcome the problem. The main reasons leading to this conflict should be taken into consideration and they

---

[57] İbrahim Cerrah, 'Countering Terrorism in a Democratic Society: Turkish Case', in *Istanbul Conference on Democracy & Global Security-2005*, Ankara: Öncü Press (2006), p. 658.

should be well defined for an effective response. "Strategic analysts should attempt to identify why problems exist in neighborhoods as well as identify the conditions that contribute to and perpetuate crime. This information will certainly prove useful in the planning and implementation of tactical responses and crime prevention strategies."[58] The causes of PKK terror can be analyzed and understood by looking at a number of contributing factors related to social, political, economic and/or historical issues. "Being a social problem which has multi dimensional causes and aspects, terrorism cannot be solved by only applying force. In that case, in fighting against terrorism in general and the PKK in particular, all factors contributing to terrorism have to be taken into consideration and addressed respectively."[59] In the fight against PKK terror, the support of the public should be placed at the core of the effort[60] and findings of scientific research into the background reasons and causes of crime should be employed. For instance, if militant recruitment cannot be prevented at the outset using suitable methods, terror and terrorism will not be eliminated.[61] In other words, the sympathizers of the terrorist organization should be taken into account and "it is believed to be necessary to rehabilitate the sympathizers of terror in the long run and under the umbrella of democracy rather than treating them as terrorists."[62] However, inhibiting potential terrorists including juveniles from joining terrorist organizations is the most important and complex of the elements of a strategic psychological program designed to counter terrorism. From childhood there is a normalization and social value attached to joining a terrorist group.[63]

Community policing can be an effective strategy for conducting and coordinating these and other terrorism prevention and response efforts. Law enforcement agencies should realize that community policing is more important than ever in pro-actively dealing with and responding to terrorism in their jurisdictions.

Crime prevention projects such as those in the Şanlıurfa Police Department have found that these principles are remarkably compatible with community policing as it has been implemented in the city. Indeed, the Şanlıurfa Police Department used these principles as the basis for a parallel set of statements about community policing.

Among many other positive results of community policing projects, first we can observe juvenile delinquency trends in Şanlıurfa. Figures for crimes committed by juveniles in the period

---

[58] Timothy N. Oettmeier and H. Bieck William, *Integrating Investigative Operations Through Neighborhood-Oriented Policing: Executive Session #2*, Houston: Houston Police Department, 1988, p. 64.

[59] Cerrah, op. cit., p. 658.

[60] İhsan Bal, 'Police Operations in the Framework of the Hezbollah Example and the Proactive Fight against Terrorism', in *Istanbul Conference on Democracy & Global Security-2005*, Ankara: Öncü Press (2006), p. 120.

[61] Necati Alkan, *Psikolojik Harekât, Terörizm ve Polis*, (Psychological Operations, Terrorism and Police), TEMÜH Publ., No. 5, Ankara (2000), p. 12.

[62] Bal, 'Police Operations in the Framework of the Hezbollah Example …', op. cit., p. 120.

[63] Post, Jerrold M. "Psychological Operations and Counterterrorism", *Joint Force Quarterly,* (April 1, 2005), retrieved from http://www.accessmylibrary.com/coms2/summary_0286-13903643_ITM, (September 18, 2008).

between 2002 and 2006 are as follows: 923 in 2002, 1288 in 2003, 777 in 2004, 401 in 2005, and 397 in 2006. Likewise crimes against juveniles were as follows: 1026 in 2002, 1385 in 2003, 601 in 2004, 345 in 2005, and 590 in 2006.

Second, the success of the abovementioned projects can clearly be seen in mass demonstrations in recent years. The burial of PKK terrorists in Diyarbakir in late March 2006 sparked bloody riots that lasted for days. During the riots, pro-PKK protesters torched public buildings and the ransacked shops. These riots led to the destruction of private and government property and a battle between Kurdish protestors hurling rocks and firebombs at Turkish police. At the time, it was primarily children and young people who were engaged in skirmishes with the police as well as in looting stores. More than a dozen people lost their lives during the unrest, which also spread to the cities of Hakkari, Van, Batman, and Mardin. Surprisingly, the PKK could not manipulate the children during the incidents in Şanlıurfa. For instance, the children in the riots in Viranşehir, Suruç and Birecik were given some gifts like candies, toys, sports clothes, and shoes by police officers. Hence, the children began applauding and cheering for the police during the demonstrations.[64] The community policing strategies including this strategy was praised highly by local media.[65]

A third achievement of the community policing projects in Şanlıurfa has been achieved through the family visits. Families of PKK members have been visited by police officers to convince their children to leave the organization. This strategy has worked and many of children have run away from the organization and surrendered to the security forces.

Last but not least, these projects facilitate communication and good relations between police officers and youth. "Many would hold that reciprocation in the attitudes of youth and the police is one of the key elements in police and community relations. Better police-community relations in the future depend heavily on today's work in police-youth interactions."[66]

So, the burden placed on local law enforcement is great. However, the community policing endeavors of the Şanlıurfa police department will not be sufficient alone to fight terrorist activities. Contingencies should be developed with parents, school officials, mental health professionals, probation officers, and social service workers who are already involved or may need to be involved with the youngsters and their families. With a mixture of authority, psychological sophistication, and persistence, the officers and other state officials, universities, educators and NGOs involved in terrorism prevention, efforts will be enormously successful.

---

[64] 'Hepsi de Çelik Gibi: Güneydoğu'daki Birçok Şehirde Çocuklar Polise Taş ve Molotof Kokteyli Atarken Bizim Çocuklar Polislerimizle Gülüp Eğleniyor' (All Are Like Steel: While The Children Throwing Stones at Police in Other Cities, the Children in Şanlıurfa Applause and Having Fun with the Police), *Yenigün* (April 4, 2006) ; 'Halk Bölücülerin Oyununu Bozdu' (The People Spoiled the PKK's Plan), *Yenigün* (April 5, 2006); 'PKK'nın Oyunu Birecik'te Bozuldu' (The PKK's Plan was Destroyed in Birecik), *Haber Aktif* (April 5, 2006); 'PKK'nın Oyunu Gofret İle Bozuldu' (Wafers Destroyed the Plans of PKK), *Sabah-Güney* (April 7, 2006).

[65] Mehmet Yalvaç, 'Başarı Budur' (Here is the Success), *Yenigün* (April 4, 2006); Ömer N. Kapaklı, 'Viranşehir-Suruç-Kutlay Çelik', *Yenigün* (April 5, 2006).

[66] Louis A. Radelet, *The Police and Community*, California: Glencoe Press (1973), p. 311.

REFERENCES

- Alkan, Necati, *Psikolojik Harekât, Terörizm ve Polis* -Psychological Operations, Terrorism and the Police- (TEMÜH Publ., No. 5, Ankara, 2000).

- Bal, İdris, 'Terrorism, Liberal State and International Co-Operation', *Istanbul Conference on Democracy & Global Security-2005* (Ankara: Öncü Press, 2006).

- Bal, İhsan, 'Police Operations in the Framework of the Hezbollah Example and the Proactive Fight against Terrorism', *Istanbul Conference on Democracy & Global Security-2005* (Ankara: Öncü Press, 2006).

- Bayley, David H., *Police for the Future* (New York: Oxford Press, 1994).

- Bayraktutan, Serdar, *İntihar Eylemcisinin Eve Dönüşü: Anne Ben Geldim*, -Homecoming of a Suicide Bomber: Mom I'm Here- (Istanbul: Karakutu Publ., 2007).

- Çağlar, Ali, 'Terrorism and Terror Organizations in Turkey: an Overall Evaluation', *Istanbul Conference on Democracy & Global Security-2005* (Ankara: Öncü Press, 2006.

- Cerrah, İbrahim, 'Countering Terrorism in a Democratic Society: Turkish Case', *Istanbul Conference on Democracy & Global Security-2005* (Ankara: Öncü Press, 2006).

- Gladstone, Francis J., *Coordinating Crime Prevention Efforts*, Gladstone Report-Home Office Research Study, No. 62 (London: Home Office, 1980).

- Güven, Recep, 'Lessons from Combating Terrorism', *Istanbul Conference on Democracy & Global Security-200*5 **(**Ankara: Öncü Press, 2006).

- İçli, Tülin, 'Policies of Controlling Judicial Crimes in Turkey with Respect to Providing Global Security: the Importance of Some Current Applications and Some Suggestions', *Istanbul Conference on Democracy & Global Security-2005* **(**Ankara: Öncü Press, 2006).

- Kaya, Ahmet, 'Turkey's Experience against Terrorism', in *Istanbul Conference on Democracy & Global Security-2005* (Ankara: Öncü Press, 2006).

- Köknel, Özcan, *Kimliğini Arayan Gençliğimiz* -Our Youth Searching for Their Identitiy- (Istanbul: Altın Kitaplar Publishing, 2001).

- Lyman, Michael D., *The Police: an Introduction* (New Jersey: Prentice-Hall Inc., 2002).

- Moore, Mark H. and Robert C. Trojanowicz, *Policing and Fear of Crime*, Perspective on Policing, No. 3 (Washington DC: National Institute of Justice, 1988).

- Özdağ, Ümit and Ersel Aydınlı, *Winning a Low Intensity Conflict: Drawing Lessons from the Turkish Case* (Portland: Frank Cass Publishers, 2003).

- Radelet, Louis A., *The Police and Community* (California: Glencoe Press, 1973).

- Reis, Jr., Albert J., 'Why are Communities Important in Understanding Crime?' in Albert J. Reis, Jr. and Michael Tonry, *Communities and Crime, Crime and Justice: an Annual Review of Research*, Vol. 8 (Chicago: University of Chicago Press, 1986).

- Teymur, Samih and Ahmet Sait Yayla, 'How did Change Help the Country of Turkey to Deal with Terrorism More Effectively?' *Istanbul Conference on Democracy & Global Security-2005* (Ankara: Öncü Press. 2006).

Notes for Contributors

The *Defence Against Terrorism Review* (DATR) is an interdisciplinary, biannual journal, publishing in-depth analysis of the complex issue of terrorism in a changing and globalised security environment. It includes political, legal, sociological, economic, and psychological approaches to the terrorism predicament. DATR intends to reach academics as well as practitioners and aims to publish theoretical as well as policy papers. It also encourages contributions from different cultural perspectives

Manuscripts submitted to DATR should be in the environs of 8,000 words and must be written in English. Each paper is screened at COE–DAT and then sent to referees for reviewing.

Manuscripts must be typed in 12 puntos and double spacing with *Times New Roman* font, and they should be sent electronically to: datr@coedat.nato.int

Manuscripts should be organized as the title page, an abstract (around 200-300 words) and keywords (up to 5), footnotes, and a bibliography.

Examples for Footnotes:

1. Peter Chalk, West European Terrorism and Counter-terrorism: the Evolving Dynamic, Macmillan, London, 1996, p.173.
2. Monica Den Boer, "The EU Counterterrorism Wave: Window of Opportunity or Profound Policy Transformation ?" , in Marianne Van Leuween (ed.), *Confronting Terrorism. European Experiences, Threat Perceptions and Policies*, Kluwer Law International, The Hague, 2003, p.196.
3. Michael Doran, "Somebody Else's Civil War", *Foreign Affairs*, Vol. 82, No. 1, 2002, p.32.
4. European Commission, Proposal for a Council Framework Decision on the European Evidence Warrant for Obtaining Objects, Documents and Data for Use in the Proceedings in Criminal Matters, Brussels, 11 November 2003 (http://eur-lex.europa.eu/LexUriServ/site/en/com/2003/com2003_0688en01.pdf).
5. Gijs De Vries, "The European Union's Role on the Fight against Terrorism", Irish Studies in International Affairs, Vol. 16, No. 1, 2005, p.9, 12 January 2009 (http://www.ria.ie/publications/journals/journaldb/index.asp?select=issue&id=100114).

BIBLIOGRAPHY

European Commission, *Proposal for a Council Framework Decision on the European Evidence Warrant for Obtaining Objects, Documents and Data for Use in the Proceedings in Criminal Matters*, Brussels, 11 November 2003 (http://eur-lex.europa.eu/LexUriServ/site/en/com/2003/ com2003_0688en01.pdf).

Gijs De Vries, "The European Union's Role on the Fight against Terrorism", Irish Studies in International Affairs, Vol. 16, No.1 2005, p.9, 12 January 2009 (http://www.ria.ie/publications/journals/journaldb/ index.asp?select=issue&id=100114, pp.3-9).

Michael Doran, "Somebody Else's Civil War", *Foreign Affairs*, Vol. 82, No.1, 2002, pp. 22-42.

Monica Den Boer, "The EU Counterterrorism Wave: Window of Opportunity or Profound Policy Transformation ?" , in Marianne Van Leuween (ed.), *Confronting Terrorism. European Experiences, Threat Perceptions and Policies*, Kluwer Law International, The Hague, 2003, pp.185-206.

Peter Chalk, *West European Terrorism and Counter-terrorism: the Evolving Dynamic*, Macmillan, London, 1996.