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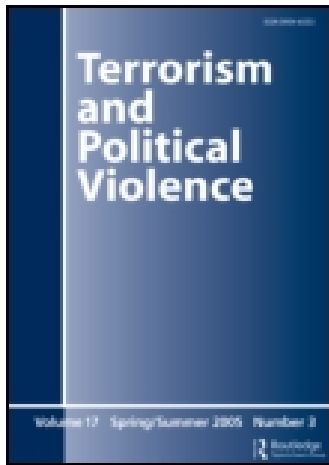
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### The Security Council and Counterterrorism: Global and Regional Approaches to an Elusive Public Good

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# The Security Council and Counterterrorism: Global and Regional Approaches to an Elusive Public Good

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*This paper explores contemporary counterterrorism efforts as an instrument for attaining peace as a 'global public good'. It notes the lack of an agreed definition of terrorism, the distinction between freedom-fighting and terrorism, and the issue of 'excessive use of force' by the state. It assessed the extent to which US counter-terrorism policy has influenced policy in the UN Security Council, and the shortcomings in Council policy that require redress. The paper concludes that counterterrorism will be successful only when a 'global law enforcement' approach prevails over the national security-driven 'war-on-terror' and when genuine efforts are undertaken to address the root causes of terrorism, including the forward basing of US forces in the Arab world.*

## Defining the 'Good'

### *Global and Regional Public Goods*

#### *'Global Public Goods' and the 'Planetary Interest'*

The concept of a 'public good' has been the purview of classical economists for centuries, if not millennia. The standard modern definition belongs to Samuelson: 'collective consumption goods ... which all enjoy in common in the sense that each individual's consumption of such a good leads to no subtraction from any other individual's consumption of that good'.<sup>1</sup>

The concept is often advanced in juxtaposition to the notion of a 'private good'. Thus:

What is a public good? This question can best be answered by looking at the counterpart, a private good. Private goods are typically traded in markets. Buyers and sellers meet through the price mechanism. If they agree on a price, the ownership or use of the good (or service) can be transferred. Thus private goods tend to be excludable. They have clearly identified owners; and they tend to be rival. For example, others cannot enjoy a piece of cake, once consumed. Public goods have just the opposite qualities. They are non-excludable and non-rival in consumption. An example is a street sign. It will not wear out, even if large numbers of people are looking at it; and it would be extremely difficult, costly and

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highly inefficient to limit its use to only one or a few persons and try to prevent others from looking at it, too. A traffic light or clean air is a further example.<sup>2</sup>

In recent decades the institutional and conceptual nature of the international community has transformed. In 1993 the UN secretary-general observed that the 'first truly global era has begun'.<sup>3</sup> This change is being increasingly reflected in a gradual metamorphosis in global policy-making. In 1999, UNDP published a path-breaking work by Inge Kaul et al., 'Global Public Goods', which extrapolated the concept of public goods from the national to the global level.<sup>4</sup> Global public goods were defined as:

... public goods whose benefits reach across borders, generations and population groups.<sup>5</sup>

A comparable conceptual approach to global policy analysis is the 'planetary interest'.<sup>6</sup> The planetary interest has been defined as:

The interests of the planet, comprising (1) the survival and viability of humanity, contingent on maintenance of the physical integrity of Earth, and the protection of its ecological systems and biosphere from major anthropogenic change; and (2) the universal improvement in the human condition in terms of basic human needs and fundamental human rights.<sup>7</sup>

Thus the 'planetary interest' lies in the full realisation of all 'global public goods'. But what might these be? Global public goods, the UNDP study asserts, include the environment, health, culture and peace.<sup>8</sup>

#### *Peace as a 'Global Public Good'*

Peace, said the UNDP study, is an example of a global public good because 'when it exists, all citizens of a country can enjoy it; and its enjoyment by, say, rural populations does not distract from its benefits for urban populations'.<sup>9</sup> The concept of public goods is taken as a conceptual instrument for 'rethinking' traditional notions of defence and national security.<sup>10</sup> Thus, the UNDP study contends, the maintenance of global peace and security is the 'quintessential global public good, in both substance and form'. As with most public goods and goods with positive externalities, it is a function best carried out on a global scale by the international public sector, and in appropriate regional situations by regional public sectors. Governments acting in their national self-interest are 'not apt' to carry out this mandate.<sup>11</sup>

#### *A Strategy for Peace: A 'Global Security System'?*

Peace, however, is a human condition that, in a dangerous and divided world, cannot be purchased by wishful thinking. It can only be achieved by means of a workable global security strategy of some kind. Two fundamental issues are at stake: (1) the attainment of global governance of a kind acceptable to all of humanity and that underpins a legitimate authority structure; and (2) an optimal force capacity for enforcement responsibilities.

These twin goals of an enduring global security strategy – institutional legitimacy and enforcement capacity – are proving elusive to the emerging global community.

The absence of a universal consensus over economic equity, sources of sovereign authority and the projection of global power is breeding new dangers to the stability of the international community. The absence of a legitimate force level and authority structure is raising questions of how to react to these new dangers. Increasingly, the security agenda of the international community, traditionally the preserve of the nation-state, is being shaped by non-state entities – ‘private groups’. The term ‘terrorism’ has, over the past several decades, taken centre-stage in the security debate. With the increasing prospect of weapons of mass destruction (WMD) slipping into the hands of such groups that pursue competing agendas to that of the ‘global establishment’, the stakes are becoming increasingly high.

### *The ‘Bad’ and the ‘Good’: Terrorism and Counterterrorism*

Threats to international peace and security, including terrorism, are, in the lexicon of the UNDP study, to be seen as global ‘public bads’. As the UNDP administrator has put it in the 2003 sequel:

We are facing just one major challenge: how to rethink and reorient public policy-making to catch up with today’s new realities of interdependence and globalisation. Many of the world’s main crises – from climate change to terrorism – have characteristics of global public bads. They affect us all indiscriminately but hit those with the fewest assets more severely than those with private or national means to protect themselves against crises, risks and human insecurity.<sup>12</sup>

### *Terrorism in Warfare and Conflict*

Terrorism, defined as causing a state of being ‘greatly frightened; in dread or awe’,<sup>13</sup> is as old as human conflict. Alaric’s troops devoted seventy-two hours to sacking Rome in 410 CE and the civilian death toll was in the tens of thousands.<sup>14</sup> The crusaders Bohemund and Godfrey and their Christian troops slaughtered 70,000 Muslims in taking Jerusalem in 1099 and burned Jews alive in their synagogues before kneeling in the Holy Sepulchre to give thanks.<sup>15</sup> The Turkic-Mongol leader Timur built mounds of skulls from the dead in suppressing a Persian revolt to his rule in 1395, slew 100,000 fellow Muslim civilians in Delhi three years later<sup>16</sup> and an additional 20,000 civilians in Baghdad three years after that.<sup>17</sup> Terror as a political tactic for ‘domestic’ rule is also a time-honoured phenomenon – *vide* Spain’s Inquisition (the fifteenth to eighteenth centuries), France’s Reign of Terror (1790s), the USSR’s Stalinist purges (1930s), Germany’s Holocaust (1940s), Kampuchea’s agrarian killing fields (1970s) and Iraq’s Baathist rule (1980s/1990s).<sup>18</sup>

With the onset of the modern age, however, terrorism assumed even more destructive capacity in international warfare. Modern military terror between states, with articulated political rationales, includes the Allied incendiary bombings of Dresden and Tokyo (whose firestorms killed 235,000 civilians) and the American atomic bombings of Hiroshima and Nagasaki (that together killed some 250,000 civilians). That these actions were consciously designed to sow terror in the hearts and minds of the enemy was never in doubt and has never been disputed.<sup>19</sup> The stated rationale rested on a marriage of self-defence and revenge.<sup>20</sup> This was a time of total war, yet German and Japanese leaders were tried at the time for war crimes.

The latest military campaign by the same allied coalition against Iraq in 2003 rested on the same tactic – the ‘shock-and-awe’ blitzkrieg from American precision-guided missiles. That the aim was to instill terror in Iraq (both its military infrastructure and civilian psyche), for the purpose of political domination is made clear from prewar American strategic planning literature.<sup>21</sup>

The differentiation of ‘terrorism’ from the ‘legitimate use of force’ concerns the distinction between lawful combatants and civilians. Traditionally in the nation-state era, military conflict was mostly fought between two opposing armies in open fields located far from towns and villages, and in such circumstances it was rare for civilians to be caught up in the fighting. In modern times, however, military technology, especially that utilising aircraft and missiles, has brought cities within the direct target zone of military action. During World War I, 5 percent of casualties from the fighting were civilian; in World War II, some 50 percent; in the 1990s, some 90 percent.

*Definition and Identification: The Legal-Moral Maze*

Defining ‘terrorism’ and identifying a ‘terrorist’ is perhaps the most complex and highly charged issue of modern times. It has both legal and moral dimensions. Is the globally orchestrated campaign against terrorism a more easily understood, Manichean struggle between ‘global good and evil’, or is it a more culturally relative ‘struggle between civilizations’? And is it a ‘global war’ with a military dimension or a ‘global police operation’ for law enforcement?

In reaching agreement on a definition of terrorism, two major issues stand out: the identification of ‘private terrorist groups’ and the inclusion or exclusion of ‘state terrorism’ by armed forces. Two related issues also arise. First is whether, in distinguishing military from civilian targets, ‘infrastructural targets’ (power plants, broadcasting stations, pipelines, transportation facilities) may be included as legitimate military targets. Secondly is the issue of whether a distinction between a political group and its ‘military wing’ can be credibly made.

‘*Private Terrorism*’. During the main decolonisation era (from the 1960s through 1980s), many countries insisted on differentiating between terrorism on the one hand and the struggle against foreign occupation and for self-determination on the other hand. The policy distinction has been largely promoted by Arab and other Islamic countries, especially since the 1967 Israeli occupation of Palestinian territories.

Both doctrinally and empirically, it is difficult to identify which ‘rebel forces’ would be accepted, by international consensus, as comprising a force whose violent actions against government forces would be deemed not to constitute a terrorist action. Four kinds of forces can be identified for consideration, namely: national liberation movements, secessionist movements, regime change groups and superpower withdrawal groups.

*National Liberation Movements*. Those groups most likely to be exempt from the ‘terrorism’ charge are those struggling for national liberation against ‘foreign occupation’ of their own land. This originally involved decolonisation movements (SWAPO in Namibia, ZANU-ZAPU in Zimbabwe, Frelimo in Mozambique), but since that era the focus has fallen on Palestinian groups fighting Israeli occupation of Palestinian territory. In this respect, two distinctions need to be drawn.

- Groups aiming to ‘exterminate’ Israel ( Hamas, Hizballah, PFLP) are culpable of aggression against a sovereign UN member state. Those that accept Israel’s ‘right to exist within secure borders’ (Fatah, Al-Aqsa Martyrs Brigade) are not culpable of ‘aggression’.
- Groups that hit Israeli military targets in Palestine alone would be seen as liberation movements. Those that hit Israeli civilian targets are terrorists.<sup>22</sup> The PFLP’s killing of Israeli athletes at the 1972 Olympic Games, for example, was indisputably a terrorist act, as are the suicide bombings of Israeli civilians by Hamas and Al-Aqsa Martyrs Brigade today.

There is, however, an underlying element to the debate, involving the definition of a ‘legitimate target’. Palestinian groups argue that by illegally occupying Palestinian land in Gaza and the West Bank, Israeli armed ‘settler civilians’ (many of them army reservists) align themselves with their military forces and thus no distinction can be made.

The question of the Palestinian National Authority (PNA), and in particular the PNA president, Yasser Arafat, is especially complex. In 1964 the Palestine Liberation Organization (PLO) was established during an Arab league summit as a quasi-governmental entity to support Palestinian interests, with political, cultural, fiscal and military departments. At that stage its avowed aim was to replace the state of Israel with a Palestinian state through military means, including guerrilla action. In the mid-1970s, however, it recognised Israel’s right to exist and in the mid-1980s it renounced terrorism.<sup>23</sup> Officially the PNA remains opposed to ‘terrorism’ but the US and Israel, citing suspicions that Arafat is abetting terrorists or not doing enough to oppose them, has ceased dealing with him and will deal only with the Palestinian prime minister. Such a policy, however, disregards the collective responsibility the Palestinian cabinet carries under its president for all PNA policy.

The current situation in Iraq is problematic. Two views, diametrically opposed yet equally plausible, can be advanced:

- It can be contended that the coalition invasion was illegal, being conducted outside the UN Charter and with the Security Council declining to approve it. In such a situation, the Iraqi fighters bombing military targets would be seen as liberation forces defending occupied territory (which covers the attacks conducted against CPA targets – American, British, Italian and Polish).
- If, however, the Security Council’s post-invasion acknowledgement of the CPA as ‘occupying authority’,<sup>24</sup> recognition of the Iraqi Governing Council (IGC) as a ‘an important step to restoring Iraqi sovereignty’,<sup>25</sup> and establishment of a ‘multi-national force’ to police Iraq is taken to be *ex post facto* legitimisation of the invasion,<sup>26</sup> then the Iraqi irregular forces bombing military targets would be seen as terrorists (although even this can be contested).

It is, however, beyond contention that the bombing of the Jordanian embassy, the UN and International Committee of the Red Cross (ICRC) compounds and the Arab residential complex in 2003 must be regarded as terrorist acts. The anonymity of the attackers and the absence of any stated purpose for such acts precludes an informed judgement over the extent to which such actions are to be seen as a national liberation movement or a broader Islamic repudiation of a US military presence in the region. It is probable that both elements are involved.

*Secessionist Movements.* Groups in northern Spain, Northern Ireland, the southern Philippines and northern Sri Lanka are all fighting for self-determination.

If they confine themselves to Spanish, British, Filipino and Sri Lankan military targets, these would be deemed to be legal and not 'terrorist actions'. But if they hit civilian targets, they would be deemed to be terrorists. This raises, in turn, the definition of a 'liberation movement'. Can any group advocate secession from an established government and take up arms against its armed forces? How does this affect Quebec in Canada, Puerto Rico in the United States, Assam in India and Corsica in France? The Chechen *shahid* believe they are in a 'war of resistance' against Russia.<sup>27</sup>

The most complex situation of all concerns Kashmir: Whether the militants fighting India there are engaged in 'national liberation' or 'secession' depends on the starting assumption adopted concerning the absence of a plebiscite that was to have been held in the 1940s. Along with Palestine, it is the issue of Kashmir, with Pakistan's determination to preserve the 'rights' of 'liberation forces' there, that drives OIC policy on the terrorism issue.

*Internal Regime Change Groups.* Those groups fighting for internal regime change face the same doctrinal challenge: to convince the international community that a campaign of violence against the established national order is legitimate. The Shining Path in Peru demonstrably fails in this aim as do the FARC and ELN in Colombia. But the GIA and the Salafists in Algeria resorted to violence, initially against government and military targets, after the democratic electoral victory of the Islamic Salvation Front was annulled by the military with western support. The resistance to that electoral annulment would seem to be a legitimate struggle but, as with the Palestinian liberation movements, they become terrorist groups when civilian killings are undertaken.

In South Africa, the ANC dropped its policy of nonviolence in 1961, adopting instead a retaliatory policy of 'violence against violence'.<sup>28</sup> ANC leader Nelson Mandela was repeatedly offered freedom if his organization would renounce violence, an offer he repeatedly rejected. As a result the ANC was deemed by many western countries to have been a 'terrorist organization'. Yet within the United Nations the ANC was always regarded as a liberation movement legitimately fighting an internal oppressor.<sup>29</sup> With Mandela's release in February 1990 and his emergence as a presidential leader he became regarded as a global political icon by the same countries that had previously vilified him.<sup>30</sup> With the 'struggle' essentially won, the ANC announced in June 1990 that it was suspending all armed action with immediate effect.<sup>31</sup> The cycle of political dominance if not judicial impartiality was completed in late 2003 with two separate developments. White militant Afrikaner Resistance Movement leader Eugene Terre Blanche was convicted of terrorism for ordering bomb attacks during the 1994 elections that had brought about black majority rule.<sup>32</sup> Also, former black ANC 'saboteur', Robert McBride, who was once on 'death row' for a 1986 bombing that killed three women civilians in Durban, was appointed police chief of a district in Johannesburg.<sup>33</sup>

#### *'Hegemonic Resistance' Groups*

Al-Qaeda takes as its main goal the withdrawal of US forces from the Arabian Peninsula.<sup>34</sup> But it also advocates the overthrow of the Al-Saud monarchy in Saudi Arabia. Its bombings of US forces stationed around the world (the USS *Cole* in 2000) have been perceived in the 'Arab street' as operations against a legitimate target. But its attacks against New York's World Trade Centre (1993, 2001),



the US embassy attacks in Africa (1998) and the civilian complex in Saudi Arabia (2003) are indisputably acts of terrorism.

Al-Qaeda contends, however, in a similar manner to Hamas, that US civilians are legitimate targets because they are, through the democratic process, responsible for US aggression against them.<sup>35</sup> It perceives the situation between it and the US to be a state of war in which civilians are enemy targets. For its part, the US has declared a 'war on terror' in response to the World Islamic Front (WIF's) 1998 statement and especially its September 2001 attacks. Thus a state of declared war appears to exist between the two belligerent sides.

If this is the case, then there appears to be no moral difference between the Allied 'terror bombing' of German and Japanese cities in the 1940s, the killing of civilians by Islamic groups in the modern age and the aerial bombardment of Palestinian and Iraqi 'military targets' by Israeli and coalition aircraft in 2003 that are authorised by civilian leadership with a specific range of civilian deaths as 'collateral damage' estimated in advance.<sup>36</sup> A public petition signed by a group of twenty-seven Israeli pilots in September 2003 condemning such air strikes on moral grounds caused controversy in Israel and a swift rebuke by the government.<sup>37</sup>

The rationality of the motivation of terrorist groups has recently been explored in a Chicago University project involving a comprehensive global database of suicide bombings for the past decade (1988–2001). The study shows that such operations draw not from religious fundamentalism (which is seen as a rhetorical cloak) but rather to a secular 'strategic logic': to compel liberal democracies to withdraw their military forces from the perpetrators' territory.

Three general patterns emerge from the data analysis: (1) nearly all such attacks are part of an organized campaign; (2) liberal democracies are uniquely vulnerable; and (3) the objective of such campaigns is political self-determination. Finally, the study concludes, the strategies have mostly proven effective – forcing withdrawals (US and France from Lebanon, 1983; Israel from Lebanon, 1985; Israel from Gaza and the West Bank, 1994–95), and offers of autonomy (Turkey to its Kurdish region).<sup>38</sup>

Such a campaign has yet to succeed in Chechnya, but it has been partially successful in Sri Lanka. Above all, the Al-Qaeda attacks against the US (August 1998, November 2000, September 2001) have resulted in US withdrawal from Saudi Arabia – albeit at the cost of a temporary occupation of Iraq. The bombings have, of course, moved there.

The policy of eradicating terrorism, the study suggests, through a wholesale transformation of Muslim societies into democratic models ('draining the swamp' in Afghanistan, 'removing Saddam's thugs' in Iraq) rests thus on an erroneous premise.

'*State Terrorism*'. The international community remains divided also over global policy towards 'state terrorism', or indeed whether such a phenomenon is even acknowledged to exist.

Even setting aside the Allied bombings of World War II, it is difficult to conclude that states have not, in the modern age, engaged in tactics of terror from time to time. Indeed in 1984 the UN General Assembly expressed its 'profound concern' that 'state terrorism' was being practised 'ever more frequently'. The assembly condemned policies and the practice of terrorism in relations between states as a method of dealing with other states and peoples. It demanded that

no action be aimed at military intervention and occupation of other states, the forcible change in or undermining of their socio-political systems, and the destabilization and overthrow of their governments. Member states were to initiate no military action to those ends.<sup>39</sup> And in 1986 the Security Council warned the 'racist regime of South Africa' against committing any 'acts of ... terrorism' against neighbouring states.<sup>40</sup>

The General Assembly's appeal is applicable to the coalition's invasion of Iraq nineteen years later, but other events are relevant as well. Only one year after the assembly's appeal, the Greenpeace vessel *Rainbow Warrior* was bombed in Auckland's Waitemata Harbour by French secret service agents, an action that killed one civilian and which was described by the New Zealand prime minister at the time as 'an act of state terrorism'. France's subsequent flouting of the UN secretary-general's ruling on the matter further underlined the propensity of the P5 to exempt themselves from international standards as they deem fit.<sup>41</sup> A similar charge has recently been made against the United States by Nigeria. In November 2003 Nigeria warned the United States not to try to capture former Liberian president Charles Taylor to whom it had granted exile as part of a political settlement underpinning the Sierra Leone peace accord. After having recognised Taylor as the legitimate president of Liberia for a number of years, the US placed a \$2m bounty on his head for him to be turned over to the Special Sierra Leone Court for crimes against humanity. The US action has been condemned by Nigeria as 'close to state-sponsored terrorism'.<sup>42</sup>

The distinction between 'state terrorism' and the 'excessive use of force' has often been used, especially regarding Israeli reprisal attacks against Palestinians. These include missile attacks from helicopter gunships on civilian areas where the IDF suspects militants may be hiding, and also the demolition of the homes of families of suspected terrorists – actions that violate the laws of warfare. Immediately after the second Palestinian *intifada* commenced in October 2000, the Security Council condemned the 'excessive use of force against Palestinians' which resulted in over eighty civilian deaths and called upon Israel, the 'occupying power', to 'abide scrupulously by its legal obligations and its responsibilities' under the Fourth Geneva Convention on the protection of civilians in time of war.<sup>43</sup> The UN Commission on Human Rights affirmed this in its resolution the same month, condemning the 'disproportionate and indiscriminate use of force' by Israel against Palestinian civilians – actions it judged to constitute 'war crimes' and 'crimes against humanity'. In March 2003 the secretary-general deplored 'the use of disproportionate and excessive force' by the Israeli Army in the Jabalya refugee camp in Gaza that had led to eleven Palestinian civilian deaths. Such military actions in densely populated areas, he said, as well as the demolition of Palestinian homes, 'cannot be accepted as a legitimate means of self-defence' and were in violation of international humanitarian law.<sup>44</sup> In October 2003 Israeli forces destroyed some 200 buildings in Gaza leaving 2,000 Palestinian civilians homeless. The secretary-general 'strongly deplored' Israel's continuing demolition of Palestinian-owned buildings as illegal, especially the destruction of three thirteen-storey buildings. He reminded Israel that house demolitions amounted to 'collective punishment which is a clear violation of international humanitarian law'.<sup>45</sup> The UN special rapporteur for human rights advanced trenchant criticism of Israel's 'counter-terrorism' actions.<sup>46</sup> It is clear that Israel's 'excessive use of force' in its 'counter-terrorism' operations kill as many innocent civilians as do Palestinian terrorist operations.

For its part, the US has vetoed a number of draft resolutions in the Security Council that would condemn Israel for such actions. In December 2002, following the fatal shooting by Israeli forces of a British UN official inside the UN compound during civil disturbances, the US vetoed a Syrian draft resolution that would condemn the action, on the grounds that it appeared to be more intent on condemning Israeli occupation than on ensuring the safety of UN personnel.<sup>47</sup> In November 2003 the US undertook similar reprisal methods in the Iraqi town of Tikrit, including house demolitions of families of suspected fighters.

*Counterterrorism: An Instrument for the Public Good?*

Thus developing a global strategy to combat terrorism is, *prima facie*, to be counted as a global public good. This premise, however, masks a host of complexities and nuances that make the delivery of peace through counterterrorism a problematic issue, both intellectually and politically.

## Delivering the ‘Good’

### *The Global Counterterrorism Strategy*

*Legitimacy: The United Nations as Legitimising Factor*

The closest thing to the ‘conscience of the world’s people’ in the current age is the voice of the UN secretary-general. In the immediate aftermath of the September 2001 attacks, Secretary-general Kofi Annan was unequivocal on global terrorism. The attacks were, he said, ‘vicious assaults on our common humanity’ – a ‘terrible evil’ that had shocked the conscience of the entire world. And the struggle, he thought, was one on a global scale: ‘Terrorism will be defeated if the international community summons the will to unite in a broad coalition, or it will not be defeated at all ... We are in a moral struggle to fight an evil that is anathema to all faiths. Every State and every people have a part to play. This was an attack on humanity, and humanity must respond to it as one’.<sup>48</sup>

Because of these two factors – the moral dimension and the global scale of the undertaking, the UN is ‘uniquely placed’ to lead the fight. ‘The United Nations is uniquely positioned to serve as the forum for this coalition, and for the development of those steps governments must now take – separately and together – to fight terrorism on a global scale’.<sup>49</sup> There was a need to develop a long-term strategy to enable all states to undertake the hard steps needed to defeat terrorism. Legitimacy is the key: ‘I believe they can only do so when the global struggle against terrorism is seen as necessary and legitimate by their peoples – and that such universal legitimacy is something the United Nations can do much to confer’.<sup>50</sup> After adopting resolution 1368 the day after the attacks, the secretary-general stated that terrorism was an ‘international scourge’: ‘A terrorist attack on one country is an attack on humanity as a whole. All nations of the world must work together to identify the perpetrators and bring them to justice’.<sup>51</sup>

### *The UN’s Counterterrorism Strategy: Prevention, Protection, and Prosecution*

*Prevention: Policy Prescription by the General Assembly.* As the principal universal organ of the United Nations, the General Assembly is expected to give policy

direction for the international community on the issue of terrorism. In the 1960s the term was not used, the focus being on specific acts of violence such as those involving aircraft hijackings. The term 'international terrorism' first appeared in the assembly in December 1972 following the Munich Olympic Games hostage crisis. The debate in the General Assembly that year quickly unfolded along lines of opinion that have not diverged greatly since. Status quo countries were concerned about the suppression of terrorism while developing countries and other *demandeur* states were concerned about the causes of terrorism and the distinction between terrorism and freedom fighting.

Legitimacy became an issue from the outset of the international debate. The first General Assembly resolution in 1972 was an evenly balanced expression of these views.<sup>52</sup> The assembly was 'deeply perturbed' over acts of international terrorism which were occurring with increasing frequency and taking the toll of innocent lives. It invited states to take all appropriate measures at the national level for speedy and final elimination of the problem. But it also urged them to 'devote their immediate attention' to finding just and peaceful solutions to the 'underlying causes' of such acts. The assembly, moreover, reaffirmed the 'inalienable right to self-determination' of all peoples under 'colonial and racist regimes and other forms of alien domination', upheld the 'legitimacy of their struggle, in particular the struggle of national liberation movements', and condemned 'terrorist acts by colonial, racist and alien regimes'.

The assembly then set up an Ad Hoc Committee on International Terrorism to analyse the views of member states, study the underlying causes of terrorism and recommend practical measures to combat it.<sup>53</sup> In 1979 it recognized that the Security Council needed to 'pay special attention' to all situations that might give rise to international terrorism and endanger international peace and security.<sup>54</sup>

In 1994, following the World Trade Center bombing in New York, the assembly issued a major Declaration on International Terrorism. The worldwide persistence of such acts, said the assembly, could jeopardise the security of states and endanger the 'constitutional order'. Such acts were 'criminal and unjustifiable' and could threaten international peace and security, and their suppression was an 'essential element' for peace. The UN had to make 'every effort' to promote measures to combat and eliminate such acts. In its view:

Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons, for political purposes are in any circumstance unjustifiable, 'whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.'<sup>55</sup>

In 2001 the assembly condemned the 'heinous acts of terrorism' in New York, Washington DC and Pennsylvania. It urgently called for international cooperation to prevent and eradicate acts of terrorism, and stressed that those responsible for aiding or harbouring the perpetrators, organizers and sponsors of such acts would be held accountable.<sup>56</sup>

The assembly has provided the auspices for the conclusion of twelve counterterrorism conventions. Work is continuing on two further treaties: an international convention for the suppression of acts of nuclear terrorism, and a 'comprehensive convention on international terrorism'. The comprehensive convention is intended

to fill in gaps left by the sectoral treaties.<sup>57</sup> Agreement has been reached on a draft treaty on all issues except two: the definition of ‘terrorism’ and its relation to liberation movements (Article 2); and possible exemptions to the treaty’s scope, in particular the activities of the armed forces (Article 18). In April 2003 a working group was established to settle these issues. Rival texts by the group coordinator and the OIC remain on the table and progress, rapid in late 2001, has since slowed.<sup>58</sup> It is, in fact, increasingly being questioned now whether a comprehensive convention is possible, or even necessary.

In fact, an agreed definition was included in one of its multilateral legal instruments in April 2002. In the Financing of Terrorism Convention the UN defined terrorism as:

Any . . . act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.<sup>59</sup>

*Protection: Enforcement Action by the Security Council.* Acting within its primary responsibility for international peace and security, the Security Council has become the principal vehicle for enforcement of the global counterterrorism strategy. The UN does not yet maintain a ‘global list’ of ‘terrorist organizations’. To date it has confined itself to a list, standing in late 2003 at 372, of individuals and groups associated with the Taliban and Al-Qaeda. Tight restrictions, maintained by the council’s ‘1267 Committee’, were imposed on these groups since 1999, two years before the 11 September attacks in the United States. These oblige member states to freeze assets, prevent entry or transit through member state territories and impose arms sanctions.<sup>60</sup> The list has been compiled largely from intelligence supplied to the 1267 Committee by the United States.<sup>61</sup>

The UN has also not compiled a list of ‘terrorist states’ from among its members. It has dealt directly with only two member states over alleged terrorism.<sup>62</sup>

- In the case of Libya, sanctions were applied (1992–2003) for its lack of cooperation in the criminal investigations over the Lockerbie/UTA bombings. They were lifted after Libya agreed to pay compensation to victims of both flights.
- In the case of Sudan, following the ‘terrorist assassination attempt’ of Egyptian President Mubarak in Khartoum in 1996, the council called upon the Sudanese government to ‘desist from engaging in activities of assisting, supporting and facilitating terrorist activities, and from giving shelter and sanctuaries to terrorist elements’.<sup>63</sup> After three months of Sudanese noncompliance, the council imposed diplomatic and travel sanctions<sup>64</sup> and subsequently aviation sanctions.<sup>65</sup> These were lifted in September 2001, following an accord brokered by the Non-Aligned Arab League and OAU.<sup>66</sup>

Shortly after the September 2001 attacks, the Security Council adopted the seminal counterterrorism resolution (1373) which, *inter alia*, established the Counterterrorism Committee (CTC). The CTC has become the mainstay of the UN’s counterterrorism strategy, with a monitoring group to follow the implementation of the resolution by all states and a mandate to ‘increase the capability of states to fight terrorism’.<sup>67</sup>

Resolution 1373 imposes binding obligations on all states, with the aim of combating terrorism 'in all its forms and manifestations'. The resolution requires member states to deny terrorists financial support; deny them safe haven, sustenance or support; share information on planned attacks; cooperate in investigation and prosecution; criminalize 'active and passive assistance' for terrorism in domestic law; and join all relevant international conventions.<sup>68</sup>

Thus this omnibus resolution imposes wide-ranging responsibilities on all member states to combat 'terrorism' and prosecute or extradite 'terrorists'. But so long as there is no 'global UN list' of terrorist organizations it remains quite opaque as to whom such activities are to be applied against beyond the 372 Taliban/Al-Qaeda elements. In practice, most countries are 'advised' by the United States on this, but such advice is not universally accepted, even by its allies, as was witnessed in their reluctance to accept US demands to extradite individual Iraqi civilians and close Iraqi embassies during the 2003 coalition invasion.

*Prosecution: The Jurisdictional Competence of the International Criminal Court (ICC).* The 1949 Geneva Convention on the Protection of Civilians applies legal constraints on inter-state combatants, and its two protocols in the 1970s feature similar laws for internal conflicts. The Fourth Geneva Convention requires non-combatants to be treated humanely and thus not be targeted.<sup>69</sup> These provisions comprise the mainstay of civilised behaviour towards civilians in situations of armed conflict. The problem that arises, however, is when such laws apply in situations in which formal 'war' is not declared – such as the current 'war on terror'.

Sanctions against countries, organizations or individuals go only a certain way in 'combating terrorism'. The judicial process (for arrest, prosecution and conviction) is also necessary. In this respect the main difficulty, both doctrinally and operationally, concerns the competing, and rival, powers of the Security Council as the 'executive branch' of global governance and the new ICC as the 'judicial branch'.

In the early 1990s, the Security Council, for the first and only time, judged it to be appropriate and feasible to issue arrest warrants for individuals for attacks on humanitarian and UN personnel. In June 1993, alarmed at the 'premeditated armed attacks' against UNUSOM II forces by forces 'apparently belonging to the United Somali Congress', it authorised the secretary-general to take 'all necessary measures' against them including their investigation, arrest and detention for prosecution, trial and punishment.<sup>70</sup> It was on the basis of this decision that the US sent in its 'elite troops' (Delta Force and Task Force Rangers) to effect the arrests on the secretary-general's behalf. Following the downing of the US helicopter gunships in October in which eighteen US troops were killed, the council did a *volte face* in its policy, stressing Somali responsibility for its own 'self-determination', and asking the secretary-general to suspend the arrest actions against 'those individuals who might be implicated but are not currently detained', and to 'make appropriate provision to deal with the situation of those already detained'.<sup>71</sup>

The resolution did not name individuals but the US had aimed to capture, arrest and prosecute United Small Congress leader Farah Aidid. The US Task Force Rangers never succeeded, capturing instead some fifty-five Somalis including two of his lieutenants. Detained for a month or so on an island off the Somali coast, they were subsequently released on the orders of the US president, in what was one of the more bizarre operations ever under Security Council authority.

The Security Council has established ad hoc international criminal tribunals to prosecute individuals for crimes committed in the former Yugoslavia and Rwanda. Defendants are prosecuted for war crimes and crimes against humanity. Former Yugoslav president Milosevic is currently on trial for individual criminal responsibility and superior criminal responsibility (under Article 7 of the tribunal's statute), one count of violations of the laws or customs of war (Article 3 [murder]), and four counts of crimes against humanity (Article 5 [deportation; murder, and persecutions on political, racial or religious grounds]).<sup>72</sup> Separately, an independent Special Court for Sierra Leone was established in August 2000 by agreement between the UN and that country. The court, described as a 'hybrid' involving both international and national lawyers, has jurisdiction granted by the council for war crimes, crimes against humanity and 'other serious violations of international humanitarian law'.<sup>73</sup> The chief prosecutor indicted seven people in 2001 including the rebel leader Foday Sankoh who died in custody. In June 2003 the prosecutor then indicted Liberian President Taylor in June 2003 while he was still in office.

In the past five years the international community has made great headway in the development of international criminal jurisdiction, most notably through the establishment of the ICC, in force since July 2002. Unlike the International Court of Justice (ICJ), which adjudicates disputes only between states, the ICC has jurisdiction to prosecute individuals for certain stipulated crimes.

The ICC has jurisdiction to prosecute individuals for genocide, crimes against humanity and war crimes. The crime of 'terrorism' is not included in the court's jurisdiction. The court may thus be able to prosecute terrorist acts only when they amount to any of the three stipulated crimes. All countries, however, have a duty to take all necessary steps to prevent the commission of terrorist acts and bring alleged terrorists to justice through the application of their national jurisdictional laws.

The ICC currently has ninety-two member states; of the Security Council's P5, only Britain and France are members. Russia voted for the adoption of the statute in 1998, signed the statute in September 2000, and is considering ratification. China voted against the statute but retains an 'open mind' about future membership of the court.<sup>74</sup> The US opposed the establishment of the ICC and has refused to join it, principally because it fears the ICC will 'undermine' the Security Council and 'threaten' US national sovereignty.<sup>75</sup> It has negotiated bilateral agreements with some states in which the latter undertake not to prosecute US armed forces personnel. When the ICC came into force, the UN Security Council adopted a resolution under binding authority, upon US urging, that if a case arises involving personnel in a UN peacekeeping operation, the ICC will not commence proceedings unless the Security Council decides otherwise.<sup>76</sup> This accords the council authority over the court in UN peacekeeping matters.

### ***Regional Counterterrorism Strategies***

Are there any differences between the global counterterrorism strategy and regional strategies? The 1999 UNDP study referred to the regional dimension of global public goods. The latter, it said, 'form part of the broader group of international public goods which include as another sub-group, regional public goods'.<sup>77</sup>

Regional peace, in turn, is a global public good in that it is 'an element – a building-block – of world order'.<sup>78</sup> There is, today, a growing recognition that multilateral

action to that end can be carried out by regional as well as global multilateral institutions.

Until the 1980s 'terrorism' had been largely confined to areas of regional tension, mainly the Middle East, the most notable attack being the October 1983 attack against US barracks in Lebanon (which killed 262 personnel) and the French military base (which killed 58), occasioning a US/French withdrawal.<sup>79</sup> In 1993, however, following the Gulf War, the ensuing sanctions against Iraq and the US military presence in Saudi Arabia and Kuwait, terrorism became 'global', striking at the United States through the bombing of the World Trade Centre which killed 6 civilians, and again in 2001 which killed some 2,900.

The regional approach to terrorism can be seen as two-fold: reflecting a 'global consensus' over the network of facilitating instruments for strengthening prevention, protection and prosecution of terrorism, and a 'global dispute' over which groups those instruments are to be applied against.

Thus, in developing the facilitating instruments, all major regions have committed themselves to opposing and suppressing terrorism through regional binding conventions – the Americas in 1971, Europe in 1977, South Asia in 1987, the 'Arab Nation' in 1998, and Africa and the former Soviet CIS in 1999.

The 'global dispute' reflects disagreement between an American-European policy and an Arab-African-Asian policy. The division turns on the two issues disputed in the UN negotiations over the Comprehensive Convention identified earlier: the definition of terrorism and the inclusion or exclusion of armed forces from liability. The former group perceives terrorism in broadly similar manner (largely agreeing on which groups are 'terrorist') although the European counterterrorism strategy has discernible differences from the American. The latter group disputes the two issues with the American-European group.

### *The Arab World*

The Arab world reflects the region carrying the greatest sensitivity on issues of 'terrorism'. In 1998 the Arab League adopted its regional convention. The league desired to promote mutual cooperation in the suppression of terrorist offences, since they posed a 'threat to the security and stability of the Arab Nation' and endangered its vital interests. Arab states were committed to the 'highest moral and religious principles' and, in particular, to the tenets of the Islamic *sharia*, as well as to the humanitarian heritage of an Arab Nation that rejects all forms of violence and terrorism and advocates the protection of human rights. Such Islamic precepts, it said, conformed with the principles of international law.

At the same time, the league affirmed the right of peoples 'to combat foreign occupation and aggression by whatever means, including armed struggle, in order to liberate their territories and secure their right to self-determination, and independence'. They could do this in such a manner as to preserve the territorial integrity of each Arab country. This, too, was in accordance with the purposes and principles of the charter and all UN resolutions.

The league was not afraid to offer a definition of terrorism:

Any act or threat of violence, whatever its motives or purposes, that occurs in the advancement of an individual or collective criminal agenda and seeking to sow panic among people, causing fear by harming them, or placing their lives, liberty or security in danger, or seeking to cause



damage to the environment or to public or private installations or property or to occupying or seizing them, or seeking to jeopardize national resources.<sup>80</sup>

#### *Asia*

The South Asian countries completed a convention in 1987 that focused principally on extradition. It offered a rather quixotic definition of terrorism, *viz.*:

... conduct shall be regarded as terroristic and for the purposes of extradition shall not be regarded as political offence, or as an offence connected with a political offence, or as an offence inspired by political motives murder, manslaughter, assault causing bodily harm, kidnapping and hostage-taking;

offences relating to firearms, weapons, explosives and dangerous substances, when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury to persons or serious damage to property;

offences covered under the treaties on aircraft hijacking, aviation safety and internationally-protected persons;

an offence under any South Asian regional treaty that obliges member states to extradite.

This extraordinarily broad definition of terrorist offences has done little to mitigate mutual Indo-Pakistani recrimination over alleged terrorism by Muslim Kashmiri separatists operating against Indian sovereignty in its part of Kashmir.

#### *Africa*

The OAU defined terrorism in its 1999 convention clearly:

‘Terrorist act’ means any act which is a violation of the criminal laws of a State Party and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:

- (i) intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles; or
- (ii) disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or
- (iii) create general insurrection in a State.

#### *America*

The OAS completed in 1971 a convention to prevent and punish acts of terrorism. It was, however, seen as allowing ‘enormous gaps’ and a new Inter-American Convention against Terrorism was floated in the mid-1990s, galvanised by the September 2001 attacks and completed in June 2002. This, however, speaks only of

cooperative measures to implement on a regional scale all international legislation on the subject. In effect, the US pursues its own national counterterrorist strategy, and expects the OAS to reflect its concerns. The OAS is the only regional body, of which the US is a member, in which a regional country (Cuba) is on the US list of 'state sponsors of terrorism'. The US is resisting calls from a number of other OAS countries for Cuba's readmission to the regional body.<sup>81</sup>

### *Europe*

In 1977 the Council of Europe concluded a similar facilitating treaty. In December 2001 the EU adopted a 'Common Position', essentially transposing the Resolution 1373 requirements into its regional mechanism for counterterrorism. The EU maintains a list of eighteen 'terrorist organizations'. The list extends beyond the UN's Al-Qaeda/Taliban list, including Egypt's Al-Gama'a al-Islamiyya, Turkey's PKK and DHKP/C, and Peru's Shining Path. The EU and US are coordinating their group identification increasingly closely – the latter joined the EU in moving against the Basque group ETA.

### *A National Counterterrorism Strategy (The United States)*

The US has developed a more far-reaching counterterrorism strategy than the United Nations has been prepared to accept for itself. The US is driving the UN's counterterrorism strategy, conflating the UN's responsibility for determining 'threats to international peace' with its own national security concerns.

The US has its own national definitions of 'terrorism' and related concepts. Thus:

'Terrorism' is:

'premeditated, politically motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents, usually intended to influence an audience'.

'International terrorism' is:

'terrorism involving citizens or the territory of more than one country'.

A 'terrorist group' is:

'any group practicing, or which has significant subgroups which practice, international terrorism'.<sup>82</sup>

Unlike the UN and regional organizations, the US maintains two lists: of 'state sponsors of terrorism' and 'foreign terrorist organizations' (FTOs). These were commenced in 1997 as a method of tracking and taking action against terrorist groups around the world. FTOs are

groups that either engage in or have the capacity or intent to carry out terrorist activity that threatens U.S. nationals or U.S. national security, including efforts to disrupt national defense, foreign relations, or U.S. economic interests.

The list provides the United States with the legal basis to prosecute people within its jurisdiction for aiding, through money or other resources, any designated FTO. The United States also has the authority to compel US financial institutions to

freeze any assets linked to an FTO, and report them to the US Department of the Treasury.

The US currently identifies thirty-four organizations as ‘foreign terrorist organizations’, located in nineteen countries (see Appendix). They include:

- eight secessionist groups (in Britain, Spain, France, Turkey, Pakistan (for Kashmir), Sri Lanka and the Philippines);
- twelve groups working to overthrow their government and set up an alternative regime, either an Islamic state (in Algeria, Egypt, Lebanon and Uzbekistan), a Marxist state (in Colombia and the Philippines), a secular state (in Iran) or a biblical state (in Israel);
- one anti-insurgency group (in Colombia) which fights the rebels and their supporters;
- eight groups which seek the termination of the state of Israel and, usually, establish an Islamist state in its place;
- four groups which seek the withdrawal of US forces (and in some cases NATO forces and the EU) from their national territory or region;
- one millenarian cult (Japan).

These groups differ enormously in membership, wealth and destructive potential – ranging from Al-Qaeda, seen by the US as the major national security threat, to small or near-defunct cells without potent destructive capacity.

The US definition exempts governments from inclusion in the definition of any ‘terrorist act’. It does, however, maintain an official list of ‘state sponsors of terrorism’ and in 2003 the list included seven countries: Cuba, Libya, Iran, Iraq, North Korea, Sudan and Syria. These countries face various US embargoes and have their assets frozen in the US.<sup>83</sup>

Within the US, ‘domestic terrorism’ is defined as ‘the unlawful use, or threatened use, of force or violence by a group or individual based and operating entirely within the US or its territories, without foreign direction, committed against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives’.<sup>84</sup> The USA Patriot Act (PL 107–56, 26 October 2001) provides expanded US law enforcement powers to enhance the administration’s efforts ‘to detect and deter acts of terrorism in the US or against US interests abroad’. It is this act that has given rise to serious criticism of alleged curtailment of civil liberties of US nationals and violations of the human rights of foreign nationals under international law.

Since September 2001 the US has created a new category that remains unrecognised in international law – that of ‘enemy combatant’. Individuals whom the US has captured in Afghanistan and indeed elsewhere are not perceived as ‘prisoners of war’, notwithstanding its declaration of a ‘war on terror’, and as a result the individuals are not accorded prisoner-of-war status. The 600 foreign nationals detained at Guantanamo Bay are thus accorded no legal rights under US law or under international law, but are simply detained indefinitely, without trial or legal representation. These include allied nationals such as Australians and Britons.

The US reaction to the September 2001 attacks has been a hybrid. The campaign against the Taliban and Al-Qaeda in Afghanistan had clear international support. The US campaign since then, including especially the invasion of Iraq, has not.

Recent US policy developments have caused concern, both internationally and domestically, as a recent critique by former presidential adviser, Zbigniew Brzezinski, makes clear.<sup>85</sup>

## Measuring the Good

### *Conclusions and Recommendations*

As this paper has shown, the issue of terrorism and counterterrorism is the most complex security dilemma that the international community faces. This is because it adds, to the traditional challenges of statecraft, the more emotive issues directly affecting humanity as a whole. The following conclusions and recommendations are advanced from the foregoing.

### *Conclusions*

*Defining the Good: Peace as a 'Public Good' and Counterterrorism as Its Instrument*  
*Conclusion 1.* The reality of peace as a 'public good' is more complex than first appears. A city's traffic light can indeed be 'enjoyed by all', but only provided the community has an adequate supply of the nation's electricity which depends on the world's fuel resources. This in turn raises complex questions of global sustainability and distributive justice. Similarly, a communal enjoyment of a secure and peaceful environment depends ultimately on a near-identical set of national and global public goods – sustainability and distributive justice. Such a challenge is weakening the recognisable architecture of global security. As the secretary-general observed, 'we seem no longer to agree on what the main threats are, or on how to deal with them'.<sup>86</sup>

Above all, he warns, we must be 'intensely aware' of the changes in the security environment: It is 'vitaly important' not to allow recent differences to persist and to find a unity of purpose based on a 'common security agenda' with a global consensus on, and response to, the major threats.<sup>87</sup> Such a common security agenda will need to reflect equally the security threats faced by the South (*inter alia*, poverty alleviation and epidemic disease) as much as those faced by the North (primarily terrorism and WMD proliferation – all under the emerging concept of 'human security').

The true 'public good' is a 'positive peace' in which the international community develops a rational way of utilising the planet's resources on a sustainable basis, agrees on territorial rights among societies and evinces mutual respect for traditional belief patterns. Terrorism is the manifestation of global ill-health and should be seen as a disease of the global body politic. As long as it is seen in Manichean terms of global 'good' versus 'evil' and something whose symptoms must be 'suppressed' rather than causes removed the international community will invite, through undue retaliatory violence from the establishment, more of the same. As the UN secretary-general has put it, we must proceed with our minds rather than our hearts.<sup>88</sup>

*Conclusion 2.* As a corollary, a true counterterrorism strategy is not a 'war on terror' which can never be 'won' because it has no identifiable foe or value-based objective, but rather a focus on the 'dialogue among civilizations' proposed by the president of Iran in 1998, and the interfaith dialogue that is under way.<sup>89</sup>

*Delivering the Good: Global and Regional Counterterrorism Strategies*

*Conclusion 3.* The UN is the only ‘legitimising instrument’ in defining ‘terrorism’. Any regional or national definition will reflect an undue bias in security perception. Progress in global counterterrorism will not be significant until and unless agreement is reached on a definition that can be applied objectively and dispassionately to all groups engaging in violent actions. Failing that, the major powers, and particularly the US, will continue to prosecute counterterrorism operations that reflect their own national security perceptions.

*Conclusion 4.* The involvement of the UN, however, does not *ipso facto* result in total policy consistency. Its unstinting support for African liberation movements resulted in its overlooking attacks that were perpetrated against civilians which would, today, encounter criticism and opposition as acts of ‘terrorism’.

*Conclusion 5.* The biggest problem, partly because of the definitional shortcoming, is the lack of a comprehensive list of terrorist organizations maintained by the UN. The US list cannot suffice. As a result, all UN member states are expected to develop the comprehensive policies for counterterrorism without having clear guidance as to whom these are to be applied against (apart from the Taliban/Al-Qaeda groups).

*Conclusion 6.* The regional agencies have taken the lead from the UN Security Council in developing legal instruments for coordinated counterterrorism action. Yet it is one thing to agree on coordinated legal provisions for action against ‘terrorism’, and quite another to agree on which groups are ‘terrorists’. Although there is little difference between the American and European regional approaches in identifying terrorists, significant political differences are currently discernible over the propensity to intervene (the US adopting a unilateralist approach and the EU opting for an ‘effective multilateralism’ and ‘constructive engagement’). Greater differences of view are evident between Asian, African and Arab regional views of identification of terrorists, thwarting the global consensus that is necessary to effective long-term action.

*Measuring the Good*

*Conclusion 7.* Because of these shortcomings, an effective global counterterrorism strategy is proving elusive. Currently the international community is failing to speak with one voice on terrorism, the UN General Assembly’s policy prescriptions and the Security Council’s enforcement actions not being totally compatible. The council’s policy reflects the undue influence of US national security perceptions and policies, and does not accurately reflect the overall views of the international community. A more effective counterterrorism strategy is therefore required that reflects a more balanced global view.

*Recommendations*

*Recommendation 1.* It may be a more promising route to relate the concept of ‘terrorism’ to that of crimes currently covered by the newly established International Criminal Court which would then have jurisdictional competence. This would not be ‘genocide’ but could be either ‘war crimes’ or ‘crimes against humanity’.<sup>90</sup> While this would incur the current opposition of the United States, it is within the competence of the state parties to the ICC to determine which crimes are to be covered by the court.

*Recommendation 2.* The international community will only proceed properly against terrorism when a 'global list' of terrorist organizations is agreed upon by the United Nations. A mechanism for this needs to be established, beyond the present 1267 Committee (involving perhaps a revision of that committee). But this will depend upon agreement on a definition as a *sine qua non* of proceeding.

## Notes

1. Paul A. Samuelson, 'The Pure Theory of Public Expenditure', *Review of Economics and Statistics* 36 (Nov. 1954) pp.387–9.

2. Inge Kaul, *Le Monde Diplomatique* (June 2000).

3. *UN Chronicle* 30/1(March 1993) cover.

4. Inge Kaul, Isabelle Grunberb and Marc Stern (eds), *Global Public Goods: International Co-operation in the 21st Century* (UP 1999).

5. Kaul (note 2).

6. 'The "planetary interest" is the kind of forward-looking concept we need, as the world goes through a period of profound transformation'. Kofi Annan, 'Foreword', in Kennedy Graham (ed), *The Planetary Interest* (Rutgers University, New Brunswick, New Jersey and UCL Press, Taylor and Francis, London, 1999).

7. *Ibid.*, p.7.

8. Kaul (note 4) p.x. This is echoed in the 'planetary interest' study: 'The three vital planetary interests politically recognised by the international community in the 1990s are global strategic security, global environmental security, and global sustainability. Avoiding self-destruction, protecting Earth and meeting humanity's basic human needs on an enduring, inter-generational basis rank as the three global priority issues of our age . . . These three need to be treated separately from all others – *sui generis* – in terms of how nation-states determine their national policies and how humanity constructs global powers of policy-making and enforcement'. Also see Graham (note 6) p.10.

9. Kaul (note 4) p.4.

10. 'World history is largely a history of wars. All have been fought in a world without governance – where national 'defence', regional military alliances, balance of power and hegemonic imperialism have been the prevailing regimes. There is a manifest need for a system under universal auspices for maintaining global peace and security. The notion of a global public good is a logical starting point for considering how such a system would operate . . . Defence has traditionally been held up as a pure public good in the domestic sphere . . . In contrast, peace meets the substantive (that is, welfare) as well as formal criteria of a public good . . . It is the best state of society for human survival . . . At the international level, global peace benefits all, much like the public good of law and order at the domestic level'. Kaul (note 4) pp.382, 388.

11. Kaul (note 4) p.404.

12. Mark Malloch Brown, 'Foreword', in *Providing Global Public Goods: Managing Globalization*, (Oxford: OUP 2003) p.xvi.

13. *Shorter Oxford English Dictionary*, 3rd edn. (Oxford: OUP 1965) p.2155.

14. Will Durant, *The Story of Civilization*, vol. 4 (New York: Simon & Schuster 1950) p.36.

15. *Ibid.*, p.592.

16. Durant (note 1.1), vol. 1 p.463.

17. *Encyclopaedia Britannica*, vol. 11 p.784.

18. China's great famine that killed 30m civilians (1959–61) is not included, being the product of incompetence deriving from ideological delusion rather than the use of terror for political repression.

19. 'It seems to me that the moment has come when the question of bombing of German cities simply for the sake of increasing the terror should be reviewed. Otherwise we shall come into control of an utterly ruined land . . . I feel the need for more precise concentrations upon military objectives . . . rather than on mere acts of terror and wanton destruction'. This sentiment was voiced by prime minister Winston Churchill in March 1945. see Murray Williamson, *War in the Air*, (London: Cassell 1999).

20. 'Having found the bomb we have to use it. We have used it against those who attacked us at Pearl Harbour, against those who have starved and beaten and executed American prisoners of war, against those who have abandoned all pretence of obeying international laws of warfare. We have used it in order to shorten the agony of war, in order to save thousands and thousands of young Americans'. Harry Truman, Address to the Nation, 9 Aug. 1945.

21. 'Since before Sun Tzu and the earliest chroniclers of war recorded their observations, strategists and generals have been tantalized and confounded by the elusive goal of destroying the adversary's will to resist before, during, and after battle. Today, we believe that an unusual opportunity exists to determine whether or not this long-sought strategic goal of affecting the will, understanding, and perception of an adversary can be brought closer to fruition . . . Perhaps for the first time in years, the confluence of strategy, technology, and the genuine quest for innovation has the potential for revolutionary change. We envisage Rapid Dominance as the possible military expression, vanguard, and extension of this potential for revolutionary change. The strategic centers of gravity on which Rapid Dominance concentrates, modified by the uniquely American ability to integrate all this, are these junctures of strategy, technology, and innovation which are focused on the goal of affecting and shaping the will of the adversary. The goal of Rapid Dominance will be to destroy or so confound the will to resist that an adversary will have no alternative except to accept our strategic aims and military objectives . . . To affect the will of the adversary, Rapid Dominance will apply a variety of approaches and techniques to achieve the necessary level of Shock and Awe at the appropriate strategic and military leverage points. This means that psychological and intangible, as well as physical and concrete effects beyond the destruction of enemy forces and supporting military infrastructure, will have to be achieved. It is in this broader and deeper strategic application that Rapid Dominance perhaps most fundamentally differentiates itself from current doctrine and offers revolutionary application'. see Harlan K. Ullman and James P. Wade *et al.* (eds), *Shock and Awe: Achieving Rapid Dominance*, (National Defense University Press 1996).

22. The Al-Aqsa Martyrs Brigade, for example, initially vowed to target only Israeli soldiers and settlers in the West Bank and Gaza, but in early 2002 it launched attacks against civilians in Israeli cities, and in March after a suicide bombing in Jerusalem, the US added it to its FTO list.

23. In June 1974 the PLO called for the creation of a 'national authority' in the West Bank and Gaza, implying tacit recognition of Israel. It also 'condemned all outside operations and forms of terrorism'. In December 1976 it called for the establishment of an independent state of Palestine on the same two territories which was seen as confirmation of Israel's right to exist. In 1985 Arafat issued the Cairo Declaration stating that 'the PLO denounces and condemns all terrorist acts, whether those involving countries or by persons or groups, against unarmed innocent civilians in any place'. He undertook to take 'all punitive measures against violators'. In June 1988 the league endorsed the first *intifada* and reaffirmed the PLO's role as the 'sole legitimate representative of the Palestinian people'. On 14 Dec. 1988, speaking on behalf of the PLO Executive Committee, Arafat announced a change in PLO policy, accepting: '... the right of all parties concerned in the Middle East conflict to exist in peace and security, and as I have mentioned, including the state of Palestine, Israel and other neighbours, according to the resolution 242 and 338 . . . We totally and absolutely renounce all forms of terrorism, including individual, group and state terrorism'. In September 1993 following the secret talks with Israeli prime minister Rabin, Arafat affirmed in writing that the PLO recognised Israel's right to exist, and renounced 'the use of terrorism and other acts of violence' in exchange for Israeli recognition. All PLO covenant statements to the contrary were 'inoperative and no longer valid'. In April 1996 the PNC voted (by 504-54) that all clauses in the covenant which contradicted recent PLO pledges were to be annulled. A new charter was to be drawn up to formalise this, but in February 1998 the PLO Executive Committee deferred this action. *Political Handbook 1999* (CSA, Binghamton, NY, 1999) pp.1110-1.

24. S/RES/1483-22 May 2003.

25. S/RES/1500-14 August 2003.

26. S/RES/1511-16 October 2003.

27. 'It [the Moscow theatre siege] happens due to the war. The main reason is the war and the will of the Chechen nation to keep the resistance going. Now it cannot ever be broken . . . I think it is principally impossible to condemn the people, who sacrificed their lives for the free-

dom and independence of their own nation. As for the statements made by the Western countries, where they call upon condemning and punishing the Chechen Mujaheddins, I think it is just a case of hypocrisy and crime against the Chechen nation. I completely agree with the opinion that none of the countries has a moral right to demand the Chechens to refrain from applying this or that method against the Russian aggression ... A bloody and terrible war is fought in Chechnya, and it got initiated by the Kremlin in order to eliminate the whole Chechens ethnos. The nation offers as hard a resistance as it can. No one has the right to forbid the nation, which fights to defend its own rights for existence, to choose the methods and means for defending their own lives'. Statement of Movladi Udugov, head of the Chechen Defence Committee Information Politics. Quoted in the *Georgian Times*. [http://www.kafkas.org.tr/english/Ajans/2002/aralik/31.12.2002\\_Why\\_Do\\_Chechen\\_Mujaheddins.htm](http://www.kafkas.org.tr/english/Ajans/2002/aralik/31.12.2002_Why_Do_Chechen_Mujaheddins.htm)

28. 'In 1961, when for the last time, the oppressed people, led by the ANC, made a call for a national convention in place of a whites-only Republic, the fascist regime replied with the most unprecedented mobilisation of the oppressor army in an attempt to crush the national stoppage of work which we called in reply to the enemy's refusal to summon a national convention. Our call was answered with the ruthless forms of legalised, police and military terrorism. Political organisations were banned; the leaders of the people were arrested, tortured and restricted. The white minority regime declared open war against an unarmed people. This marked the close of a chapter in the history of our struggle for freedom and justice. The peaceful avenues of struggle were closed, and severe penalties, up to the death sentence, were imposed. In these circumstances, the African National Congress was compelled to lead the oppressed people in a violent offensive against a violent repression. Armed repression could only be met by armed revolt'. Statement by the ANC, 4 Oct. 1971. Quoted in Aquino de Braganca and Immanuel Wallerstein, *The African Reader*, vol. 3 pp.108–9. Also see <http://www.anc.org.za/ancdocs/pr/1970s/pr711004.html>

29. As early as 1960 following the Sharpeville incident, the Security Council had deplored the *apartheid* government's policies (S/RES/134-1 April 1960). They were 'abhorrent to the conscience of mankind' and a 'crime against humanity' (S/RES/182-4 Dec. 1963, S/RES/392-19 June 1976, S/RES/556-23 Oct. 1984). In 1964 it appealed to Pretoria to renounce the execution of any persons for their opposition to *apartheid* (S/RES/191-18 June 1964). In the 1970s it recognised the 'legitimate struggle' of the 'oppressed people of South Africa' (S/RES/282-23 July 1970, S/RES/311-4 Feb. 1972, S/RES/417-31 Oct. 1977). In 1980 it called upon the 'South African regime' to release Nelson Mandela and 'all other black leaders with whom it must deal in any meaningful discussion of the future of the country' (S/RES/473-13 June 1980).

30. 'Terrorism' has been famously described by Nelson Mandela as a relative concept: 'Those people who [referred] to many of us as terrorists are now dealing with us as members of responsible governments, and therefore terrorism is a relative term. Those people who did not agree with your activities will label you a terrorist. But when you succeed, the same people are prepared to accept you and have dealings with you as a head of state'. Former president Nelson Mandela while visiting UN headquarters, *One News*, 16 Nov. 2001. Two leaders of liberation movements, formerly branded as 'terrorists' in some quarters, were subsequently awarded the Nobel Peace Prize (Mandela, 1993; Arafat, 1994). [http://onenews.nzoom.com/onenews\\_detail/0,1227,67105-1-9,00.html](http://onenews.nzoom.com/onenews_detail/0,1227,67105-1-9,00.html)

31. 'The ANC announces that it is suspending all armed action with immediate effect. As a result of this, no further armed action or related activities by the ANC or its military wing, Umkhonto we Sizwe, will take place'. Pretoria minutes between South African Government and ANC, 6 June 1990.

32. *International Herald Tribune*, 13 Nov. 2003. Terre Blanche, already serving a sentence for assault in 1996, was given a suspended six-year sentence under a plea bargain.

33. *International Herald Tribune*, 27 Nov. 2003.

34. 'The Arabian Peninsula has never ... been stormed by any forces like the crusader armies spreading in it like locusts, eating its riches and wiping out its plantations ... In the light of the grave situation and the lack of support, we and you are obliged to discuss current events, and we should all agree on how to settle the matter. First, for over seven years the United States has been occupying the lands of Islam in the holiest of places, the Arabian Peninsula, plundering its riches, dictating to its rulers, humiliating its people, terrorising its neighbours, and turning its bases into a spearhead through which to fight the neighbouring



Muslim peoples . . . Second, despite the great devastation inflicted on the Iraqi people by the crusader-Zionist alliance . . . the Americans are once again trying to repeat these horrible massacres . . . Third, if the Americans' aims behind these wars are religious and economic, the aim is also to serve the Jew's petty state and divert attention from its occupation of Jerusalem and murder of Muslims there . . . All these crimes and sins committed by the Americans are a clear declaration of war on Allah . . . The ruling to kill all Americans and their allies – civilians and military – is an individual duty for every Muslim who can do it in any country in which it is possible to do it, in order to liberate the al-Aqsa Mosque and the holy mosque [Mecca] from their grip, and in order for their armies to move out of all the lands of Islam, defeated and unable to threaten any Muslim'. World Islamic Front Statement signed by Shaykh Usama bin-Muhammad Bib-Laden, 23 Feb. 1998. <http://www.fas.org/irp/world/para/docs/980223-fatwa.htm>

35. 'Why are we fighting and opposing you? The answer is very simple: because you attacked us and continue to attack us. You attacked us in Palestine . . . You attacked us in Somalia. You supported the Russian atrocities against us in Chechnya, the Indian oppression against us in Kashmir, and the Jewish aggression against us in Lebanon. Under your supervision, consent and orders, the governments of our countries which act as your agents, attack us on a daily basis . . . Your forces occupy our countries; you spread your military bases throughout them; you corrupt our lands, and you besiege our sanctuaries, to protect the security of the Jews and to ensure the continuity of your pillage of our treasures. You have starved the Muslims of Iraq . . . You may dispute that all the above does not justify aggression against civilians, for crimes they did not commit and offences in which they did not partake. This argument contradicts your continuous repetition that America is the land of freedom and its leaders in this world. Therefore, the American people are the ones who choose their government by way of their own free will; a choice which stems from their agreement to its policies . . . The American people are the ones who employ both their men and their women in the American forces which attack us . . . America does not understand the language of manners and principles, so we are addressing it using the language it understands'. Osama bin Laden, 'Letter to America', *Observer Worldwide* 24 Nov. 2002. <http://www.observer.co.uk/worldview/story/0,11581,845725,00.html>

36. 'Among the disclosures provided in the internal briefing and in a later interview [with Lt. Gen. Michael Mosely, chief allied war commander]: . . . Air war commanders were required to obtain the approval of Defense secretary Donald Rumsfeld if any planned airstrike was thought likely to result in deaths of more than 30 civilians. More than 50 such strikes were proposed and all of them were approved'. Michael Gordon, *International Herald Tribune* 21 July 2003.

37. 'We, veteran and active pilots . . . are opposed to carrying out the illegal and immoral attack orders of the sort that Israel carries out in the territories . . . We are refusing to continue to attack innocent civilians'. The Israeli prime minister said the protesting pilots would be dealt with swiftly. The pilots' protest came after some 500 Israeli reserve soldiers chose prison over military service in the Palestinian territories, claiming that Israel's occupation of the West Bank and Gaza was illegal. *USA Today* 25 Sep. 2003.

38. Robert A. Pape, *International Herald Tribune*, (23 Sep. 2003).

39. A/RES/39/159-17 Dec. 1984.

40. S/RES/581-13 Feb. 1986.

41. Two of the seven French agents were arrested before fleeing the country after the attack, accused of murder and sentenced under a plea bargain to ten years for manslaughter. Under intense retaliatory economic pressure from France, New Zealand appealed to the UN for arbitration. The secretary-general's ruling elicited from France an apology plus reparations, with the two agents being transferred to a French military atoll in the Pacific to serve the remainder of their sentences. Both were subsequently released by the French government in violation of the arbitration and repatriated to Paris where they were given state honours.

42. Nigeria 'would not be harassed by anyone' into handing Taylor over to the court Oluremi Oyo, spokesperson in the Nigerian presidential office, *International Herald Tribune*, (10 Nov. 2003). Such a venture would violate Nigeria's territorial integrity – violating 'not only international law but also all the norms of civilized behaviour' (*National Post* (Canada) 11 Nov. 2003 and *Washington Times* 11 Nov. 2003). The US bounty was 'a little

bit close to what many of us would describe as state-sponsored terrorism' (Nigerian presidential spokesman Femi Fane Kayode). <http://news.bbc.co.uk/2/hi/africa/3253113.stm>

43. S/RES/1322-7 Oct. 2000 (adopted 14-0-1; US abstaining).

44. *UN Information Centre*, 7 March 2003. A similar condemnation was made in April following an Israeli air raid in Gaza.

45. *UN News Centre*, 27 Oct. 2003.

46. 'The Special Rapporteur finds it difficult to accept that the excessive use of force that disregards the distinction between civilians and combatants, the creation of a humanitarian crisis by restrictions on the mobility of goods and people, the killing and inhuman treatment of children, the widespread destruction of property and, now, territorial expansion can be justified as a proportionate response to the violence and threats of violence to which Israel is subjected ... On occasion, Israel's action in the OPT is so remote from the interests of security that it assumes the character of punishment, humiliation and conquest. Some limit must be placed on the violation of human rights in the name of counterterrorism. A balance must be struck between respect for human rights and the interests of security'. UN Special Rapporteur of the Commission on Human Rights for the OPT, John Dugard, *UN News Centre*, 30 Sep. 2003.

47. Explanation of vote by US representative to the UN, 20 Dec. 2002, [http://www.un.int/usa/02\\_220.htm](http://www.un.int/usa/02_220.htm)

48. UN doc. SM/SG/7977-1 Oct. 2001.

49. *Ibid.*

50. UN doc. SG/SM/8105-18 Jan. 2002.

51. UN Security Council press release, SC/7143-12 Sep. 2001.

52. General Assembly Resolution 3034 (XXVII), 18 Dec. 1972.

53. See also A/RES/31/102 (1976) and 32/147 (1977).

54. A/RES/35/145-17 Dec. 1979.

55. Declaration on Measures to Eliminate International Terrorism A/RES/49/60-9 Dec. 1994.

56. A/RES/56/1-18 Sep. 2001.

57. This work is done under the auspices of the General Assembly's Ad Hoc Committee on Measures to Eliminate International Terrorism; see the supplement to the 1994 declaration A/RES/51/210-17 Dec. 1996.

58. Current draft Article 2 provides for armed 'acts of self-determination by states and peoples' to be exempt from terrorist actions provided they are not directed at civilians. The dispute over draft Article 18 revolves around whether acts already covered by humanitarian law are not relevant to the terrorism convention: whether such acts are to be 'governed by' humanitarian law (the western preference) or 'in conformity with' such law (the OIC preference).

59. International Convention for the Suppression of the Financing of Terrorism, annexed to UN General Assembly Resolution Article 2.1(b).

60. S/RES 1267 (1999), S/RES 1333 (2000), S/RES 1390 (2002) and S/RES 1455 (2003).

61. <http://usinfo.state.gov/topical/pol/terror/01111206.htm>

62. In the case of Afghanistan, because the Taliban was never recognized at the UN as a legitimate government, the council sanctions against it were never seen as applying against Afghanistan as a member state.

63. S/RES/1044-31 Jan. 1996.

64. S/RES/1054-26 April 1996.

65. S/RES/1070-16 Aug. 1996.

66. S/RES/1372-28 Sep. 2001.

67. The council aspires to keep the international community strictly in line. In October it noted with concern that forty-eight states 'are late' in submitting their reports to the monitoring group. S/PRST/2003/17-17 Oct. 2002.

68. S/RES 1373, *op. para.* 3d.

69. 'In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions: (1) 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, shall in all circumstances be

treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment; (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'. Convention (IV) Relative to the Protection of Civilian Persons in Time of War, Article 3.

70. S/RES/837-6 June 1993.

71. S/RES/885-16 Nov. 1993.

72. UN Case Information Sheet, <http://www.un.org/icty/glance/milosevic.htm>

73. S/RES/1316-14 Aug. 2000.

74. 'Chinese government considers that the operation of the Court must strictly adhere to the relevant principles underpinning the establishment of the Court. To begin with, the principle of complementarity: one of the important roles of the ICC is to promote countries to refine their respective domestic judicial systems so as to ensure the jurisdiction of countries over those perpetrators of heinous crimes by way of domestic judicial systems. Second, the Court should confine itself only to those most heinous international crimes as prescribed by the Statute. Third, activities of the Court cannot be at odds with the provisions of the UN Charter, in particular when it comes to the crime of aggression. They should be in line with those provisions. Fourth, the Court must be objective and fair in performing its functions, do its best to avoid political bias so as to prevent the Court from relegating to a place of indiscriminate political lawsuits . . . As regards the accession to the Statute, China keeps an open mind. The practical performance of the Court will be one of the factors for consideration by China, and we do not rule out the possibility of joining the Statute at a time China deems appropriate'. PRC Ministry of Foreign Affairs, Beijing. <http://www.fmprc.gov.cn/eng/gjw/tyfl/2626/2627/t15473.htm>

75. 'We have concluded that the ICC does not advance these principles [justice and the promotion of law]. Here is why: We believe the ICC undermines the role of the UN Security Council in maintaining international peace and security. We believe in checks and balances. The Rome Statute creates a prosecutorial system that is an unchecked power. We believe that, in order to be bound by a treaty, a state must be party to that treaty. The ICC asserts jurisdiction over citizens of states that have not ratified that treaty. This threatens US sovereignty. We believe that the ICC is built on a flawed foundation. These flaws leave it open for exploitation and politically motivated prosecutions'. US State Department 6 May 2002. <http://www.state.gov/p/9949.htm>

76. S/RES/1422-12 July 2002.

77. Kaul (note 4).

78. *Ibid.*, p.389.

79. As already noted, many in the Arab-African-Asian world contend that these were military targets in a national liberation operation.

80. Arab Convention for the Suppression of Terrorism, Article 2.

81. Strictly, Cuba remains a member of the OAS but has had its participation suspended since 1962 on the grounds that its political system did not 'conform with the hemisphere's principles'.

82. US Code, Title 22, Section 2656D, Used by the US State Department and the CIA. <http://www.armscontrolcenter.org/terrorism/101/definitions.html>

83. US Public Law 102-138, Section 304 This requires the administration to provide annual reports to Congress concerning the nature and extent of assets held in the US by 'terrorist countries and organizations engaged in international terrorism'. See US State Department, Patterns of Global Terrorism 2002, in <http://www.globalsecurity.org/security/library/report/2003/dos-pgt2002.htm>. State sponsors of terrorism are those countries designated by the secretary of state under Section 40D of the Arms Export Control Act, Title 22, US Code Section 2780D. Such assets frozen in the US as of May 1993 totalled US\$2.4b (Cuba, \$111m; Iran, \$22m; Iraq, \$1,108m.; Libya, 903m.; North Korea, \$3m.; Syria, 249m). [http://www.fas.org/irp/congress/1993\\_cr/h930503-terror.htm](http://www.fas.org/irp/congress/1993_cr/h930503-terror.htm)

84. Arms Control Centre website (see note 28).

85. 'Paradoxically, American power worldwide is at its historic zenith while its global political standing is at its nadir. Why? Since the tragedy of Sept. 11, which understandably shocked and outraged every American, the US has increasingly embraced, at the highest official level, what can fairly be called a paranoid view of the world. This is summarised in a phrase repeatedly used at the highest level: "He who is not with us is against us" . . . There are two troubling conditions that accompany this mindset. First, making the "war on terrorism" the central preoccupation of the US in the world today reflects a rather narrow and extremist vision of foreign policy of the world's primary superpower, of a great democracy, with genuinely idealistic traditions. The second troubling condition which contributes to the crisis of credibility and to the isolation in which the US finds itself today, is the absence of a clear, sharply defined perception about what is actually happening abroad. This kind of blindness is of particular concern regarding the spread of weapons of mass destruction. It is terribly important not to plunge headlong into the tempting notion that America will unilaterally take preemptive action on suspicion that a country possesses WMD, which is what the doctrine right now amounts to. Without a revitalised American intelligence service the US simply does not know enough to be able to pre-empt with confidence. All of this calls for a serious debate about America's role in the world. Can a world power provide global leadership on the basis of fear and anxiety? Can the US mobilise support, particularly the support of friends, when it tells them, "you are against us if you are not with us!"? The need for such a serious debate cannot be satisfied by theologising the challenge as "terrorism", which is used by "people who hate things" while we are "people who love things", as America's highest spokesman has put it. Terrorism is a technique for killing people. That can't be an enemy. It's as if we said that World War II was not against the Nazis but against blitzkrieg. We need to ask who the enemy is, and what springs him or her to action against us? . . . Today, for the first time, America's commitment to idealism worldwide is challenged by a sense of vulnerability. The US has to be very careful in that setting not to become self-centred, pre-occupied only with itself and subordinating everything else in the world to an exaggerated sense of vulnerability'. Zbigniew Brzezinski, 'To Lead, US Must Give Up Paranoid Policies', *International Herald Tribune*, (16 Nov. 2003).

86. *UN News Centre*, 8 Sep. 2003.

87. A/58/323.

88. 'While terrorism is an evil with which there can be no compromise, we must use our heads, not our hearts, in deciding our response. The rage we feel at terrorist attacks must not remove our ability to reason. If we are to defeat terrorism, it is our duty, and indeed in our interest, to try to understand this deadly phenomenon, and carefully to examine what works, and what does not, in fighting it . . . The fact that a few wicked men and women commit murder in its name does not make a cause any less just. Nor does it relieve us of the obligation to deal with legitimate grievance. On the contrary, terrorism will only be defeated if we act to solve the political disputes and long-standing conflicts which generate support for it. If we do not, we shall find ourselves acting as a recruiting sergeant for the very terrorists we seek to suppress . . . Upholding human rights is not at odds with battling terrorism: on the contrary, the moral vision of human rights . . . is among our most powerful weapons against it . . . We have to win hearts and minds. To do this we should act to resolve political disputes, articulate and work towards a vision of peace and development and promote human rights . . . If these ideas guide us in shaping our response to terrorism, our moral position in the fight against it will be assured'. Kofi Annan, Address to International Peace Academy Seminar, New York, 22 Sep. 2003.

89. ' . . . over the years your ministry has tirelessly stressed that inter-religious dialogue should exist side by side with intra-Christian unity. In our part of the world, where Christianity, Islam and Judaism are integral parts of the fabric of society, this need is not a simple commodity. It is a living and witnessing reality . . . We share your belief that the future of humanity is bound up with the reconciliatory efforts of the ecumenical movement as much as those of inter-religious dialogue. In this regard, it was most thoughtful of Your Holiness to express the apology of the Holy See for the Crusades and the Inquisition. This significant step certainly helps to eradicate scars of past wounds as much as it will contribute to a promotion of a peace culture, based in part, on the courage to utilise the lessons of the past for building a more peaceful future. Today, at the cusp of a new millennium, the narrow and self-isolating con-

cepts of insular religions or nation states can only lead to chauvinism, jingoism and possibly even war'. Letter from HRH Prince Hassan bin Talal to His Holiness Pope John Paul II, 20 March 2000, <http://www.princehassan.gov.jo/main/recent/archive/2000/March/20-3.htm>

90. It has been suggested that consideration might be given to taking the existing consensus on 'war crimes' as a point of departure. The core elements of war crimes are three-fold: deliberate attacks on civilians, hostage-taking and the killing of prisoners. If this concept were extended to peacetime, acts of terrorism could be defined as 'peacetime equivalents of war crimes'. A. Schmid, Report to the UN Office on Drugs & Crime, [http://www.unodc.org/unodc/terrorism\\_definitions.html](http://www.unodc.org/unodc/terrorism_definitions.html)

## Appendix

### US List of Foreign Terrorist Organizations

Movement	Organization	Country	Stated Goal
Secession	2. Abu Sayyaf	Philippines	Islamist state for southern Philippines
	7. Basque ETA	Spain/France	Independent homeland for Basques
	10. HUM	Pakistan	Kashmiri independence
	13. JEM	Pakistan	Kashmiri independence
	16. PKK	Turkey	Establish independent, democratic Kurdish state in Middle East
	17. Army of the Righteous	Pakistan	Kashmiri independence
Internal Regime Change	18. Tamil Tigers	Sri Lanka	Independent state for northern Sri Lanka
	26. Real IRA	UK	Secession of Northern Ireland from UK
	4. GIA	Algeria	Overthrow govt; set up Islamic state
	5. Asbat al-Ansar	Lebanon	Overthrow govt; remove US influence
	8. Islamic Group	Egypt	Overthrow govt; set up Islamic state
	12. IMU	Uzbekistan	Overthrow govt; set up Islamic state
14. Al-Jihad	Egypt	Overthrow govt; set up Islamic state	
15. Kahane Chai	Israel	Set up biblical state in Israel; expel Arabs	
19. Khalq	Iran	Overthrow govt; set up secular state	

20. ELN	Colombia	Overthrow govt; set up Marxist state
27. FARC	Colombia	Overthrow govt; set up Marxist state
31. Salafist Group	Algeria	Overthrow govt; set up Islamic state
32. Shining Path	Peru	Overthrow govt; set up Marxist state
34. NPA	Philippines	Overthrow govt; set up Marxist state
33. AUC	Colombia	Thwart ELN/FARC insurgency
3. Al-Aqsa Martyrs Brigade	Palestine	Expel Israel from Palestinian Authority territory; set up Palestinian state
1. Abu Nidal	Palestine	Set up Islamic state in place of Israel
9. HAMAS	Palestine	Set up Islamic state in place of Israel
11. Hezbollah	Lebanon	Set up Islamic state in place of Israel
21. PIJ	Palestine (Gaza)	Set up Islamic state in place of Israel
22. PLF	Iraq/Lebanon	Set up Islamic state in place of Israel
23. PFLP	Syria/Lebanon	Set up Islamic state in place of Israel
24. PFLP-GC		Set up Islamic state in place of Israel
25. Al-Qaeda	Afghanistan/Asia	Withdrawal of US/western forces from Arabian peninsula; end US support of Israel
28. Revolutionary Nuclei	Greece	Withdrawal of US/NATO/EU from Greece
29. 17 November	Greece	Withdrawal of US/NATO/EU from Greece
30. DHKP/C	Turkey	Withdrawal of US/NATO/EU from Turkey
6. Aum Shinrikyo	Japan	Take over Japan, then the world
Anti-Insurgent National Liberation		
Termination of Israel		
US Force Withdrawal		
Cults		