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**A Critical Evaluation of the UN Counter-
Terrorism Program:
Accomplishments and Challenges**

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The United Nations has played a central role in the global campaign against Al-Qaida and the like-minded terrorist networks. At the Madrid International Summit on Democracy, Terrorism and Security in March 2005, Secretary-General Kofi Annan outlined a general strategy against terrorism that included five D's: 1) dissuading disaffected groups from choosing terrorism, 2) denying terrorists the means to carry out their attacks, 3) deterring states from supporting terrorists, 4) developing state capacity to prevent terrorism, and 5) defending human rights in the struggle against terrorism. The Secretary-General's High-level Panel on Threats, Challenges and Change urged in December 2004 a "comprehensive strategy that incorporates but is broader than coercive measures." The panel report called for "a global strategy of fighting terrorism that addresses root causes and strengthens responsible states and the rule of law and fundamental human rights."²

1. This paper draws substantially from the research and writing of colleagues at the Fourth Freedom Forum/Kroc Institute Counter-terrorism Evaluation Project: Alistair Millar, George A. Lopez, and Linda Gerber.

2. United Nations, *A More Secure World: Our Shared Responsibility: Report of the Secretary-General's High-level Panel on Threats, Challenges and Change* (New York: United Nations, 2004), 48.

Despite these calls for a broad counter-terrorism campaign that includes both preventive and protective measures, the global fight against terrorism has focused largely on denial and deterrence strategies. The U.S. concept of a "global war on terror" has been the dominant political paradigm, and this has diverted international efforts largely toward coercive, law enforcement approaches. The United Nations itself has been influenced by this counter-terrorism fervor and has focused its attention on protective law enforcement measures, with little attention to longer range preventive strategies.

In the immediate aftermath of the September 11, 2001 attacks, the Security Council adopted Resolution 1373, which imposed unprecedented legal obligations on UN member states to comply with measures designed to counter terrorist financing, travel, recruitment, and supply. To monitor enforcement of these measures, the council created the Counter-Terrorism Committee (CTC). In March 2004 the Security Council created the Counter-Terrorism Executive Directorate (CTED) to serve as a professional secretariat for counter-terrorism implementation. The Security Council also strengthened sanctions against Al-Qaida and the Taliban that were originally imposed in 1999, creating a special monitoring group to support sanctions enforcement. The UN Office on Drugs and Crime and its Terrorism Prevention Branch (UNODC/TPB) expanded its efforts to develop state law enforcement capacity. These and related efforts placed counter-terrorism at the center of the UN political agenda.

This essay provides an overview of the UN counter-terrorism program. It assesses the accomplishments and shortcomings of the CTC and its new Counter-Terrorism Executive Directorate. It measures the overall progress of international counter-terrorism cooperation and capacity building efforts. It reviews the political dynamics within the Security Council that have shaped the UN counter-terrorism agenda. It provides a critical analysis of the many challenges facing the UN counter-terrorism program, including the relationship between capacity building and development assistance, and tensions between the UN's counter-terrorism agenda and its mission to protect and enhance human rights.

The Evolution of the UN Counter-Terrorism Program

Adopted on September 28, 2001, Security Council Resolution 1373 required every country to freeze the financial assets of terrorists and their supporters, deny them travel or safe haven, prevent terrorist recruitment and weapons supply, and cooperate with other countries in information sharing and criminal prosecution. Member states were directed to sign and ratify the twelve UN antiterrorism conventions. In addition, they were to afford one another "the greatest measure of assistance" in investigating terrorist acts.³ They were urged to intensify and facilitate the exchange of information on matters related to travel, communications, and arms trafficking among terrorists. Resolution 1373 was unparalleled in

3. United Nations Security Council, *Security Council Resolution 1373 (2001)*, S/RES/1373, New York, 28 September 2001.

imposing new legal obligations on states and mobilizing the international community for a campaign of nonmilitary cooperative law enforcement measures to combat global terrorism.⁴

Resolution 1373 also created the CTC, which was fashioned as a committee of the whole, consisting of all fifteen members of the Security Council.⁵ It received priority attention within the UN and was described by Kofi Annan as the "center of global efforts to fight terrorism."⁶ The primary function of the CTC has been to strengthen the counter-terrorism capacity of UN member states. Its mission, wrote one observer, is to "raise the average level of government performance against terrorism across the globe."⁷ The committee has served as a "switchboard," helping to facilitate the provision of technical assistance to countries needing help to implement counter-terrorism mandates. It has also attempted to coordinate the counter-terrorism efforts of a wide range of international, regional, and subregional organizations within and beyond the UN system.⁸

The CTC has received high levels of cooperation from UN member states, but it has also faced significant challenges. The committee's staff has been engaged in a continuous paper chase with officials in member states, analyzing and responding to hundreds of written reports in a process that has reached the limits of its usefulness. Until recently the committee relied exclusively on reports from member states and lacked independent means of determining whether countries are actually implementing counter-terrorism mandates in full. Beginning in March 2005, the CTC started to conduct site visits to selected countries. This has increased the committee's capacity to provide independent evaluation of counter-terrorism capacity needs.

In March 2004 the Security Council approved Resolution 1535 in an attempt to "revitalize" and provide additional resources for the CTC. The resolution created the CTED and significantly expanded the committee's professional staffing. In April 2004 the Security Council further enlarged the UN counter-terrorism

4. Nicholas Rostow, *Before and After: The Changed UN Response to Terrorism Since September 11*, 35 CORNELL I.L.J., no. 3, 482, 475-490 (Winter 2002); David Cortright and George A. Lopez, *Sanctions and the Search for Security: Challenges to UN Action*. (Boulder, Colo.: Lynne Rienner Publishers, 2002), 126-130; Edward C. Luck, "Tackling Terrorism" in David M. Malone, ed. *The United Nations Security Council* (Boulder, Colo.: Lynne Rienner Publishers, 2004), 85-100.

5. The CTC website is available online at the *United Nations* <<http://www.un.org/Docs/sc/committees/1373/>> (accessed 14 June 2004).

6. United Nations Secretary-General Kofi Annan, "Statement at Ministerial Level Meeting of the UN Security Council." See United Nations Security Council, *High-level Meeting of the Security Council: Combating Terrorism*, S/PV.4688, New York, 20 January 2003.

7. Eric Rosand, *Security Council Resolution 1373 and the Counter-Terrorism Committee: the Cornerstone of the United Nations Contribution to the Fight Against Terrorism*, in *Legal Instruments in the Fight Against International Terrorism* 603, 606 (Cyrille Fijnaut, Jan Wouters, and Frederik Naert eds., Brill Academic Publishers 2004).

8. Rostow, *Before and After*, 485.

program by adopting Resolution 1540.⁹ The new resolution prohibited states from providing any form of support to nonstate actors that attempt to acquire nuclear, chemical, and biological weapons. It mandated a series of enforcement measures that states must implement to prevent proliferation to terrorist groups and established a committee to report on implementation. In October 2004, following the school massacre at Beslan in North Ossetia, the Security Council approved the Russian-drafted Resolution 1566, which urged greater cooperation in the fight against terrorism and established a working group to consider additional counter-terrorism measures. These new resolutions demonstrated the council's resolve in countering terrorism, but they also created potential overlap with the mission of the CTC and generated uncertainty about how the new bodies will work together.

Through the first four years of the Security Council's CTC program, the United States and Great Britain have remained firmly in control of its political direction. U.S. officials largely wrote Resolutions 1373, 1535, 1540, and other key documents. The only exception was Resolution 1566, which was a concession to Russian initiative, but implementation of that measure has been lax. The working group established by the resolution has not met recently, and little progress is foreseen in the near future.¹⁰ The first chair of the CTC was Britain's venerable statesman Sir Jeremy Greenstock, who established a record of political even-handedness, fully in keeping with U.S. interests, and pushed the organizational agenda vigorously. The second chair, Inocencio Arias of Spain, was less energetic. In the view of many UN officials, CTC momentum lagged. In 2004 the chair went to Russia and its young UN ambassador Andrey Denisov, who tried to energize the Security Council program. Danish ambassador Ellen Løj took the chair in April 2005 with an ambitious agenda to enhance technical assistance and link it to expanded development assistance efforts.

To date developing nations have had little voice in shaping UN counter-terrorism policy. Partly this reflects the greatly increased counter-terrorism role of the Security Council, where nations from the global south generally have less say. Prior to September 2001, the General Assembly was a major player in shaping the UN agenda on terrorism. The General Assembly created the UNODC/TPB and authored the twelve UN counter-terrorism conventions. In 2001 the center of counter-terrorism activity shifted to the Security Council, and the agenda changed from preventing terrorism to countering terrorism. Nonpermanent members of the Security Council are less able to exert leadership on major policy initiatives, and this has certainly been true in the area of counter-terrorism. India, South Africa, and other developing countries have actively supported the CTC effort, and have urged greater efforts to build the capacity of states to crack

9. Following a similar model adopted in Resolution 1373, Resolution 1540 decided that "all states shall take and enforce effective measures to establish appropriate and effective laws" which prohibit non-state actors from supporting or engaging in specified terror-related activities. See United Nations Security Council, Security Council Resolution 1540 (2004), S/RES/1540, New York, 28 April 2004.

10. Victor D. Comras, "The United Nations and the Fight Against Terrorism and Nonproliferation" (statement, Committee on International Relations, U.S. House of Representatives, Washington, D.C., 17 March 2005), 4.

down on terrorists, but the influence of these countries has not been felt in the Security Council. In Latin America, the Organization of American States has developed a vigorous regional counter-terrorism program, in cooperation with the CTC and the United Nations. In Africa and much of West Asia, however, regional and subregional organizations have been less active in counter-terrorism efforts. These areas lack sufficient antiterrorist capacity and have lower ratification rates for counter-terrorism conventions.

Measuring Results

After nearly four years of operation, the UN counter-terrorism program has a mixed record of accomplishment. The CTC has helped to establish political and legal authority for the global counter-terrorism effort. It has promoted the creation of specialized systems for coordinating global efforts against terrorism. The cooperative approach embodied in the UN counter-terrorism program has helped to develop and strengthen international norms. Perhaps most importantly, the UN program has validated the importance of nonmilitary, cooperative law enforcement efforts as a viable means of countering the global terrorism threat. The UN program is an alternative to the militarized U.S. strategy embodied in the global war on terror.

CTC efforts to collect information from governments on counter-terrorism capacity and implementation have been highly successful. UN member state compliance with CTC reporting requests has been extraordinarily high, far greater than for any previous Security Council mandate. All 191 UN member states submitted first-round reports to the CTC explaining their efforts to comply with Resolution 1373.¹¹ The committee's experts responded to these reports by requesting clarifications and additional information. One hundred and sixty-one states submitted second-round reports as of April 2004. Additional rounds of information requests have also received positive member state attention. As of late 2004 the CTC had received more than 550 reports from states, making it the repository of what one observer termed "probably the largest body of information about worldwide counterterrorism capacity."¹² The high levels of member state response to CTC requests confirm the importance many states attach to compliance with the UN counter-terrorism program. The reports indicate that many states are taking concrete steps to revise their laws and enhance their enforcement capacity for compliance with UN counter-terrorism mandates.

One of the objective indicators of counter-terrorism compliance is the increase in the number of states joining the twelve UN counter-terrorism conventions. These conventions provide a basis for nations to cooperate in preventing terrorist financing and carrying out joint law enforcement and intelligence efforts against terrorist bombings. They also establish the legal foundation for states to harmo-

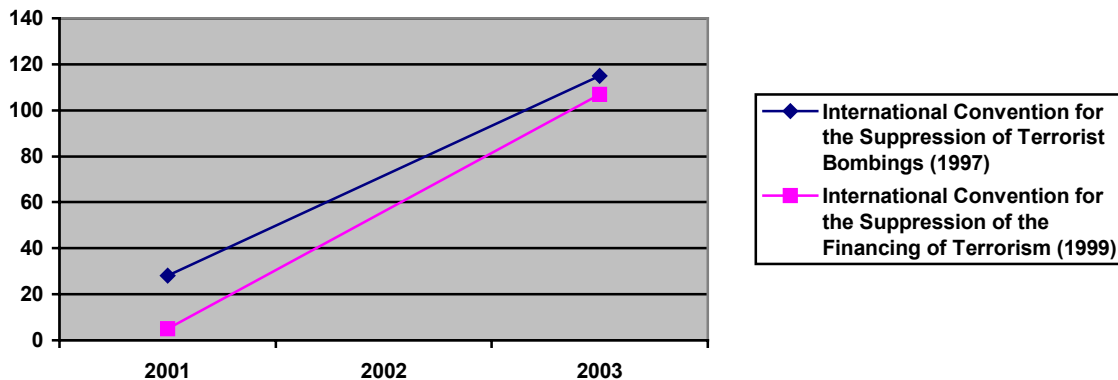
11. Eric Rosand, *Current Developments: Security Council Resolution 1373, the Counter-Terrorism Committee, and the Fight Against Terrorism*, 97 *American J.I.L.*, no. 2, 337, 332-341 (April 2003).

12. Rosand, *Security Council Resolution 1373 and the Counter-Terrorism Committee*, 616.

nize criminal justice standards and negotiate mutual legal assistance agreements. The most important of these legal agreements are the International Convention for the Suppression of Terrorist Bombings (1997) and the International Convention for the Suppression of the Financing of Terrorism (1999). Both have witnessed a sharp rise in the rate of ratification since September 2001. The increase in support for the ten other UN conventions has been less dramatic, in part because several of these agreements, such as the conventions on air safety, already had broad support before September 2001. Conventions that address specific areas of terrorist activity (preventing and punishing crimes against internationally protected persons, measures against taking hostages, protecting nuclear materials, and marking plastic explosives) have had a 20 to 40 percent increase in the rate of ratification since September 2001.

The increased rate of ratification of the two main conventions has been extraordinary. In the first four years after the opening of the convention on terrorist bombings, only twenty-eight states ratified the agreement. After September 2001, an additional eighty-seven states ratified the convention, bringing the total to 115 as of May 2004. In the first two years of the convention on terrorist financing, only five states ratified the agreement, but since September 2001 102 additional nations have ratified. These results show that the United Nations has been successful in mobilizing the international community, in most regions of the world, to create a legal foundation for institutionalizing the battle against terrorism. The ratification totals are summarized in the chart below.

Increased Rate of Ratification of Counter-Terrorism Conventions



Evaluating whether states are actually implementing these conventions and complying with the requirements of Resolution 1373 is a difficult challenge. There are no agreed criteria for evaluating implementation capabilities, or determining what additional steps a state should take to achieve compliance. The CTC has not yet attempted such an effort, but in 2003 one of its staff experts conducted an informal analysis to gain an overall picture of international compliance. The expert evaluated member states according to four criteria:

- 1) The existence of legislative authority for freezing terrorist finances and cooperating with international law enforcement efforts;

- 2) The administrative capacity to enforce various counter-terrorism mandates;
- 3) The presence of a policy and regulatory framework for prioritizing counter-terrorism across a range of government institutions and programs; and
- 4) Participation in international counter-terrorism conventions and institutions.

Utilizing these criteria as the standard of measurement, it is possible to develop a preliminary typology of differing levels of member state compliance.¹³ As of the fall of 2003 approximately thirty countries were considered to have achieved a considerable degree of compliance with Resolution 1373. These countries, including most of the industrialized nations, have the legal foundation, administrative capacity, and regulatory basis for countering terrorist finances, travel, recruitment, and supply. They have joined the major counter-terrorism conventions and participate fully in international programs and institutions. Even within this category, however, inadequacies exist. In the United States, for example, lax gun controls make it too easy for criminals and potential terrorists to acquire firearms. London, Zurich, and other financial centers do not yet have adequate means of preventing some illegal financial transfers.

Approximately sixty states were judged by the expert to be in transition, moving gradually into compliance. These countries lack adequate legal and administrative mechanisms to combat terrorism, but they are in the process of introducing legislation and creating administrative and regulatory capacity. In some of these countries, the proposed legislative changes are highly technical and politically sensitive. It will take additional time and sustained commitment on the part of these governments to reach full compliance.

The largest group of states, about seventy in all, was categorized as willing but unable. These are countries that generally support CTC efforts but face a range of difficulties that prevent full compliance. Some countries are experiencing civil conflict and must first restore basic security and the rule of law before they can address international counter-terrorism mandates. Others face extreme poverty and social hardship and need assistance to determine and address urgent counter-terrorism concerns in coordination with the provision of basic economic development aid. Several countries lack sufficient legal and administrative systems and are seeking technical assistance to develop minimum implementation capacities.

A final group of approximately twenty states were described as inactive. These are countries that are materially able to comply but that for a variety of reasons have chosen not to do so. They do not have adequate legislation, administrative capacity, or regulatory frameworks. They have not ratified the counter-terrorism conventions and do not assist other states in cooperative law enforcement efforts.

13. This categorization is drawn from an unpublished paper by a CTC legal expert from October 2003.

Some of these countries are on the front lines of the battle against terrorism, and their inaction weakens the overall UN effort.

The legal expert performing the informal analysis of member state compliance also evaluated the performance of regional organizations. Overall coordination among regional organizations has improved, but some regions continue to lag behind. More economically developed regions have higher levels of counter-terrorism capability than less developed regions. In Europe, the Americas, and the Asia Pacific region, counter-terrorism coverage is extensive, as reflected by ratification of international agreements and the development of a considerable organizational infrastructure. Other regions are less well covered and were described by the expert as a "legal no-man's land." These regions, including West Asia and parts of Africa, lack the organizational infrastructure to fully address UN counter-terrorism mandates.

Complementing all this activity—the reporting of states, the ratification of conventions, the categorization of responses, improved regional coordination—is a steadily increasing level of international cooperation in the counter-terrorism campaign. A majority of UN member states are now working together to coordinate international law enforcement efforts, and to deny financing, safe haven, and travel for Al-Qaida and Al-Qaida-related terrorist networks. As a result of this multilateral effort, the financial resources available to Al-Qaida may be somewhat reduced, and the operations of the terrorist network have been disrupted. Through the actions of individual countries and international agencies, approximately \$200 million in potential terrorist funding have been frozen.¹⁴ Through unilateral, bilateral, and multilateral law enforcement efforts, more than 4,000 terrorist suspects, including many senior Al-Qaida operatives, have been taken into custody.¹⁵ Although Al-Qaida remains a dangerous and active terrorist network, and it has received an inadvertent recruitment boost due to increased anti-Americanism following the invasion and occupation of Iraq, the international counter-terrorism program has achieved some limited success.

Compliance Standards

To date the CTC has not developed formal standards for evaluating member state implementation. There are no agreed criteria for deciding whether and to what extent states are progressing in their implementation of the various requirements of SCR 1373 and other Security Council resolutions.¹⁶ The lack of approved assess-

14 White House, "Progress Report on the Global War on Terrorism," U.S. Department of State, September 2003. Available online at the U.S. Department of State <<http://www.state.gov/documents/organization/24268.pdf>> (accessed 2 February 2004).

15. United Nations Security Council, Second Report of the Monitoring Group Established Pursuant to Security Council Resolution 1363 (2001) and Extended by Resolution 1390 (2002) and 1455 (2003) on Sanctions Against Al-Qaida, the Taliban and Individuals and Entities Associated with them, S/2003/1070, New York, 2 December 2003.

16. This problem is illustrated by the fact that the analysis outlined above was based on an unpublished assessment by a single staff expert. That assessment was not vetted among other UN staff or approved by the CTC. The lack of an approved assessment methodology

ment criteria has made it difficult for the committee to determine where technical assistance is most urgently needed, and to prioritize its regional support efforts. The CTC is expected to begin grappling with the thorny issue of developing compliance standards this year, with the hope of establishing formal standards by late 2005 or early 2006. This is likely to be a difficult process politically, one that will expose differing views among various UN member states about compliance with counter-terrorism mandates. In general, the U.S., Russia, and European countries favor more rigorous and comprehensive compliance standards, while many developing countries prefer a more flexible process that responds to the special needs and interests of particular governments and regions.

Lurking behind the issue of compliance is the question of enforcement. If the CTC and the Security Council adopt formal standards of compliance, it will then be faced with the challenge of responding to instances of noncompliance. The United States, the United Kingdom, Russia, and other nations are prepared to consider the imposition of sanctions and other measures against countries that, having received offers of technical assistance to improve compliance capacity, nonetheless fail to meet the implementation standards established by the Security Council. The Secretary-General's High-level Panel on Threats, Challenges and Change recommended a forceful approach to compliance. "If confronted by states that have the capacity to undertake their obligations but repeatedly fail to do so, the Security Council may need to take additional measures to ensure compliance, and should devise a schedule of predetermined sanctions for state run compliance."¹⁷ Most states and UN counter-terrorism officials are not prepared to go that far in urging forceful measures to enforce compliance standards, preferring to emphasize inducements and positive measures to encourage compliance. These debates will become increasingly important as the Security Council and the CTC take on the issue of enhancing counter-terrorism compliance.

In its initial operations, the CTC developed an approach to assessing state capacity that divided the various compliance requirements into three stages. In stage A, states were expected to: 1) have legislation in place covering all aspects of Resolution 1373, 2) begin the process of becoming party to the twelve UN counter-terrorism conventions, and 3) establish effective executive machinery for preventing and suppressing terrorist financing. In stage B, states were expected to: 1) have executive machinery in place covering all aspects of the resolution, 2) have an effective government-wide coordinating mechanism for counter-terrorism activity, and 3) cooperate on the bilateral, regional, and international levels, including sharing information. In stage C, states were expected to utilize the

has become a hindrance to the committee and could become an even greater handicap in the future as it attempts to address problems of lax enforcement in particular states and regions.

17. United Nations, *A More Secure World: Our Shared Responsibility: Report of the Secretary-General's High-level Panel on Threats, Challenges and Change* (New York: United Nations, 2004), 50-51, para. 156.

legislation and executive machinery to cooperate with other states to bring terrorists and their supporters to justice.¹⁸

In its communications with member states the CTC has utilized performance standards that were developed by functional international agencies, notably the Financial Action Task Force (FATF). The committee has noted, for example, that implementation of paragraph 1 of Resolution 1373 requires states to have a mechanism in place to register, audit, and monitor the collection and use of funds and other financial resources, including by charitable associations, to ensure that such funds are not diverted to terrorist purposes. The committee has urged states to regulate all money and value transfer systems, whether formal or informal, which requires states to license or register all persons involved in such transfers. The CTC has also determined that implementation of paragraph 1 requires financial institutions and other intermediaries to be under legal obligation to identify their clients and report suspicious transactions to a financial intelligence unit or other relevant authorities.¹⁹ These informal assessment criteria indicate that the CTC has already developed initial methodologies for evaluating state capabilities and needs. The challenge in the months ahead will be to expand upon these criteria and develop more formalized performance standards.

The creation of evaluation criteria would benefit member states and regional organizations as they seek to implement counter-terrorism requirements. The creation of formal standards of compliance would end the current situation in which there is a continuous exchange of information between the CTC and state officials but no clear understanding of when or how the process will be completed. Enabling states to see 'a light at the end of the tunnel' could serve as an incentive to encourage further compliance efforts. Other inducements will be necessary to encourage nations, especially those facing difficult development challenges, to prioritize compliance with UN counter-terrorism mandates. The most important incentive to date has been the provision of technical assistance and support for capacity building efforts. These efforts have been partly successful and could be strengthened as part of an enhanced effort to promote development and governance capacity among developing nations.

Capacity Building

Meeting at the ministerial level in November 2001, the Security Council adopted Resolution 1377, which encouraged the CTC to work with international, regional, and subregional organizations to explore ways in which states can receive technical, financial, regulatory, legislative, and other assistance to improve implementation of Resolution 1373.²⁰ The analysis of the CTC experts confirmed that

18. Analysis of stages drawn from Rosand, Security Council Resolution 1373 and the Counter-Terrorism Committee, 611-12.

19. See Rosand, Security Council Resolution 1373 and the Counter-Terrorism Committee, 618-19.

20. United Nations Security Council, Security Council Resolution 1377 (2001), S/RES/1377, New York, 12 November 2001.

relatively few countries have the extensive legal, administrative, and regulatory capacities needed to freeze financial assets, prevent the travel of designated individuals, deny safe haven to terrorists and their supporters, and suppress the recruitment and military supply of terrorist groups. Many states lack expertise even to determine their deficiencies in implementation capacity, which impedes the motivation to comply. These nations need improvements in legislation and legal authority, and better administrative machinery and equipment to implement legislative mandates.

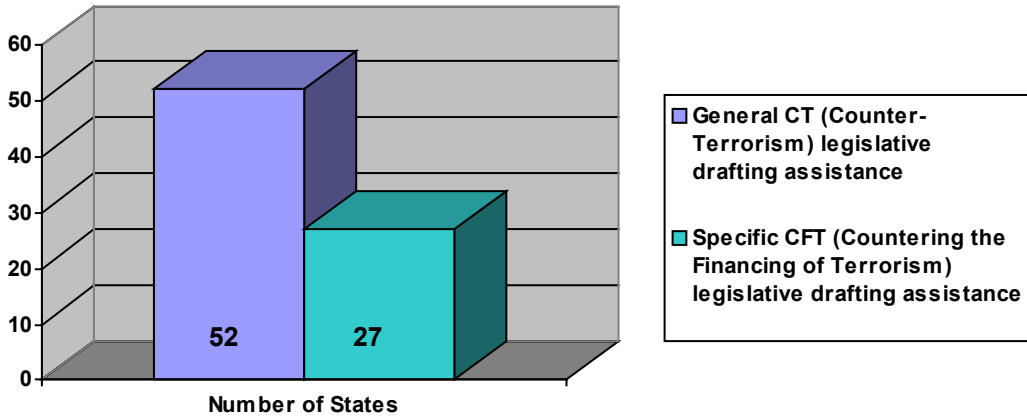
The CTC is not an assistance provider, but it has attempted to play a role in facilitating the provision of technical assistance to states that are in need of or request such help. CTC experts have worked with the CTC to assess needs and encourage the provision of assistance.²¹ Approximately one hundred countries have received some form of counter-terrorism capacity building assistance in the last four years. The initial and primary form of assistance has been in the area of drafting legislation and developing legal authority. Many states have lacked legal authority to implement the provisions of Resolution 1373.

Many states have identified legislative drafting assistance as a priority need. Most of the requests in this area have been for general assistance in crafting counter-terrorism legislation, but many states have also requested special assistance in drafting specific legislation to counter the financing of terrorism. The UNODC/TPB in Vienna has provided valuable assistance in this area and has successfully promoted the twelve conventions and national legislative modernization.²² The following table indicates the types of legislative drafting assistance being requested.

21. See "Functions of the Technical Assistance Team." Available online at the United Nations <<http://www.un.org/Docs/sc/committees/1373/tat.html>> (accessed 3 November 2003).

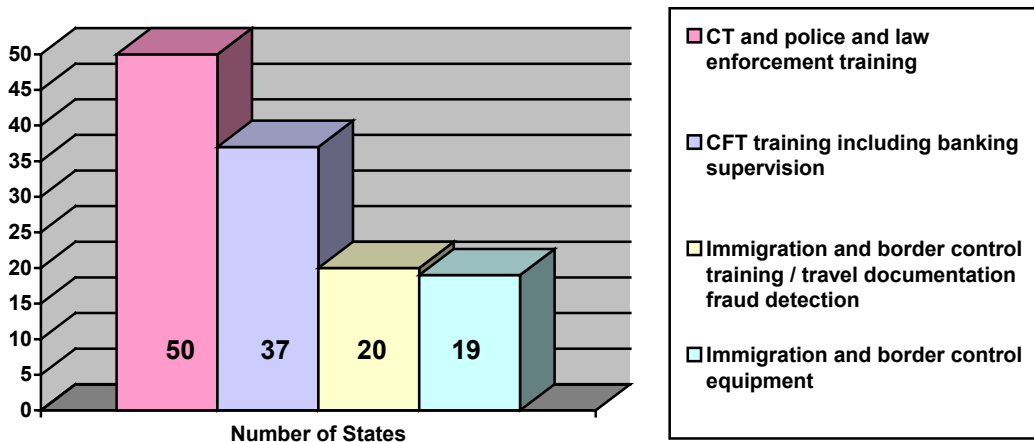
22. The UN Office on Drugs and Crime (UNODC) was mandated to address terrorism prevention issues in 1999 by General Assembly Resolution 52/220. After September 2001, the UNODC's role in providing technical assistance and advisory services in the counter-terrorism area was further confirmed by the General Assembly and the UN's Economic and Social Council (ECOSOC). In 2002, the CTC requested UNODC to provide guidance to states in drafting legislation. The UNODC's Terrorism Prevention Branch focuses on the provision of substantive input for the work of the CTC and technical assistance to requesting countries for the ratification and implementation of terrorism conventions and protocols, in line with relevant council resolutions. The main work elements include facilitation and/or provision of capacity-building assistance and identification and dissemination of best practices. Related technical assistance activities are carried out under the framework of the Global Programme against Terrorism, which was launched in October 2002. It works through two technical assistance projects on strengthening the legal regime against terrorism, with a total budget of over \$2.8 million. As part of the Global Programme, UNODC/TPB drafted the UN Legislative Guide to the Universal Anti-Terrorism Conventions and Protocols to serve as guidance for legislating and implementing the international instruments pertaining to terrorism. It also compiled the *Note on the Methodology for Technical Assistance on the Ratification and Implementation of the International Anti-terrorism Instruments*. See the *United Nations Office on Drugs and Crime* <<http://www.unodc.org/unodc/index.html>> (accessed 20 August 2004).

Counter-Terrorism Legislative Assistance Requests by Category²³
(as of 31 March 2004)



The requirements for implementing Resolution 1373 often involve substantial levels of training, the development of new administrative systems, and the purchase and installation of technically sophisticated equipment. Many states need help to improve policing and law enforcement systems, and to create financial regulatory mechanisms and financial intelligence units. Assistance may also be needed for the development of computerized links among security-related units, improved systems for identifying fraudulent travel documents, better mechanisms for controlling customs and immigration, and computerized equipment to screen passengers and cargo at border entry points. The CTC has received numerous requests for assistance in these areas, as indicated in the following table.

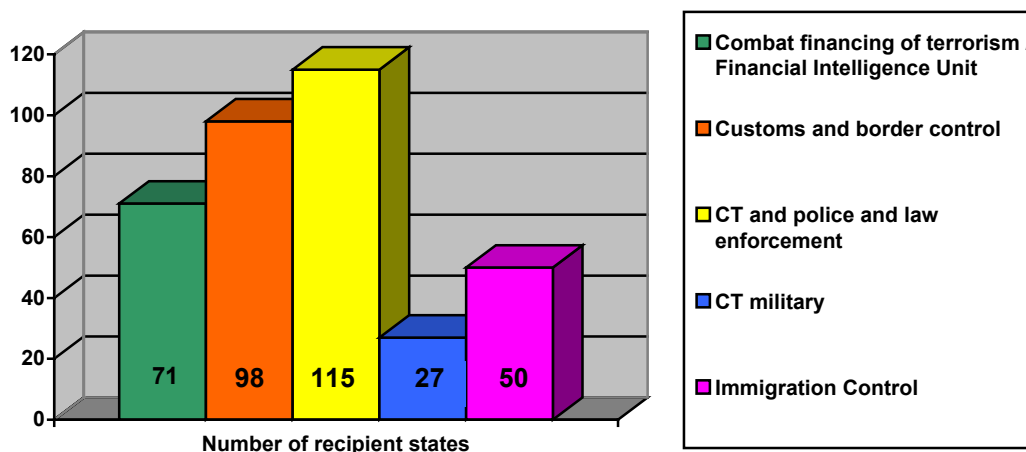
Counter-Terrorism Training and Equipment Requests
(as of 31 March 2004)



23. Fifty-eight states in total requested legislative drafting assistance. Some states requested assistance in both categories. Data for this and the three subsequent tables provided by Curtis A. Ward, assistance expert, UN Counter-Terrorism Committee; see "Purposes and Scope: Technical Assistance Activities in the Counter-Terrorism Committee" (unpublished paper, 2004).

The provision of nonlegislative technical assistance and training has come primarily from individual donor states. Arrangements have been made bilaterally between donors and countries in need. In some instances the CTC has facilitated these arrangements, but most have developed independently.²⁴ The following table summarizes what is known about the provision of nonlegislative technical training and assistance. Since some states do not report their technical assistance activities to the CTC, the information presented is not complete.

Provision of Nonlegislative CT-related Technical Assistance and Training²⁵
(as of 31 March 2004)



The costs of upgrading administrative systems and acquiring and maintaining technical equipment can be substantial.²⁶ Many states, particularly in the developing world, need help in acquiring these capabilities. As an African ambassador noted to the Security Council in July 2003, many states that have enacted counter-terrorism legislation do not have the necessary financial, technical, and human resources to implement the new laws.²⁷ This has prompted discussion of a possible multilateral trust fund to assist such efforts. The Secretary-General's High-level Panel on Threats, Challenges and Change acknowledged this need and recommended that the UN establish "a capacity-building trust fund, under the new Counter-Terrorism Executive Directorate."²⁸

A trust fund could be of help to developing nations that need financial support to implement counter-terrorism mandates. Some donor nations support the trust fund idea, while others are skeptical. In 2002 Kofi Annan suggested that the UN

24. Ward, "Purposes and Scope," 21.

25. Totals only include reported incidents of technical assistance and training. Most assistance was provided bilaterally between states and was not always reported to the CTC.

26. Ward, "Purposes and Scope," 14.

27. Cited in Rosand, Security Council Resolution 1373 and the Counter-Terrorism Committee, 623.

28. United Nations, *A More Secure World: Our Shared Responsibility: Report of the Secretary-General's High-level Panel on Threats, Challenges and Change* (New York: United Nations, 2004), 50, para. 155.

Development Programme (UNDP) might play a role in facilitating a technical assistance fund, but no action was taken. In 2003 the CTC assistance team held informal discussions on the trust fund idea with representatives of the World Bank, who indicated that the Bank might be able to facilitate such a fund. To date, no progress has been achieved on establishing the proposed capacity building trust fund. The United States, Japan, and other major donor nations prefer bilateral development and technical assistance programs, and have indicated that they would not support or participate in a multilateral fund. Smaller donor nations such as Canada and Denmark have held discussions about the possibility of creating such a fund, but they have not been able to muster the financial resources or political commitment to make the proposed fund a reality.

Linking Technical Assistance and Development Aid

Many of the measures required to comply with the counter-terrorism mandates of Resolution 1373—creating more effective law enforcement capabilities; improving border, immigration, and customs controls; regulating banks and financial institutions; enhancing security at ports and border crossings—parallel the steps needed to strengthen good governance. These steps are increasingly recognized as essential to economic development and the expansion of social and economic opportunity. Trade and investment depend on stable government and the rule of law. Technical assistance measures that build governance capacity thus also advance the prospects for economic development.

This linkage between technical assistance and economic development suggests the need for integrated development aid strategies that take account of UN counter-terrorism requirements. Recent policy papers from the Organisation for Economic Co-operation and Development/Development Co-operation Directorate (OECD/DAC) have highlighted the links between development cooperation and terrorism prevention.²⁹ The DAC has argued that the fundamental goal of poverty reduction shared by all development agencies can help prevent an environment hospitable to terrorism. Development agencies can continue to do what they are already doing as an important contribution to counter-terrorism. The legitimacy of development objectives should not be threatened, but it is evident that development funders can do much to contribute to the basic goal of enhancing counter-terrorism capacity. Greater development assistance can help to address the root causes of terrorism. Many of the adverse social conditions in which terrorists thrive fall within the realm of primary concerns for development cooperation.

The DAC has highlighted four specific areas where terrorism prevention could influence the development agenda without distorting it: 1) supporting the structural stability of self government, 2) dissuading disaffected groups from embracing terrorism, 3) denying groups or individuals the means to carry out acts of terrorism, and 4) sustaining coherent, broadly based international cooperation. Components

29. Organisation for Economic Co-operation and Development, *A Development Co-operation Lens on Terrorism Prevention: Key Entry Points for Action*. DAC Guidelines and Reference Series (Paris: OECD, 2003).

of existing development programs that are directly supportive of counter-terrorism capacity building include: making political systems more responsive; strengthening the rule of law; improving the professionalism and accountability of the security sector; promoting governance and public sector reform; and strengthening financial governance systems. Some officials have encouraged greater dialogue between security and development agencies, to identify where counter-terrorism and good governance agendas overlap and are mutually reinforcing.³⁰

The prospect of increased development aid and capacity building assistance could be an inducement for many states to comply more completely with UN mandates. A program of providing increased development assistance in combination with security-related capacity building efforts could be highly attractive to many developing nations. It would help them meet both development and security needs and would facilitate compliance with emerging UN counter-terrorism standards. This type of positive inducement is likely to be more effective in building counter-terrorism cooperation than the threat of sanctions. Honey often works better than vinegar in building the foundations for inter-state cooperation.

Enhancing International Cooperation

Attempting to enhance multilateral coordination is always a formidable challenge, but the mission of building counter-terrorism cooperation is truly herculean. The range of regional and international organizations with actual or potential involvement in the UN counter-terrorism mission is vast. Every region of the world is involved, and counter-terrorism programs have emerged in many regional and subregional organizations. The mandates of Resolutions 1373, 1540, and 1566 touch on a wide range of public activities—financing, commerce, customs, law enforcement, intelligence sharing, export control, military recruitment, and supply—and they affect the mission of dozens of specialized agencies.

The CTC has made important strides in encouraging regional organizations to strengthen their counter-terrorism capacity. Many regional organizations have created their own counter-terrorism units, especially in Europe, the Asia-Pacific region, and Latin America. Some regions are lagging behind, however. The Middle East/North Africa region, for example, has not developed an adequate regional coordination mechanism to address the full range of counter-terrorism priorities. Broader regional coverage is also needed in South Asia and in Eastern and Southern Africa.³¹

Improved cooperation is also needed among organizations within the UN system. The CTC has been slow to coordinate with the expert group monitoring imple-

30. Steven Monblatt, Executive Secretary, Inter-American Committee Against Terrorism, Organization of American States, "Developing Regional Cooperation" (statement at the CTC special meeting, Almaty, Kazakhstan, January 2005).

31. Reports received by the CTC show deficiencies in regions with less developed regional organizational capacity to assist states in implementing Resolution 1373. More information on the Eastern and Southern African Anti-Money Laundering Group is available online at the *Organisation for Economic Co-operation and Development* <http://www1.oecd.org/fatf/Ctry-orgpages/org-esaamlg_en.htm> (accessed 15 June 2004).

mentation of the sanctions against Al-Qaida and the Taliban. Concerns have been raised about the need for cooperation between the CTC and the committees established pursuant to Resolutions 1540 and 1566. The problem of coordination among these various bodies has not received sufficient attention. There are now four special Security Council bodies working on counter-terrorism issues: the CTC, the Al Qaeda and Taliban monitoring team, the 1540 committee, and the 1566 working group. While the mandates of these bodies are separate, they also have overlapping duties and responsibilities. UN member states have compliance obligations with respect to all four committees. The potential for the duplication of efforts and bureaucratic inefficiency under these circumstances is considerable.

A New Counter-Terrorism Agency?

A long-term consideration for the future of the UN counter-terrorism program is the prospect of creating a new international agency to combat terrorism. Some have suggested that the CTED might eventually evolve into a larger agency that could subsume the various counter-terrorism missions within one agency. The Council on Foreign Relations Task Force on Enhancing U.S. Leadership at the United Nations recommended in a November 2002 report that consideration be given to "the need for an independent body to carry out the CTC's functions over the long term." A number of U.S. and British officials have concluded that greatly expanded organizational efforts will be necessary if the goals of the UN counter-terrorism program are to be realized. Some have discussed the option of a "permanent international counter-terrorism organization, similar to the International Atomic Energy Agency."³² Others have suggested an agency with more of an information-sharing role, along the lines of the UN Environmental Programme, which provides leadership and encourages partnerships among nations to address environmental issues.

Whether other UN member states will support an expansion of CTC capacity or the creation of a new international organization remains uncertain. The debate on these issues has yet to be joined. A great deal of preliminary research and analysis will be necessary before the Security Council can consider such an option. The track record of the CTED after a few years will be decisive in determining future organizational considerations. If a new agency is eventually created, what exact powers and authority would it have? How would an expanded counter-terrorism organization be structured and funded, and to whom would it report? These are but a few of the critical questions that need to be addressed as the Security Council considers future options for creating greater organizational capacity in the fight against international terrorism.

The Human Rights Connection

While many of the challenges facing the CTC are procedural, others are more political in nature. The greatest concern has centered on the protection of human

32. Rosand, *Current Developments*, 341.

rights. In his address at the Madrid summit in March 2005 Kofi Annan expressed regret that "many measures which States are currently adopting to counter terrorism are infringing on human rights and fundamental freedoms."³³ Controversy has emerged over cases in which individuals have been detained or subjected to financial restrictions without appeal or other due process. In some cases government officials have used the fight against terrorism as a justification for limiting democratic freedoms and suppressing dissident and minority groups. Russian president Vladimir Putin responded to the tragic school massacre in Beslan in September 2004 by proposing sweeping restrictions on Russian democracy, ending the popular election of regional governors and eliminating local electoral districts in the lower house of the Duma. In the United States, critics have charged that the Patriot Act, adopted in the wake of September 11, threatens civil liberties by authorizing the detention of immigrants without due process, expanding government authority to conduct searches and wire taps, and reducing judicial oversight of intrusive information-gathering activities.³⁴

A number of analysts have expressed concern that strengthened counter-terrorism measures—greater government surveillance, increased law enforcement, tighter border controls, stricter regulation of finances—will invariably encroach upon individual and social rights and threaten basic liberties. The UN High-level Panel cautioned that "approaches to terror focusing wholly on military, police and intelligence measures risk undermining efforts to promote good governance and human rights."³⁵ Overly repressive measures could also exacerbate the conditions that give rise to political extremism. Empirical research has found a strong correlation between the denial of political freedom and the rise of terrorism. Measures of political repression are a statistically significant indicator of the likelihood of terrorist recruitment. Terrorists are most likely to come from countries that lack basic civil liberties, according to analysis by Alan B. Krueger and Jitka Malesckova.³⁶ By correlating the number of terrorists emanating from various countries with a wide range of variables, Krueger and Malesckova found the strongest association between terrorism and an index measuring the lack of political freedom. They wrote, "the only variable that was consistently associated with the number of terrorists was the Freedom House index of political rights and civil liberties. Countries with more freedom were less likely to be the birthplace of international terrorists."³⁷ Support for this finding comes from a recent study of terrorism in Latin America by Andreas Feldman and Maftu Peraelae. The authors

33. United Nations, "Secretary General Offers Global Strategy for Fighting Terrorism, in Address to Madrid Summit," SG/SM/9757, press release, 10 March 2005.

34. John Gershman, "A Secure America In A Secure World," *Foreign Policy in Focus*, September 2004, 10-11, available online at *Foreign Policy in Focus* <http://www.fpif.org/papers/04terror/index_body.html> (accessed 14 December 2004).

35. United Nations, *A More Secure World: Our Shared Responsibility: Report of the Secretary-General's High-level Panel on Threats, Challenges and Change* (New York: United Nations, 2004), para. 147.

36. Alan B. Krueger and Jitka Malesckova, "Education, Poverty and Terrorism: Is There a Causal Connection?" *Journal of Economic Perspectives* 17, no. 4 (Fall 2003): 142.

37. Alan B. Krueger and Jitka Malesckova, "Seeking the Roots of Terrorism," *Chronicle of Higher Education* 49, no. 39 (6 June 2003), pb10, 2p.

analyzed nongovernmental terrorism in several states in the region and concluded, "the incidence of non-governmental terrorism shows a consistently negative and significant association with the human rights of the state. The deterioration of the state's record is accompanied by an increase in non-governmental terrorist incidents one year later."³⁸

Many other observers have found similar connections between the rise of terrorist movements and the denial of human rights and democratic expression. A National Academy of Sciences study in 2002 noted, "terrorism and its supporting audiences appear to be fostered by policies of extreme political repression and discouraged by policies of incorporating both dissident and moderate groups into civil society and the political process."³⁹ The 2002 UN Policy Working Group observed that "a lack of hope for justice provides breeding grounds for terrorism."⁴⁰ People without an opportunity to voice their opinions and organize politically often turn to violence as the only way of expressing their grievances. As Krueger observed in the *New York Times*, "the freedom to assemble and protest peacefully without interference from the government goes a long way to providing an alternative to terrorism."⁴¹ Many of those who become political militants are motivated not by a hatred of freedom, but by an extreme yearning for it.

UN declarations and resolutions have been unequivocal in urging strict adherence to human rights standards in the global fight against terrorism. Kofi Annan stated in September 2003:

There is no trade-off to be made between human rights and terrorism. Upholding human rights is not at odds with battling terrorism: on the contrary, the moral vision of human rights—the deep respect for the dignity of each person—is among our most powerful weapons against it. To compromise on the protection of human rights would hand terrorists a victory they cannot achieve on their own. The promotion and protection of human rights ... should therefore be at the centre of anti-terrorism strategies.⁴²

At its ministerial meeting in January 2003 the Security Council adopted Resolution 1456 urging greater international compliance with UN counter-terrorism mandates but also reminding states of their duty to comply with international

38. Andreas Feldman and Maftu Peraelae, "Reassessing the causes of non-governmental terrorism in Latin America," *American Politics and Society* 42, no. 2 (Summer 2004): 120.

39. John Gershman, "A Secure America In A Secure World," *Foreign Policy in Focus*, September 2004, 34, available online at *Foreign Policy in Focus*

<http://www.fpif.org/papers/04terror/index_body.html> (accessed 14 December 2004).

40. United Nations General Assembly, Security Council, Report of the Policy Working Group on the United Nations and Terrorism, A/57/273-S/2002/875, New York, 6 August 2002, para. 16.

41. Alan Krueger, "Economic Scene," *New York Times*, 29 May 2002.

42. Kofi Annan, "Conference Report" (keynote address, Conference on "Fighting Terrorism for Humanity," International Peace Academy, New York, 22 September 2003), 10.

legal obligations, "in particular international human rights, refugee and humanitarian law."⁴³

A strong case can be made that protecting human rights and strengthening democracy are essential over the long term to the fight against terrorism. Protecting human rights and guaranteeing the freedom to voice dissenting views without government interference can help to prevent the rise of political extremism.⁴⁴ The most effective weapons in the fight against terrorism are persuasive not coercive. Guaranteeing political opportunity and democracy will do more to counter the threat from terrorism than strengthening protective and law enforcement measures.

Defining the Problem

One of the most long-standing and intractable challenges facing the UN is the lack of an agreed definition of terrorism. The definitional conundrum has entangled the UN for four decades. Some countries condemn as terrorism all acts that endanger or take innocent life, while others seek to differentiate what they consider legitimate acts of resistance against oppression. Others have emphasized the need to include state-sponsored acts within the definition of terrorism. Middle Eastern states in particular have refused to support counter-terrorism initiatives that might prejudice Palestinian resistance to the Israeli occupation. It is no accident that ratification of counter-terrorism conventions and participation in CTC initiatives are lowest in the Middle East.

The CTC has attempted to steer clear of these dilemmas by focusing primarily on procedural issues and generic counter-terrorism capabilities. It has sought to transcend the differences over competing definitions of terrorism by appealing to the consensus among UN member states that greater efforts are needed to counter the global terrorist threat posed by Al-Qaida. How long the CTC will be able to maintain this balance is subject to much debate.⁴⁵

The Secretary-General's High-level Panel on Threats, Challenges and Change proposed a solution to the definitional conundrum in the hope that this could gain a consensus within the General Assembly. The panel noted that acts of state terrorism are already prohibited by the Geneva Conventions and other legal agreements. States are required to distinguish between combatants and civilians, to use force proportionately, and to comply with humanitarian law. The use of lethal force against civilians and noncombatants is a war crime or crime against humanity. There is already a "clear normative framework" within international law and United Nations agreements against states intentionally targeting civilians and

43. United Nations Security Council, Security Council Resolution 1456 (2003), S/RES/1456, New York, 20 January 2003, para. 6.

44. Alan Krueger, "Economic Scene," New York Times, 29 May 2002.

45. M.J. Peterson, "Using the Security Council," in Jane Boulden and Thomas G. Weiss, eds., *Terrorism and the UN: Before and After September 11* (Bloomington, Ind.: Indiana University Press, 2004), 180-187.

killing noncombatants.⁴⁶ The panel acknowledged the right of resistance to foreign occupation but noted that this right does not justify the targeting and killing of civilians.

The panel recommended a definition of terrorism that includes existing prohibitions against the intentional targeting and killing of civilians, and that makes reference to all previous UN conventions and legal agreements against war crimes and terrorism. Within this context it proposed to define terrorism as any action "that is intended to cause death or serious bodily harm to civilians or noncombatants, 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."⁴⁷ Whether this proposed definition will attract the political support necessary for approval in the General Assembly remains uncertain. Those concerned about national resistance to foreign occupation are likely to demand a stronger condemnation of governments that continue to violate Security Council or General Assembly resolutions. Those concerned about state-sponsored terrorism will want greater guarantees against government actions that kill innocent civilians.

Conclusion: Roads Less Traveled

The struggle against the global terrorist threat posed by Al-Qaida and related groups is a multi-dimensional, long-term effort that requires a wide array of strategies and increasing levels of international cooperation. A two-level approach is needed: coordinated international efforts to protect against terrorist attacks, and a series of preventive measures and policies that ameliorate the grievances and conditions that give rise to terrorism. To date the UN terrorism agenda has focused largely on the former, with little attention to the latter. Protective law enforcement measures have received priority over longer range preventive strategies. The focus has been on denial and deterrence, with some attention to development, rather than the Secretary-General's other D's: dissuasion and defense of human rights.

An effective strategy requires differentiating between hard-core terrorist militants and the wider community of sympathizers, supporters, and potential recruits. The methods employed vary with the target audience. Against the Al-Qaida cadre, protective measures are the priority. The emphasis is on military and police operations, defensive measures, and the enforcement of UN counter-terrorism mandates. For sympathizers and potential recruits, however, different approaches are needed. The use of military force and an over-reliance on law enforcement measures can be counterproductive and could drive third parties toward

46. United Nations, *A More Secure World: Our Shared Responsibility: Report of the Secretary-General's High-level Panel on Threats, Challenges and Change* (New York: United Nations, 2004), 52, para. 161.

47. United Nations, *A More Secure World: Our Shared Responsibility: Report of the Secretary-General's High-level Panel on Threats, Challenges and Change* (New York: United Nations, 2004), 52, para. 164.

militancy. The goal instead should be to isolate hardcore elements and separate them from their potential support base. This requires a political approach that addresses deeply felt grievances, promotes democratic governance, and supports sustainable economic development. The creative application of a two-level approach can erode the operational capacity of Al-Qaida and related groups, while also cutting off the vital sources of political, social, and economic support that sustain such movements.

The underlying strategic objectives are to separate hardcore militants from their support base and to render their use of terrorist methods illegitimate. President Bush emphasized this approach during an August 2004 television interview. When asked if the United States could win the war on terror, the president replied, "I don't think you can win it. But I think you can create conditions so that those who use terror as a tool are less acceptable in parts of the world."⁴⁸ This means addressing the "demand side" of terrorism, to ensure that other aspirants do not quickly fill the vacuum created by the destruction of a particular terrorist cell.⁴⁹ It means cutting the cord of terrorist formation by halting the flow of recruits and money and undermining the terrorists' political support base.

Because terrorism is primarily a political phenomenon, the strategies for preventing it must focus on political issues as well. Isolating hardcore militants and reducing the legitimacy of terrorist methods requires a strategy of conflict transformation: recognizing the injustices that terrorist groups exploit and engaging with affected parties to resolve grievances through political rather than military means. Demonstrating that political means are available to meet a community's deeply felt needs can convince those who support militancy to resolve their grievances through political bargaining rather than armed violence. Where contending groups are involved in dialogue and political engagement, they are less likely to resort to violence. In many parts of the world—from Northern Ireland to Sri Lanka—attempts are underway to tame militant groups by bringing them into a political process that encourages power sharing. These efforts are not always successful, but they have the potential to reduce violence and transform disputes into more manageable forms.

The political strategy against terrorism means offering a better bargain to those who now sympathize with or support the terrorist jihad. At the heart of this better offer is the promise and reality of democracy—real political participation in the decisions that affect people's lives. Citizens who have opportunities to dissent and petition for redress are less likely to resort to violence to make themselves heard. Representative governments help to build more open and productive economies and generate greater opportunity. They foster a free press that educates and informs citizens and holds government leaders accountable. Promoting these conditions can help to create improved governance and make societies less prone

48. Elisabeth Bumiller, "Bush Cites Doubt America can win War on Terror," *New York Times*, 31 August 2004, A1.

49. Shibley Telhami, *The Stakes: America in the Middle East: The Consequences of Power and the Choice of Peace*, updated ed. (Boulder, Colo.: Westview Press, 2004), 177.

to political extremism. Providing consistent support for democracy and human rights is an essential long-term strategy for reducing the likelihood of violence and terrorism.

Closely related to the challenge of enhancing political participation is the need to expand economic and social opportunity. Because political extremism and violence grow out of joblessness and a lack of opportunity, a process of sustained, equitable economic development is essential to reducing the breeding grounds for terrorism. A large-scale social and economic development program in Arab and Muslim countries could help to ameliorate some of the conditions that lead to armed conflict and support for political extremism. Democracy, human rights, and economic opportunity are the antidotes to terrorism, and they should be promoted actively as core strategies for preventing the rise of political extremism.

These strategies have not been at the center of UN attention because they run counter to the foreign policy interests of the dominant power in the Security Council. The United States has adopted a militarized approach to countering terrorism. Its long-term strategic objectives are to exert geo-political domination over oil-rich countries in the Arab and Muslim world and to defend continued Israeli domination of Palestine. It has no interest in supporting genuine self determination and democracy, if, as seems likely, popularly elected governments in the region would be less subservient to U.S. geopolitical interests. For the United States, addressing root causes of terrorism would mean confronting the consequences of its own foreign policies, especially its uncritical support of Israeli occupation, its military aggression against Iraq, and its military encroachment into Muslim countries. Unwilling to change its foreign policies or adopt a preventive strategy that addresses root causes, the U.S. has concentrated on protective measures. It has used its influence at the United Nations to shape international policy along the same lines. The result has been a very substantial international effort that has had some modest impact in applying pressure on terrorist movements and perhaps impeding their operations. The larger struggle to tame terrorism, however, will require a more comprehensive and holistic strategy that combines preventive with protective measures that devotes as much attention to dissuasion as to denial.