

Chapter One:

Introduction

The Puzzle

On July 7, 2005, four British citizens attacked London's transport system, killing more than fifty people. Two weeks later a second cell struck, indicating, despite the attackers' failure to detonate their explosives, that the 7/7 bombing was not an isolated incident but a part of a coordinated campaign.

The first London bombing coincided, probably by design, with the annual meeting of the G8, hosted by British Prime Minister Tony Blair. A few hours after the attack, the leaders of the world's "board of governors," accompanied by leaders of other key states, stood behind Blair as he reiterated to the world media the resolve of Britain and the rest of the international community to continue its fight against terrorism. That night in New York, the UN Security Council condemned the atrocity by consensus and vowed to relentlessly fight terrorism.¹

In the following weeks, intelligence services and law enforcement agencies throughout the world investigated the attack. The geographical breadth of the investigation was astounding, involving countries such as Pakistan, Italy, Egypt, the U.S., Zambia, and Israel. An unusual level of alertness among European countries led to a special meeting of the interior European Union's ministers, where they discussed the implications of the London bombing, devised measures to reduce the vulnerability of EU countries, and planned improved cooperation. The extensive interstate collaboration in the aftermath of the attack – of which the details above are just a partial illustration – was not unique; it merely replicated the trend emerging from the 9/11 attacks on New York and Washington.

¹ Security Council Resolution 1611 (2005), S/RES/1611 (2005), 7 July 2005.

Contrast this reaction to states' policies in the aftermath of attacks committed by other terrorist entities. For example, following the kidnapping and killing of Israeli athletes by the Palestinian "Black September" organization during the 1972 Olympic Games in Munich, Israel launched a campaign to exterminate every person responsible for the atrocity. Germany, on the other hand, was hesitant to face its responsibility, as the host of the games, to prosecute the perpetrators of the attack. Reluctant to get entangled in a Middle Eastern conflict and fearing retaliation, Germany viewed imprisoning the culprits as a threat to its security. Therefore, when a group of Palestinians hijacked a German airplane and demanded the release of their comrades from German prisons, Germany was relieved to get rid of the prisoners.

In a second example, on June 27, 1976, members of the German Baader Meinhof group, together with members of the Popular Front for the Liberation of Palestine (PFLP), seized an Air France airliner and its 258 passengers. After forcing the plane to land in the Ugandan capital of Entebbe, they were welcomed enthusiastically by Uganda's leader, Idi Amin. A few days later, Israeli Special Forces landed in Entebbe and rescued the passengers. For German and French authorities, supposedly interested parties, this was basically the end of the story; they did not see the need for further action against the perpetrators.

Why this remarkable difference in the way states respond to terrorism? Why in some cases do states willingly confront acts of terrorism jointly and at other times respond separately? Why are some terrorist threats met head-on through collective effort, while others result in a variety of strategies ranging from appeasement to direct confrontation with the terrorists? In this dissertation I locate the reason for these divergent approaches in the dissimilar nature of various terrorist threats. Terrorist entities that endanger the state system are met by collective action, while groups

presenting only a limited threat, directed at the sovereignty and territory of specific states, face varied responses in accordance with states' diverse interests.

Definitions and Analytical Perspective

Scholars and practitioners contest the definition of terrorism. The failure to agree on a definition reflects the phenomenon's complexity; yet the argument results not only from genuine disagreements over the analytical value of definitions, but also from divergent political orientations. Among the most contentious aspects are whether states can perpetrate terrorism, and whether resistance to oppressive regimes or occupation forces constitutes terrorism or rather a legitimate struggle.

I define terrorism as acts of violence or preparations to initiate such acts, committed by non-state entities, targeting civilians in order to promote political goals. These acts aim to compel a state to take some steps it would not have taken otherwise, or to divert it from measures it intended to take.

This definition specifies non-state actors as the perpetrators of terrorism. States, too, are capable of terrorizing their population or those of other states; but alternative conceptual frameworks are available to analyze such state actions. The politically correct extension of the definition to include states carries little analytical value; in fact, it may hinder our comprehension of violent NGOs. I specifically emphasize entities rather than organizations because the traditional focus on organizational frameworks is obsolete and fails to depict the current form of terrorism. By referring to terrorist entities, one could consider traditional terrorist organizations alongside networks of small cells or like-minded individuals with little stable affiliation or hierarchical order.

In defining terrorism, I try to avoid making any moral judgment about the legitimacy of practices of states and non-state entities alike. The primacy of the state allows it to determine the discourse; states shape the rules of war and regulate their

relationship in a manner that serves the system, and even more, the strongest powers. Whether or not this is morally justified is not of interest in this dissertation.

The definition of terrorism I propose here is restricted to the intentional targeting of civilians. Such delineation makes it possible to preserve the distinction between terrorism and insurgency operations targeting military forces, while dismissing the argument that resistance to occupation cannot be classified as terrorism. The right of resistance is accepted under international law; but international law does not recognize a right to target innocent civilians. My formulation also avoids moral judgment about suicide bombings. While I find the use of suicide bombing abhorrent, for analytical purposes, one must focus on the targets and goals, not the techniques of terrorism.

The English School's conception of the international society provides a useful framework to understanding the threat posed by different transnational terrorist groups and states' concomitant responses to that threat. The international society is "a group of states which not merely form a system, in the sense that the behavior of each is a necessary factor in the calculations of others, but also have established by dialogue and common consent rules and institutions for the conduct of their relations and recognize their common interest in maintaining these arrangements."² It is the threat to the international society that leads its members to participate in a joint effort to protect the system. But in order to explain state responses, the English School perspective I present contains a set of Realist arguments concerning state behavior. These arguments are adjusted to the context of counter-terrorism, and used in conjunction with the social elements emphasized by the English School.

² Hedley Bull and Adam Watson, "Introduction," in Hedley Bull and Adam Watson (eds.), *The Expansion of International Society* (Oxford University Press, New York, 1984), 1.

The English School provides an appealing analytical perspective to explore the proposed research question. Its flexible tradition integrates social and material variables³ and, therefore, makes it most appropriate to examine state actions driven by a combination of both types of motivations. My research is guided by the conviction that the question should determine the analytical perspective, rather than allowing some predetermined analytical perspective to rule out the types of questions asked. My application of the English School perspective is compatible with the growing acceptance of theoretical eclecticism among international relations scholars.⁴ Eclecticism prioritizes problem solving over any paradigmatic rigidity that might undercut our ability to make sense of important patterns of behavior in world politics. Traditional international relations paradigms are ill-equipped to tackle independently a variety of important questions. The tendency of many scholars to rely on dichotomies to differentiate among theoretical explanations only reinforces this weakness. Reality, however, is intricate and rarely lends itself to neat divisions. Complicated questions call for departure from traditional modes of inquiry. As demonstrated by the complex nature of transnational terrorism, in particular its manifestation in the al Qaeda-led jihadi movement, inflexible application of existing theoretical frameworks might leave us in darkness, unable to grasp the nature of the phenomenon and, consequently, the nature of the response.

I use case studies to test my argument. The dissertation includes an in-depth analysis of state responses to the threat posed by the al Qaeda-led jihadi movement.

³ It is no wonder that both Realist and Constructivist scholars felt comfortable appropriating Hedley Bull to their respective camps, or alternatively, blaming him for subscribing to the “mistaken” ideas of the respective opposing camps.

⁴On the merits of eclecticism, see Peter J. Katzenstein and Rudra Sil, “Rethinking Asian Security: A Case for Analytical Eclecticism,” in J.J. Suh, Peter J. Katzenstein, and Allen Carlson (eds.), *Rethinking Security in East Asia: Identity, Power and Efficiency* (Stanford University Press, Stanford, California, 2004), 1-33; Peter J. Katzenstein and Nobuo Okawara, “Japan and Asian-Pacific Security: Analytical Eclecticism, Not Parsimony,” *International Security* 26: 2 (Winter 2001/02), 153-185.

The jihadi movement, I argue, represents a systemic threat that is being countered by a collective response by the members of the international society under the leadership of U.S. hegemony. The terror campaign of Palestinian groups, especially Fatah and the PFLP, which reached its peak during the 1970s, is an example of terrorist entities operating across several regions and targeting multiple state actors, not only Israel. Because the Palestinian groups never represented a systemic threat, the response of states to the threat varied: some chose to confront it directly; others preferred accommodation, sometimes allowing the entity to operate from, but not within, its own territory; yet other states explicitly supported the Palestinian organizations. The case of the Peruvian Shining Path takes us as far as Latin America to show how, in the absence of a systemic threat, states' particularistic interests determine their willingness to stand against a terrorist entity. Lastly, the response of Southeast Asian countries to the threat posed by the Jemaah Islamiyah (JI) is an example of a case that presents a mixture of global and local elements. Because of the interplay between the two levels, the struggle against the JI took an intriguing form, mixing inputs from the global war on terrorism with regional responses that are heavily influenced by regional idiosyncratic dynamics.

The Argument

States may choose from a range of available strategies in response to threats from terrorist entities. Some countries comply with the terrorists' demands; others settle for a less extreme option and try to reach an accommodation. On the other side of the spectrum, one may find forceful responses by states that refuse to surrender or to take any step that could be interpreted as a reinforcement to terrorism. Normally, a state weighs its utilities and designs a response it believes best suits its interests. What the state defines as its interests is not predetermined. Often it is the result of idiosyncratic dominant ideas and the state's self-conception which serve as a focal point and guide

the state in defining who it is, what it wants, and what set of options it might employ to achieve those goals;⁵ diverse responses are therefore a natural outgrowth of diverse interests.

When states face a systemic threat, however, they react more predictably. Such a threat challenges the foundations upon which the system is based; it seeks to create an alternative system based on organizing principles different from those prevalent in the current state-based system. When facing a systemic threat, the set of options available for states narrows. Most states decide to engage in collective action to fend off the threat, demonstrating the capability to cooperate at a level atypical of “normal politics.” A state may still behave in a self-interested manner, but its egoistic interests coalesce with those of the other members of the society of states, rendering self-regarding behavior synonymous with other-regarding behavior. Furthermore, the distinction between short- and long-term interests weakens as states are likely to take action in order to ward off even remote threats that are expected to affect them only in the longer-term.

Interstate cooperation against a systemic threat stems from a sense of community among states. States exhibit some society-like traits that bind them together and provide them with general guidelines to what participating in an international society means, what rights members enjoy, and what obligations members must meet.⁶ Thus, states draw some of their interests from their membership in the society of states. One of the most important goals of the international society is to assure its survival. Consequently, the protection of the system becomes a shared

⁵Ronald Jepperson, Alex Wendt, Peter Katzenstein, “Norms, Identity and Culture in National Security,” in Peter Katzenstein (ed.), *The Culture of National Security: Norms and Identity in World Politics* (Columbia University Press, New York, 1996), 33-75.

⁶Hedley Bull, *The Anarchical Society* (Columbia University Press, New York, 1977).

interest of all states. As a result, a society of states facing a systemic threat would exhibit a preservation-seeking quality.

Yet, this collective response is not some Pavlovian reaction of a unified entity. The international society does not exist separately from its units, the states. These states are the key actors that need to identify the threat, design and negotiate a strategy to confront terrorism, and implement the adopted strategy, all while elements of conflict among states persist. The strongest powers in the system are the main bearers of these tasks.⁷ They drive the international society to action; but they cannot achieve their goals without a certain level of legitimacy, deriving from agreement among society members, that the proposed actions are in line with fundamental principles upon which the society is founded. In this way, power and social elements together account for interstate cooperation.

Hegemony, in particular, is conducive to a collective response when the system is threatened. In crises, the hegemon's interest in preserving the system is not only compatible with those of weaker states, but even derivative from the same sources. The hegemon leads not only by virtue of its power. In its capacity as an institution, embedded in the international society, the hegemon operates not on the basis of its own distinct interests but because its interests arise from and reflect a "We" feeling that binds states together. Thus, in addition to material capabilities, the hegemon provides leadership to the other members of the international society. Granted, the hegemon has the most to gain from continuation of the existing order and has power to promote collective action. But the scope and quality of the collective endeavor is largely the result of states' willingness to follow the hegemon's lead, which stems from the recognition of its role as a guardian of the system. In unusual situations, the

⁷ Robert H. Jackson, *The Global Covenant: Human Conduct in a World of States* (Oxford University Press, Oxford, New York, 2003).

hegemon may be required to rely on its material power to bring rogue states or hesitant actors into the cooperative framework; but overall its intentions and the means it uses to preserve the system are benign.

This theoretical perspective elucidates the mechanism through which hegemony operates, as well as its limits. States do not follow the hegemon solely because it enjoys an abundance of power. Time and again, hegemonies have found themselves unable to achieve all of their interests, even when their stakes are high. The attainment of multiple goals while interacting with numerous actors cannot be accomplished through material power only; it requires that the hegemon's agenda be perceived as legitimate. The hegemon cannot exercise its power uninhibited. When its agenda is not perceived as compatible with the general good of the international society, cooperation will take place on a much smaller scale and be founded mostly on material power and states' narrow considerations.

In my elaborate discussion of the reaction to the jihadi movement, I provide an explicit example taken from the realm of security studies, rather than from the economic sphere, of how hegemony contributes to the creation of order. Following the 9/11 attack on New York and Washington, the international society discovers that it is facing a systemic threat which must be addressed collectively. The nature of the threat makes reliance on collective action a necessity (although not all aspects of the response are multilateral); in the absence of a joint response, states will fail to fend off the threat. The joint reaction is being pursued under U.S. leadership and reflects a consensus that fighting the jihadi threat is a mutual interest shared by all states, rather than an imposition by the hegemon's coercive power. Indeed, the level of interstate collaboration in the global war on terrorism, compared to support of the American invasion of Iraq, makes evident the limits of unilateral U.S. power: cooperation must

also be based on acceptance of the policies pursued as being legitimately in service of the collective good.

Furthermore, collaboration with the U.S. in the war on terrorism is very costly to countless states: some have become a direct target of the jihadi movement, and numerous countries have been taking steps that challenge their self-identity, exposing them to grave social and religious pressures. For example, Muslim states have started to regulate religiously-sanctioned charity-giving and traditional informal systems of money remittance. Some have also begun to alter their educational programs and further curtail the expression of religious extremist opinions. In the same vein, European states -- in cutting back on civil rights -- have acted in contrast to their well-established sense of self-identity.

A critical tenet in responding to terrorism is the bolstering of the state. Because terrorists are attracted to weak states, the system becomes as strong as its weakest links. The current system is particularly weak and fragile. The international society is based on the primacy of the state in the international arena, but in many regions this primacy is not coupled with adequate capabilities to realize this theoretical primacy. Furthermore, with time, the state has retreated from several spheres of action. It has also avoided carving itself a major role in new spheres that have been evolving with the rapid advance of technology. On 9/11, the international society woke up to discover itself extremely vulnerable to actors who could and would take advantage of its weakness to undermine the system. Indeed, the approach of the U.S. and its allies, translated into multilateral action, reflects acknowledgement of the system's deficiencies and a willingness to bolster the system. Clearly, there is much more to be done in order for the international society to confront the threat successfully.

The response is based on the concepts of state's responsibility and international cooperation. Each state has an obligation to its peers to deny terrorists the ability to

use its territory and its laws to endanger the system. Yet, the systemic nature of the threat means that “in today’s world, no state, however powerful, can protect itself on its own.”⁸ Consequently, states must look beyond their own borders, collaborate with other members of the international society, and assist them to realize their obligations to the collective. This cooperation may include the exchange of information, cooperation in unraveling cells of terrorists, thwarting attacks or investigating attacks that have already been carried out. Collaboration also takes the form of assistance in capacity building, intended to bring all states to a minimum level of sufficiency. States are also encouraged to share information about their experience and suggest best practices to increase the efficiency of state actions.

In this regard, the argument that states exhibit different approaches to counter-terrorism based on whether they frame acts of terrorism as “war” (the alleged American frame) or as “crime” (the European) should not be overstated. The response to the threat posed by a systemic force such as the jihadi movement combines elements of both. The U.S. may keep a higher profile than other states when military action is involved, but this is a natural outcome of its military prowess and the relative weakness of most other states. As the consensus around the invasion of Afghanistan demonstrates, the use of force against terrorists is not rejected in principle. At the same time, for practical reasons, all states, including the U.S., rely substantially on law enforcement agencies in the war on terrorism.

This dissertation emphasizes the scope of the project to reinvigorate the state system and confront transnational terrorism. But an unprejudiced assessment of the success of the collective drive against terrorism also depends on a healthy dose of realism: that includes acknowledgment of the extremely ambitious nature of the

⁸ Kofi Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All*, Report of the Secretary General, A/59/2005, 21 March 2005, 6-7.

project and the disadvantageous position from which the U.S.-led international society launched it.

In its examination of state responses to the jihadi movement, this dissertation highlights three main spheres of counter-terrorist action: curbing terrorism financing, border controls, and limiting the proliferation of Weapons of Mass Destruction (WMD). The Security Council has been leading an intensive and broad project to suppress the financing of terrorist acts by reinvigorating state controls over the transfer of money across borders, criminalizing terrorist financing, prosecuting those engaged in such behavior, and freezing financial assets of terrorists and terrorist entities. This sphere, I argue, is so far the most successful.

Much less success can be seen in the field of border controls. The project aims to reinforce the control of states over their borders, diminishing the ability of terrorists to transfer weapons and people across borders or to plan attacks in one country while residing in another. Increasing the difficulty of moving across borders is also intended to improve states' ability to keep tabs on the activities of terrorists present in their territory, thwart their plans, and arrest them. This mission has proved to be so painstaking that the realization of even a relatively modest goal, such as controlling the passage of prohibited people and goods in recognized border passes, airports, and seaports, is in serious doubt.

Last, a third sphere of action concerns denying non-state actors the ability to produce, acquire, store, proliferate, and use WMD. While the development and possession of WMD is considered dangerous and a threat to world peace, the international community acknowledges some practical circumstances where a few strong powers hold such weapons, under the assumption that states are responsible actors. There are no exceptions, however, for violent non-state actors such as the jihadi movement. The international society is designing strategies to deny such actors

any access to the ultimate weapons of terror. Its approach to the problem is very similar to the way it constructed the anti-terrorism financing regime, but the Security Council took the matter on only in 2004, fully five years after al Qaeda's finances were targeted for the first time. Moreover, any program that concerns WMD also provokes strong political sensitivities, particularly as the system to prevent proliferation of nuclear weapons among states is faltering.

Recapitulation and Preview

As they currently stand, existing international relations theories are inadequate. They fail to explain the complex nature of terrorism and, consequently, cannot capture a crucial segment of world politics. This dissertation seeks to improve this situation by presenting a theoretical argument that takes into account states and non-state actors together, while amending, not abandoning, the rich and useful analytical tools that have guided the study of international relations throughout the second half of the twentieth century.

Whereas the dominant paradigms in international relations approach security threats through the lenses of power and emphasize material factors, this study offers a broader view of counter-terrorism. In the current war on terrorism, many observers are inclined to emphasize the military aspects of the war, particularly in Afghanistan and Iraq.⁹ Most elements of the response to the jihadi threat, however, have little to do with the use of force; unfortunately, those elements are usually relatively unknown. This study awards these neglected aspects the attention they deserve.

My approach also complicates assessments of the hegemon's pursuit of multilateralism and its willingness to "go it alone." When the use of force is emphasized, international relations theories appear to consider the hegemon

⁹ One may argue whether the war in Iraq was indeed a part of the larger war on terrorism when it was launched. Few will disagree that today that inadvertently or by design it has become a significant element in that war.

omnipotent and intransigent, pursuing idiosyncratic interests, unilaterally if the situation requires. Viewing the war on terrorism through the broad lenses I offer brings into view a different image of a hegemon, one that leads a multilateral effort and acknowledges, sometimes grudgingly, the limits of its power. Thus, at a time where multilateralism seems under attack by an overreaching American administration, blamed for unilateral tendencies, the aspects of the war on terrorism highlighted in this study emphasize the role of U.S.-led multilateralism and demonstrate that rumors concerning the death of multilateralism are premature.

This dissertation also enhances the body of knowledge concerning the current war on terrorism, one of the most important issues of our time, through an in-depth study of transnational terrorist entities and an inquiry into the way states respond to them. The study does not limit itself to assessing the threat posed by the al Qaeda network based on its material capabilities, but extends further to analyze al Qaeda's ideology and its ideological pedigree. Furthermore, I locate the al Qaeda network in the broader framework of the jihadi movement and explicate the connection between the two: how al Qaeda came to lead this movement, and how the movement and the network merged to become one entity challenging the international society. On the states' side, this dissertation approaches the responses to terrorism by capturing the general picture and assessing the collective effort of the international society as a whole, rather than focusing solely on the particular responses of individual states.

One would find in this study support for reintroducing religion in international relations scholarship. The rise of religion in domestic and international politics, by itself, justifies serious attention to the political use and impact of religion. The primacy of religious motivation and ideology among terrorist entities, as well as religion's impact on the terrorists' goals and means, offer additional impetus to the study of religion in world politics. I promote this agenda by exposing points of conflict

between the logic of the state-based system and the logic of religion – in particular as they are manifested in the jihadi movement – and elucidating the ramifications of the encounter between these divergent logics.

This study comprises three parts, divided into ten chapters. Following this introduction I lay out my argument. I discuss the preservation-seeking quality of the international society, explain the conditions under which it arises, and describe the role of hegemony in mobilizing the members of the international society to confront the challenge. The chapter locates my argument in the framework of the English School and pits the argument against the Realist perspective. I argue that the English School explanation I bring forward better explains state behavior and its sources.

The second part of this work (chapters 3-7) analyzes the threat posed by the jihadi movement and the response of the international society to this threat. I trace the process by which jihad, which for hundreds of years took only localized forms, has gone through a “scale shift,”¹⁰ gradually (beginning in the 1980s war to oust the Soviets from Afghanistan) becoming globalized. Then, focusing on the ideology of the network and how this ideology conflicts with the philosophical foundations upon which the international society is constituted, I argue that al-Qaeda, and the jihadi camp it leads, represent a threat to the international society. In response to al Qaeda’s threat, the U.S.-led international society launched an extensive counter-terrorism strategy based largely on bolstering the institution of the state. After an exposition of the general logic guiding the systemic response and the manifestation of this logic in the endeavor to consolidate and reinforce states’ control over their borders, I elaborate upon two spheres of operation: the suppression of terrorism financing, and the efforts to deny WMD to non-state actors.

¹⁰Sidney Tarrow, *The New Transnational Activism* (Cambridge University Press, London, 2005).

The third part of this dissertation (chapters 8-9) presents additional case studies. The multiple types of responses to Palestinian terrorist entities, and to their actions during the 1970s, serve as the main contrast to the al Qaeda case. I also discuss cases outside the Middle East. The Peruvian Shining Path is an example of a non-systemic threat that provoked little interest by most states in the region. As a result, the Peruvian government was left to confront the group largely by itself, a confrontation from which it almost emerged as the loser. I also examine the threat posed by the JI to countries of Southeast Asia. The JI represents a mixed case in which elements of threat from global and local levels interact. I show how the countries of Southeast Asia, supported by the framework provided in the global war on the jihadi movement, have been taking extra steps to collectively confront the menace.

I conclude this study by reexamining the relation between the English School and the Realist explanations, and discussing the usefulness of expanding the study of sovereignty beyond the Westphalian principles to include religious conceptions of sovereignty and the interplay between the competing conceptions. I also present a different tack on the war on terrorism, in particular highlighting the significance of multilateralism to the general effort and the role of the U.S. in promoting this multilateralism. Let us turn now to a theory of state responses to transnational terrorism.

Chapter Two:

Interstate Cooperation and Transnational Terrorism

Introduction

Transnational terrorism existed before al Qaeda attacked the U.S. on 9/11. In the past, other groups had reached beyond their territorial bases to attack more than one state. The Lebanese Hezbollah, for example, reached as far as Buenos Aires; members of the Japanese Red Army Brigades killed twenty-five passengers in the Tel Aviv airport; and different factions of the Organization for the Liberation of Palestine (PLO) have carried out attacks on civilians in various European countries (including Austria, Italy and Germany) and even in Sudan. Terrorists have targeted the international flights of several countries' airlines and staged attacks on the high seas that killed civilians from numerous nations.

Following 9/11, state responses to the threat of terrorism changed qualitatively. Members of the society of states acted almost unanimously to condemn the al Qaeda attacks, offering assistance to the United States in confronting the threat and bringing the perpetrators to justice. A few weeks after 9/11, a coalition of states led by the U.S. invaded Afghanistan, toppled the Taliban regime, and for the time being eliminated the terrorist infrastructure in that country. In the subsequent phase, the war on terrorism has featured far-reaching interstate cooperation on a variety of issues including law enforcement, policing, and the suppression of the financial networks assisting terrorist groups.

The puzzle is, therefore, why do states oppose one transnational terrorist threat with an extensive collective action, in other cases demonstrating much less interest in cooperation and seeing a collective response as just one of a number of policy options? Dominant paradigms of international relations are ill-equipped to answer this question; they focus on security conflicts between states and fail to treat non-state

actors as security threats worthy of theoretical attention. In order to answer this puzzle, one must capture the logic and motivation of state action explained by existing theories and readjust those factors to fit a world populated by both potentially dangerous states and dangerous non-state actors.

In this chapter, I lay out a theoretical framework for understanding state responses to transnational terrorism by developing a neglected aspect of the English School's work -- namely, the international society's quest for self-preservation I argue that the nature of the threat posed by the terrorist actor accounts for the level of interstate cooperation: when the terrorist challenge represents a threat to the existence of the state system, a collective response by the members of the international society is likely. But when a terrorist actor poses a threat only to the sovereignty and interests of specific states, interstate cooperation will be limited in scope and participation; it will take place only when it serves the direct interests of the collaborating states. Leading powers are the spearhead of the collective endeavor to repel systemic threats. In the current international system, hegemony -- which serves, particularly in times of systemic crisis, as an institution of the international society -- takes this leadership role.¹¹

This chapter comprises six sections. In the first, I introduce the survival mechanism as a feature of an international society and suggest that hegemony should be considered an institution of the society of states. The construction of Realist explanations for state behavior in the face of terrorism and the role of hegemony in fostering international cooperation stand at the center of the second section. In the third section, I present an account of hegemony that builds on those Realist

¹¹ The argument is agnostic to the type of hegemon, revisionist or proponent of the status quo; as long as the hegemon is part of the international society it will seek its preservation. The extreme case of a hegemon that seeks world domination, and that is in itself a threat to the international society, is outside the scope of this study.

foundations but locates it in the international society and assigns significance to normative factors in the conduct of the hegemon. In the fourth section, I present the characteristics of a systemic threat -- that is, the conditions under which the English School predicts a collective response -- and in the fifth I lay out the indicators for a collective response. A listing of English School and Realist propositions on state responses to transnational terrorism conclude this chapter.

Preservation-Seeking --The Neglected Quality of the International Society

The dominant paradigms within the study of international relations do not capture the full range of possible motivations behind acts of transnational terrorism. In particular, they fail to consider as a motive the overthrow of the international order and its replacement with an alternative order. As a result, IR scholars may be led to miss important factors behind state responses to such groups, in particular to the al Qaeda network and the jihadi movement it leads.

This conceptual void is not restricted to threats posed by terrorists; the notion of threats to the existence of the system as a whole is usually missing from the work of IR scholars. But some security concerns cannot be fully understood without this holistic perspective. Only a conceptualization of the system as an independent entity that tries to advance certain goals allows us to adequately study challenges that surpass state boundaries and the concomitant responses of the system. Because the English School's unique understanding of world politics conceives of the international society as an independent construct that joins its units -- the states -- and leads them to pursue a set of common goals, it is best suited to capturing the dynamics between states and those violent non-state actors that attempt to overthrow the state-based system.

According to Hedley Bull, a founding father of the English School and its most recognized figure across the Atlantic, world politics are cooperative as well as conflictual. States exhibit some society-like traits, manifested in elements of interstate

comity. This international society (or society of states) is defined as “a group of states which not merely form a system, in the sense that the behavior of each is a necessary factor in the calculations of others, but also have established by dialogue and common consent rules and institutions for the conduct of their relations and recognize their common interest in maintaining these arrangements.”¹² This conceptualization is based on more than the mere convergence of interests between states; instead, it results from a thicker sense of community.¹³ This sense binds states together and provides them with general guidelines for what membership in the society of states means, what rights members enjoy, and what obligations members must observe. The community-like traits of the international society moderate state behavior and allow for the existence of general order. The important role of conflict in international relations is not ignored, but the English School emphasizes that, even if precarious, some elements of international society always exist.¹⁴

The current international society evolved in Europe and has now spread over the whole globe.¹⁵ It has not developed evenly, and states vary in the general degree and specific character of the norms, rules, identities, and institutions they share.¹⁶ Nevertheless, where the most fundamental elements are concerned, such variation will

¹² Bull and Watson, “Introduction.” 1. Note that international society cannot exist without an international system, yet an international system does not require the existence of international society. According to Bull, an international society is distinguished by states’ recognition of their common interests and by their conception of themselves as bound by a common set of rules in their relations. See Bull, *The Anarchical Society*, 13.

¹³ Barry Buzan distinguishes between international regimes that have merely instrumental implications and the institutions of the international society which have much deeper constitutive effects. See Barry Buzan, “The English School: An Underexploited Resource in International Relations,” *Review of International Studies* 27 (2001), 475.

¹⁴ Bull, *The Anarchical Society*, 41.

¹⁵ Bull and Watson, *The Expansion of the International Society*; Barry Buzan and Richard Little, *International Systems in World History: Remaking the Study of International Relations* (Oxford University Press, New York, 2000).

¹⁶ Barry Buzan, “International Society and International Security,” in Rick Fawn and Jeremy Larkins (eds.), *International Society after the Cold War: Anarchy and Order Reconsidered* (Macmillan Press Ltd., London, 1996), 264.

not detract from the international society's willingness to achieve its goals, although it may negatively affect its ability to accomplish them.

Among the fundamental goals of the international society that Bull lists are: preserving the society of states, maintaining the independence of states, establishing peace as the normal condition in international relations, and achieving such common goals of all social life as limiting violence, keeping promises, and establishing possessions.¹⁷ Occasionally, some of these goals may conflict. Although Bull does not commit himself to a ranking of these goals, preservation of the system appears to override the others and even to justify violations of the principle of sovereignty. In his words, "the international society has treated preservation of the independence of particular states as a goal that is subordinate to preservation of the society of states itself."¹⁸ In fact, one could argue that the principle of sovereignty exists to serve the preservation of the system by delineating boundaries for state action and consequently reducing friction among states.

Even though self-preservation appears to be the international society's first and most important goal, scholars have paid it little attention; systemic threats that could trigger the survival mechanisms of the international society are similarly understudied. Among the threats that have received some attention are wars of aggression, revolutionary states, and globalization. Wars of aggression reduce predictability in the international system and increase the severity of the security dilemma, thus undermining order in the system. To address the problem, states established a norm to prohibit the initiation of such wars and created a code of conduct for the initiation and

¹⁷ Bull, *The Anarchical Society*, 16-20.

¹⁸ *Ibid*, 17.

management of wars, with the aim of preserving order and preventing the breakdown of the system.¹⁹

Revolutionary states pose a second type of threat to the international society. As David Armstrong explains, “major revolutions force established states to reconsider and redefine both their social identity as members of a society of states and the normative and juridical principles upon which that society is based.”²⁰ Armstrong found that the burden of managing a country helped in extinguishing the fervor of newly established revolutionary states and provided them with incentives to socialize to the state system. Nor did the state system remain static: member states, led by the great powers, came to the system’s defense and, through interaction with the revolutionary states, redefined the features of the system, thus strengthening it and contributing to its evolution.²¹ Unfortunately, Armstrong’s study is the exception rather than the rule:²² the question of how the international society identifies and responds to threats from revolutionary states remains understudied.²³

Some may argue that globalization also threatens the international society.²⁴ In the last few decades, various scholars have pointed to the alleged decline of the state system, manifested in the retreat of the state from certain issue areas (for example, money); the emergence of new spheres with low state involvement (cyberspace); and

¹⁹ In the current terminology, states that violate the “rules of the game” regarding the use of force are commonly referred to as “rogue states.” Such states rarely explicitly challenge the principles of the international society but in their actions do erode international order.

²⁰ David Armstrong, *Revolution and World Order: The Revolutionary State in International Society* (Oxford University Press, New York, 1993), 243.

²¹ *Ibid.*

²² Barry Buzan briefly mentions that even in its most basic form, the international society legitimizes intervention against regimes that threaten its established order; but he does not take this point further. See Buzan, “International Society and International Security,” 275.

²³ Stephen Walt presents a Realist take on revolutions. However, he does not look at how they threaten the international system but rather at how they increase instability and propensity for war in their close surroundings. See Stephen M. Walt, *Revolutions and War* (Cornell University Press, Ithaca and London, 1996).

²⁴ On the possibility of viewing globalization and interstate interaction as two distinct processes currently at work, see David Armstrong, “Globalization and the Social State,” *Review of International Studies* 24 (1998), 461-478.

the increased influence of non-state actors on state policies and their ability to appropriate subject areas that the state had largely ignored or mishandled.²⁵ Whether and to what extent these trends indeed represent threats to the state system is controversial. Nevertheless, even if we assume that they are real, these trends still pose a relatively benign challenge to the international society by forces considered legitimate. Often, states' purposeful actions facilitate globalization and encourage the elevation of non-violent NGOs. Furthermore, the working of such forces may be considered to be in line with the aim of advancing the World Society, based on individuals rather than states, which most English School scholars consider to be ultimately in the interest of the international society (although the pace and extent of promoting World Society is contested among English School scholars because of the possible adverse effects of a premature or overreaching push in that direction).²⁶

Violent non-state actors trying to overthrow the state system fit into the category of threats to the international society. They deny the legitimacy of the state system and attack the foundations on which the society of states is based, and they may even try to advance an alternative order. Thus, they are systemic threats and should activate the self-preservation mechanism of the international society. By asking whether violent non-state actors pose a threat to the system, it is possible to explain variations in state responses to transnational terrorist entities: when transnational terrorist actors endanger the international society, states are expected to demonstrate a higher level of cooperation than against terrorist groups that do not represent a

²⁵ Two examples of studies that point at the decline of the state and the rise of non-state actors are Susan Strange, *The Retreat of the State: The Diffusion of Power in the World Economy* (Cambridge University Press, Cambridge; New York, 1996); and Margaret Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Cornell University Press, Ithaca, New York, 1998).

²⁶ This is not to say that there is no dark side to globalization. Terrorism and transnational networks of organized crime have benefited and gained strength due to globalization, but they had existed independent of globalization. Furthermore, the parasitic nature of transnational crime leads such networks to favor the existence, though in a weak form, of the state system.

systemic threat. Furthermore, variation in the strategies states employ in responding to a non-systemic threat will be greater than when they counter a systemic challenge.

This observed state behavior corresponds to some degree with the expectations of Realist theories; but the English School with its different ontology goes further to elucidate the motivation behind states' behavior, the sources of their interests, and the specific policies they adopt. The English School broadens the range of sources of state interests beyond egotistic interests, to include concerns stemming from membership in the international society. According to this approach, states derive some of their interests from being part of a collective, the society of states. As members, states are prescribed a guide for appropriate behavior and corresponding interests, including a commitment to defend the system when it is attacked. As a result, state responses to systemic threats reflect attempts to cement the primacy of the state and strengthen its ability to face dissimilar actors such as violent NGOs.

Insights from social psychology and their application to international relations by social constructivists such as Alexander Wendt support the assertion that responding to a systemic threat to the international society is in the interest of states.²⁷ The confrontation between a society of states and violent non-state challengers pits Self against Other. An actor defines who he is and what he wants through his relationship to other actors populating his real or perceived environment; that constitution of Self generally requires the existence of an external and different Other. In international relations, Self and Other are often both state actors, separated by dissimilar identities. Yet, a society of states also exhibits a quality of a collective Self that stems from the high level of similarity in form and purpose of all states. As such, states are engaged in "mutual empowerment": they accept like states as legitimate

²⁷ Among Wendt's most relevant works are Alexander Wendt, "Anarchy Is What States Make of It: The Social Construction of Power Politics," *International Organization* 46:2 (1992), 391-425; Alexander Wendt, *Social Theory of International Politics* (Cambridge University Press, Cambridge, 1999).

members in the “club” and reject, if necessary even fight, others who threaten their cohesion and the rationale for their association. Therefore, faced with a threat from an external actor -- a violent non-state actor -- the collective of states (the international society) reveals its Selfness, against its opponent’s Otherness. Differences among states are marginalized, while similarities, and the need to guarantee the survival of their society, become salient. In this way, the difference between Self and Other, which normally reinforces conflict between states, facilitates inter-state cooperation when a clear non-state Other emerges.

Hendrik Spruyt’s detailed study of the emergence of the state system suggests a historical precedent where the principle of Self and Other influenced the dynamic between states and non-state competitors. According to Spruyt, the state system was not the obvious uncontested organizing principle in world politics; it was only one configuration vying to succeed the old order. In the competition, all the alternative systems of rule were more efficient than the old order; but as the most efficient structure at that historical juncture, the state won out. In that process, the victory of the state was reinforced by mutual empowerment among states and delegitimization of actors who did not fit into a system of “territorially demarcated and internally hierarchical authorities.”²⁸ Utilitarian considerations played a significant role, but they were strengthened by states’ preference for their own kind. Similarity between states was translated to a higher level of mutual-identification, predictability, and trust in inter-state relations than in the interaction between states and non-state entities.

The English School not only provides the logic behind interstate cooperation against systemic threats; it also expounds upon the mechanisms that facilitate collaboration. The preservation of the international society, like the accomplishment

²⁸ Hendrik Spruyt, *The Sovereign State and Its Competitors: An Analysis of Systems Change* (Princeton University Press, Princeton, New Jersey, 1994), 28.

of the society's other fundamental goals, is closely associated with the idea of order. Bull defines order in the international society as a pattern of activity that sustains the fundamental goals of the international society²⁹ through shared values and interests, rules that states establish, and institutions that enforce these rules.³⁰ According to Bull, there are three complexes of rules that help sustain international order. First, "constitutional normative principles" identify states as the primary political organization of mankind, bound together by the rules and institutions of a collective society. Second, "rules of coexistence" restrict the use of violence to states, limit the causes for which states can legitimately start a war, and restrict the manner in which wars are conducted. Such rules also emphasize the principle of equality among states and the obligation to respect the sovereignty of other states and not intervene in their domestic affairs. Finally, rules that regulate cooperation among states go beyond what is necessary for mere coexistence and may even extend beyond political and strategic realms to cooperation in economic and social matters.³¹

The prevalence of the last complex of rules determines the depth of an international society: thin international societies are based on "rules of coexistence," whereas thick ones move beyond coexistence to the pursuit of common interests defined in terms of joint gains. Whether an international society is thin (pluralist society) or thick (solidarist society) is thus a function of the type and extent of norms, rules and institutions that the international society forms. On the global level, the international society is quite thin. It takes a Westphalian form, with states wishing to preserve maximum autonomy and distinctiveness. The potential for a thick society is higher in sub-global international societies such as the EU, in particular among states that belong to one civilizational community and that are internally alike. As Barry

²⁹ Bull, *The Anarchical Society*, 8.

³⁰ *Ibid.*, 53-63.

³¹ *Ibid.*, 67-70.

Buzan asserts -- referring to measures taken to preserve the ozone layer -- measures necessary to maintaining the conditions of existence for the members of the society of states fall within a logic of coexistence.³² Thus, a high degree of ideological uniformity is not necessary for the preservation-seeking quality to appear.

The operation of fundamental institutions supports the preservation of order. Bull defines institutions as “a set of habits and practices shaped towards the realization of common goals.” They are an expression of interstate cooperation, a means of sustaining this collaboration, and an instrument to mitigate the tendency of states to lose sight of their common interests.³³ Bull discusses five institutions: balance of power, international law, diplomacy, war and great powers;³⁴ but his list is not exhaustive. Institutions are historically contingent and depend on the prevailing norms in which the international society is embedded. Thus, some institutions may degenerate (great powers, balance of power) or change (diplomacy), while new institutions can evolve.³⁵ Indeed, following Bruce Cronin, I argue that hegemony is another institution of the international society,³⁶ and it is dominant in the post-Cold War era in the confrontation with the jihadi movement.

While Bull does not discuss it, treating hegemony as an institution is a natural extension of his ideas and illuminates the operation of the present international society. There is nothing in Bull’s conception to preclude this extension; he does not articulate any clear criteria for identifying an institution. Instead, his institutions are inferred mainly by their contribution to order in the system.³⁷ Bull’s conceptualization

³² Barry Buzan, *From International to World Society?: English School Theory and the Social Structure of Globalization* (Cambridge University Press, Cambridge, UK, 2004), 139-160.

³³ Bull, *The Anarchical Society*, 74.

³⁴ *Ibid.*, 101-229.

³⁵ For a broader discussion of this topic, see Buzan, *From International to World Society?*, 161-204, 240-249.

³⁶ Bruce Cronin, “The Paradox of Hegemony: America’s Ambiguous Relationship with the United Nations,” *European Journal of International Relations* 7:1 (2001), 103-130.

³⁷ Buzan’s conception of institutions is different. He focuses on their constitutive effects. See Buzan, *From International to World Society?*, 167.

does not even determine to what extent intentionality is required for the evolution of institutions: some may arise spontaneously, others are constructed, and some may evolve both ways (for example, the balance of power). Thus, if it could be demonstrated that hegemony actively promotes -- even if only occasionally -- international order, it could be considered an institution, too.

Moreover, a critical reading of Bull's discussion of the Great Powers institution suggests that any structure of power can become an institution of the international society. The concept of Great Powers does not depend on the number of powers (Bull himself argues that the concept of superpowers associated with the Cold War's bipolarity adds nothing to the old concept of Great Powers³⁸), but rather on mutual recognition among them and on other states' acknowledgment of their special rights and duties within the society of states.³⁹ A hegemon and the remaining members of the international society may share just this type of intersubjective understanding.

Furthermore, based on Bull's notion of order, it is evident that hegemony could contribute to achieving the fundamental goals of the international society; in fact, it is in the hegemon's interest to pursue such an order. Hence, hegemony that provides the material capabilities to facilitate order, together with leadership and a commitment to the preservation of the state system while advancing the shared goals of the international society's members, is in line with the institutions of the international society.⁴⁰

³⁸ Bull, *The Anarchical Society*, 203.

³⁹ *Ibid*, 202.

⁴⁰ Robert Jackson is likely to disagree. For him, the main point of the balance of power and other basic arrangements and norms of the international society is to prevent a global hegemon from arising. However, I do not think that such a claim undermines the possibility that hegemony could serve as an institution: Jackson does not explain how the international society can function when a clear hegemon whose power cannot be balanced has emerged. Clearly, he does not think that the presence of hegemony suspends the operation of the international society altogether. Jackson's conception also fails to account for the social factors that lead to threat production; in a social theory a hegemon does not have to represent a threat to the international society. Jackson, *Global Covenant*, 138, 166-167.

Considering hegemony, or alternative power structures, as an institution has the added value of bringing agency into the international society, thereby presenting a mechanism that links a systemic construct to a purposeful action. After all, although the international society is conceptualized as an independent construct, it has to operate through its components, the states. As Cronin theorizes (and Jackson, emphasizing strong powers, concurs), in every period some actors have a stronger interest in the progress of the international society. These actors are more likely to act in support of the international society's fundamental institutions, particularly when they perceive danger to the cohesion and the stability of the collective.⁴¹ The likelihood of such action, I argue, is even higher when it is not merely cohesion or stability that is at stake, but the existence of the system. Therefore, the leading powers serve as the agents of the international society: the collective goals they promote are its goals, the states they mobilize to act are the international society's members, and the actions all members take reflect the acts of the international society.

The concept of hegemony as a source of order in the international system has Gramscian roots, but it was appropriated by Realist scholars, who abandoned its ideological component and emphasized instead the material properties of hegemony. With a few adjustments, mostly the incorporation of social factors, it can be used in the English School framework and applied to the security realm.⁴² But before I

⁴¹ Bruce Cronin, *Institutions for the Common Good: International Protection Regimes in International Society* (Cambridge University Press, Cambridge, United Kingdom and New York, New York, 2003), 21; Jackson, *The Global Covenant*, 173-174.

⁴² As Barry Buzan asserts, the English School's work overlaps with neo-liberalism's regime theory at several points and there is significant complementarity between the two bodies of literature. But there are also significant differences, among them: the English School is primarily concerned with historically constructed normative structures while regime theory focuses on particular human-constructed arrangements; the international society's institutions and its members are mutually constitutive while regime theory provides a rationalist account taking actors and their preferences as given and defines the game as cooperation under anarchy; the English School focuses on common interests, shared values, and the mechanisms of international order while regime theory perceives actors pursuing self-interest using the mechanisms of rational cooperation. See Buzan, *From International to World Society?*, 161-162. While the differences are significant, the commonality and my problem solving approach lead me to adopt important neo-liberal insights such as those concerning leadership.

elaborate on the characteristics of hegemony in the international society, I turn to Realism and offer a Realist reading of counter-terrorism. Realism had been the dominant paradigm for explaining state behavior in the security realm throughout the Cold War and serves as a natural reference for comparison with the English School explanation. Its conception of hegemony, even if unsatisfactory in explaining state cooperation in the face of a systemic threat such as al Qaeda, provides an essential starting point for any discussion of hegemony as an institution of the international society. By articulating the Realist perspective, I will be able to pick out its valuable elements and then build a more comprehensive and accurate account of states' responses to transnational terrorism.

Realism and Transnational Terrorism

The ascendance of terrorism to the forefront of the security agenda caught Realism unprepared. The Realist paradigm, in its various strands, suffers from two acute deficiencies that reduce its applicability in an age of terrorism. First, Realism is state-centered. It focuses on interstate relations, assuming that interactions between states and non-state actors either lack security repercussions or are contained in the domestic arena and thus marginal in their effects on international politics.⁴³ But this dismissive perspective does not correspond to the reality of transnational terrorism. The reach of terrorists extends beyond the boundaries of any one state, and successful confrontation often requires collaboration among states; clashes between states and terrorist groups increasingly produce spillover effects that impact additional states; and, most important, the ability of terrorists to seriously reduce a state's security can no longer

Such elements are not explicit in English School's accounts; nevertheless, they are compatible with the English School perspective.

⁴³ Colin Elman, "Horses for Courses: Why not Neorealism Theories of Foreign Policy?", *Security Studies* 6:1 (Autumn 1996), 20.

be underestimated, as citizens of New York, Madrid, Riyadh, Jerusalem, London and numerous other locations throughout the world can testify.

A second deficiency is Realism's emphasis on studying power dynamics among strong powers only. Such a focus leaves the policies and problems of the less powerful states understudied.⁴⁴ However, weak states are highly significant where transnational terrorism is concerned: terrorists operate in many countries, regardless of levels of military and economic power, but they are especially attracted to the weakest links in the international system, where they find more freedom to operate.

Realism was not designed to consider threats from non-state actors,⁴⁵ but some of its most important explanatory variables are valuable to the study of terrorism. Thus, refining Realism to increase its applicability to today's urgent security problems is worthwhile. Such refinement would revitalize Realism and, through inter-paradigmatic debates, invigorate our understanding of a subject that international relations scholars have overlooked for too long.⁴⁶ In this section, I build on aspects from various strands of Realism to propose a set of Realist hypotheses on state cooperation in the face of transnational terrorism. Note that I do not discuss state-

⁴⁴ It is striking that even when Realist scholars examine weaker states, the discussion is in the context of how those peripheral actors are relevant to the big powers. For example, see Michael C. Desch, "Why Realists Disagree about the Third World (and Why They Shouldn't)," in Benjamin Frankel (ed.), *Realism: Restatement and Renewal* (Frank Cass, London and Portland, Oregon, 1996), 358-381. Steven David's study on third world countries is an important exception. He argues that the unique features of these countries, particularly the lack of domestic stability, lead them to different patterns of alignment than common Realist theories of alignment predict. Compare Steven R. David, "Explaining Third World Alignment," *World Politics* 43:2 (January 1991), 233-256; Kenneth Waltz, *Theory of International Politics* (Addison-Wesley, Reading, Massachusetts, 1979); and Stephen M. Walt, *The Origins of Alliances* (Cornell University Press, Ithaca, New York, 1987).

⁴⁵ Charles L. Glaser, "Structural Realism in a More Complex World," *Review of International Studies* 29:3 (July 2003), 407.

⁴⁶ Peter J. Katzenstein, "Same War – Different Views: Germany, Japan, and Counterterrorism," *International Organizations* 57 (Fall 2003), 734. Regionalism is another important international issue that has been left insufficiently discussed by Realism. See Gil Merom, "Realist Hypotheses on Regional Peace," *The Journal of Strategic Studies* 26:1 (March 2003), 109-135.

sponsored terrorism,⁴⁷ since the starting point in such cases is hostility between the sponsoring states and the countries affected. Such cases are governed by policies of crisis management, coercion and deterrence, about which theory is well developed.⁴⁸ Instead, I focus on situations in which states have mutual interests in cooperation against the threat of terrorism, or where some states have an interest in international cooperation and act to engage disinterested states.

The nature of transnational terrorism blurs the line between the international and the domestic.⁴⁹ Consequently, Realism can be useful only if its rigid adherence to one specific level of analysis is relaxed.⁵⁰ Realism presupposes that states are rational actors seeking to maximize utilities and minimize costs. They hold various interests, but security trumps all others. Because states are self-regarding, they hold a primary responsibility to ensure their own security.⁵¹ As Charles Glaser explains, self-help does not altogether preclude cooperation.⁵² But interstate cooperation is not easy to reach. Neorealists emphasize anarchy and the security dilemma as the most significant impediments to international cooperation.⁵³ Anarchy creates a self-help system that

⁴⁷ A sponsoring state is a state that uses terrorist groups to advance its own political objectives. My definition excludes states such as Afghanistan under the Taliban, because to a large extent the Taliban were dependent on al Qaeda rather than directing al Qaeda's actions.

⁴⁸ For example, see Robert Jervis, *Perception and Misperception in International Politics* (Princeton, University Press, Princeton, New Jersey, 1976); Thomas C. Schelling, *Arms and Influence* (Yale University Press, New Haven, Connecticut, 1966); Alexander L. George (ed.), *Avoiding War: Problems of Crisis Management* (Westview Press, Boulder, Colorado, 1991); Alexander L. George and William E. Simons (eds.), *The Limits of Coercive Diplomacy* (Westview Press, Boulder, Colorado, 1994).

⁴⁹ Katzenstein, "Same War – Different Views," 734-735.

⁵⁰ I agree with Michael Spirtas that theoretical accuracy and practical applicability should get priority over maintaining the purity of artificial analytical constructions such as levels of analysis. See Michael Spirtas, "A House Divided: Tragedy and Evil in Realist Theory," in Frankel (ed.), *Realism: Restatement and Renewal*, 418.

⁵¹ Elman, "Horses for Courses," 19.

⁵² Robert Jervis, "Realism, Neoliberalism, and Cooperation," *International Security* 24:1 (Summer 1999), 42-63; Charles L. Glaser, "Realists as Optimists: Cooperation as Self-Help," *International Security* 19:3 (Winter 1994/95), 50-90. A decade before the heated debate between Offensive and Defensive Realism, Duncan Snidal argued that there is nothing in the Realist assumptions to preclude the possibility of interstate cooperation. See Duncan Snidal, "The Limits of Hegemonic Stability Theory," *International Organization* 39:4 (Autumn 1985), 593-595.

⁵³ John J. Mearsheimer, *The Tragedy of Great Power Politics* (W.W. Norton Company, New York and London, 2001).

leads states to prefer self-reliance over cooperation, and the security dilemma -- the natural outgrowth of anarchy -- forces states to constantly put each other in check, as any increase in one state's capabilities represents a potential threat to its neighbor that could materialize at any time. Thus, the security dilemma provides a recipe for a constant arms race between states. And yet these impediments to interstate cooperation play only a marginal role in counter-terrorism.

Counter-terrorism normally does not involve an arms build-up; instead, states invest in enhancing law enforcement and domestic intelligence capabilities that have very limited effects on their ability to wage a conventional interstate war. Moreover, even when counter-terrorism efforts include reform in a state's forces, the intentions behind the move and the main uses of such forces are transparent, leaving very little room for misperceptions. Only when a state arms itself disproportionately to the threat it faces, with capabilities suitable for interstate war rather than counter-terrorism, will it trigger a dangerous arms race. But such an occurrence could be easily detected. On the other hand, a measured arms race may not change the balance of power or lead to more interstate war, except to increase the overall capacity of the system to confront the anti-systemic threat.

The military needs of counter-terrorism usually concentrate on Special Forces, in particular the creation of rapid response forces, which are insufficient to tilt the balance of power between states in a conventional war. In fact, we should expect the opposite: resource strains force many states to trade off war-fighting capabilities for counter-terrorism capabilities, with states' military postures then becoming more defensive than offensive. Indeed, most states choose not to bolster their conventional armed forces, considering such an endeavor both futile and wasteful. The rare exceptions are strong powers that lack power projection capabilities and may seek them in order to strike terrorists in their safe havens. But the need to use force that

leaves only a low stamp dictates a special type of build-up that has little effect on the balance of power between states. Because anarchy and the security dilemma are largely irrelevant when states confront violent non-state actors, there are no systemic pressures to force a uniform response.

Realists who avoid the conceptual straitjacket of the interdependency of commitments as a source of states' reputations,⁵⁴ or the equally rigid systemic imperatives that obligate states to compete over positions in the international system,⁵⁵ do not see a uniform, forceful response to threats as the only available policy prescription. A flexible Realist approach allows states' policies to vary. States respond differently to threats of dissimilar objective or perceived magnitude. Security is understood as a continuum that only in its extreme requires zero vulnerability of the state and its citizens. Similarly, threats vary; a state's survival is at stake only in extreme cases. Therefore, variation in the level of security a state seeks and the level of threat it faces leads to variation in the strategies and means it employs.⁵⁶ Some states may find two hundred terrorism victims a year a tolerable cost, employing less aggressive policies than those that consider the same price unbearable. Hence, forceful reaction to transnational terrorism is only one option from a larger tool kit. Coercive measures short of the use of force, accommodation and appeasement are all possible. Similarly, the response could take the form of interstate cooperation or unilateral action. Everything else being equal, states cooperate when collaboration increases their overall security and do not when it reduces their security. The likelihood of cooperation increases as the affected states' interests rise and the benefits of cooperation outweigh the costs.

⁵⁴ Thomas C. Schelling, *The Strategy of Conflict* (Oxford University Press, London, New York, 1963).

⁵⁵ Joseph Grieco, "Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism," *International Organization* 42:3 (Summer 1988), 485-507.

⁵⁶ Arnold Wolfers, *Discord and Collaboration: Essay on International Politics* (The Johns Hopkins Press, Baltimore, Maryland, 1962), 151-156.

States prefer not to take steps against transnational terrorism if they are not targeted by the terrorist entity or if they believe that they can achieve their goals without confrontation. States not exposed to the terrorist threat will be reluctant to cooperate, fearing they will make themselves targets. States that believe that they are not targeted by terrorism directly but happen to be the territory from which terrorists have attacked another target may devise non-confrontational strategies, including appeasement, as long as they do not face severe external pressure or high reputational costs. Such states may cooperate against the terrorist entity if they receive side payments for cooperation. Yet, they will reconsider if collaboration reduces their own security by turning them into direct targets. In unusual situations, a state that is not directly threatened may cooperate to guarantee the survival of a nearby state and avoid regional instability, or to limit spillover effects that may undermine its own security.

On its face, objects of a terrorist threat are more likely to collaborate against transnational terrorism because such cooperation is expected to serve as a force multiplier and bring mutual benefits and higher payoffs to the cooperating sides than any unilateral steps. However, a state may choose not to cooperate if it believes it could safely deflect the threat, or pass the buck.

States that suffer from domestic instability (generally third world countries) are expected to emphasize both external and internal threats to the regime's survival when deciding with whom to ally. As Steven David argues, they may appease secondary adversaries in order to focus their resources against the primary adversaries.⁵⁷ The implications for terrorism could be that a state may align with a transnational terrorist group that is linked to the state's domestic opposition in order to reduce that domestic threat. It may choose a softer form of collaboration -- tolerating or ignoring that terror group's actions -- in order to avoid the wrath of other states affected by that group.

⁵⁷ David, "Explaining Third World Alignment," 235-236.

Alternatively, leaders may collaborate with other states if they fear that refusal would lead those states to support the leaders' domestic opposition and thereby risk the survival of the regime. Thus, the greater the need for states to cooperate against the terrorist entity and the smaller the ability to punish actors who fail to fully cooperate, the stronger the temptation for states with significant domestic opposition to defect.⁵⁸

Hegemony is conducive to cooperation on a larger scale. A hegemon is commonly defined as a single actor who enjoys a preponderance of material power so overwhelming that no single rival can challenge it. Using its power, the hegemon establishes an order that serves its preferences and enforces this order on the international system.⁵⁹ When the hegemon's interests are in line with those of other actors, the order meets less resistance than when the enforced order undercuts the interests of other states in the international system. But since the hegemon is motivated by self-interest, it will advance its goals even when they do not serve the interests of lesser states and may provoke some resistance.⁶⁰ Whether the hegemon pursues goals that agree or conflict with those of others is commonly referred to as the difference between "benevolent" and "coercive" hegemonies.⁶¹

The idea of benevolent hegemony has a unique aspect: unlike the conflictual image of international relations, which leads us to expect power to be abusive, it suggests that concentration of power can do good. In fact, according to this formulation, weaker countries exploit the hegemon by using the nonexclusive goods it creates without contributing their fair share.⁶²

⁵⁸ This argument is compatible with Kenneth Oye's determination that the prospects for cooperation decline as *N* increases. Kenneth A. Oye, "Explaining Cooperation under Anarchy: Hypotheses and Strategies," *World Politics* 38 (October 1985), 18-20.

⁵⁹ Robert Gilpin, *War and Change in International Politics* (Cambridge University Press, Cambridge, 1981), 13.

⁶⁰ Michael Ignatieff, "The Challenges of American Imperial Power," *Naval War College Review* 56:2 (Spring 2003), 53. Ignatieff talks about empire and not hegemony; but his definition, the ability to structure global order, is in line with common Realist conceptions of hegemony.

⁶¹ Snidal, "The Limits of Hegemonic Stability Theory," 580-590.

⁶² *Ibid.*, 581-582.

The “benevolent” versus “coercive” dichotomy is difficult to sort out. Various scholars emphasize dissimilar intentions behind the hegemon’s actions even when the outcomes of these actions are positive for all actors in the system (although different actors may enjoy these outcomes to different degrees). Some scholars argue that in providing public good the hegemon demonstrates leadership, while for others it acts only out of egotistic considerations.⁶³ Furthermore, the characteristics of the hegemon are difficult to assert when the hegemon and other states disagree about what should be considered “good.” Therefore, a hegemon may view itself as benevolent when it provides a certain “good,” while other states see what was provided in a different light, consequently perceiving the hegemon as malevolent.⁶⁴ Nevertheless, I assume that providing protection to the international society is consensually accepted as “good” and the hegemon perceived as benevolent when promoting such a goal, even if in unusual and limited cases it may chose to employ coercive measures against a few uncooperative countries.

Most protagonists of hegemonic stability theory focus on the role of hegemony in creating an open economic order;⁶⁵ but the logic of the theory does not dictate that it be limited to the economic sphere. It can be extended to other fields, especially security. In fact, a hegemon’s interest in a stable, secure system is a natural derivative of hegemony in international political economy because a secure system is required in

⁶³ Compare Charles P. Kindleberger, *The World in Depression, 1929-1939* (University of California Press, Berkeley, 1972); Charles P. Kindleberger, “Hierarchy Versus Inertial Cooperation,” *International Organization* 40:4 (Autumn 1986), 841-847; Stephen D. Krasner, “State Power and the Structure of International Trade,” *World Politics* 28:3 (1976), 317-343; and Gilpin, *War and Change in International Politics*.

⁶⁴ One could argue that when the U.S. invaded Iraq it believed it is providing a public good, whereas other states had a different view which led them to interpret its actions as malevolent.

⁶⁵ See Krasner, “State Power and the Structure of International Trade; Kindleberger, *The World in Depression*.

order to allow the hegemon to preserve its position and enable the continuation of free trade.⁶⁶

Some scholars associate hegemony with peacefulness⁶⁷ and the pursuit of stability in the international system. Whether benevolent or coercive, peace and stability serve the hegemon well, allowing it to preserve its status and increase its revenues. Consequently, a hegemon is expected to act to suppress threats to that stability, including threats from violent NGOs. The hegemon may decide not to bother as long as the threats have little effect on its own position and interests. But it will get involved if it perceives a terrorist threat as endangering its own interests, either by direct attacks or indirectly, as when terror attacks threaten to undermine the economic and security order of which the hegemon is the main beneficiary.

In addition to contributing resources to counter transnational terrorism, the hegemon may solidify interstate cooperation against the threat by organizing willing states and assisting in coordinating their efforts. Willing states are usually those that suffer from terrorism themselves and cooperate because the campaign serves their interests. Joining the cooperative framework increases the likelihood of success while potentially reducing the cost, because the hegemon shoulders the largest share of the burden.

The hegemon may also persuade uncommitted states to join the effort. Using threats, incentives, or a combination of the two, the hegemon can convince states that are not directly threatened by the terrorist entity to cooperate. The hegemon's material

⁶⁶ Gilpin, *War and Change in International Politics*. For a longer list of the goods hegemony provides, see Patrick Karl O'Brien, "The Pax Britannica and American Hegemony: Precedent, Antecedente or Just Another History?" in Patrick Karl O'Brien and Armand Clesse (eds.), *Two Hegemonies: Britain 1849-1914 and the United States 1941-2001* (Ashgate, United Kingdom, 2002), 4.

⁶⁷ William Wohlforth argues that the clearer and larger the preponderance of power, the more peaceful the international order associated with it. William C. Wohlforth, "The Stability of a Unipolar World," *International Security* 24:1 (Summer 1999), 23. For Gilpin, the erosion of stability is the result of the decline of the hegemon and the rise of a rival. See Gilpin, *War and Change in International Politics*.

power lends credibility to its threats, and its wealth allows it to provide side payments in the form of financial, diplomatic or military aid.⁶⁸ Its ability to destabilize states or upset regional balances of power, for example by selling advanced weapon systems to cooperative states while denying them to uncooperative rivals, could serve as another incentive for states to join.

Lastly, the hegemon may compel reluctant states, in particular those indispensable to countering the threat, to change their policies. When the threat is to an intrinsic interest of the hegemon, the balance of interests between the hegemon and an essential ally will either tilt in the hegemon's direction or be equal, while the balance of power remains in the hegemon's favor. As a result, the hegemon's agenda will override the self-interest of any needed ally and force that state to comply fully with its demands.⁶⁹ Such collaboration is expected to last only as long as the pressure from the hegemon is high (the inability to eliminate terrorism altogether promises to keep the threat high on the hegemon's agenda for a substantial period of time) and the side payments keep flowing.

The hegemon may work through international organizations, which Realists perceive as a reflection of power relations in the international system,⁷⁰ when such

⁶⁸ Side payments may also be distributed to states that would cooperate even in the absence of these incentives.

⁶⁹ The balance of capabilities and balance of interests between actors are commonly used in the Realist literature on deterrence and compellence to predict the prospects of altering states' behavior. In these theories of influence, Realists predict the behavior of the object of the influence efforts, thus it also predicts the outcome of the effort. See Christopher Achen and Duncan Snidal, "Rational Deterrence Theory and Comparative Case Studies," *World Politics* 41:2 (January 1989), 143-169; Robert Jervis, "Deterrence Theory Revisited," *World Politics* 31 (1979), 314-322; Stephen Maxwell, "Rationality in Deterrence," *Adelphi Papers* 50 (August 1968), 1-19; Elli Lieberman, "What Makes Deterrence Work? Lessons from the Egyptian-Israeli Enduring Rivalry," *Security Studies* 4:4 (Summer 1995), 851-910. Underscoring the logic of motivation, Stephen Walt explains that the U.S. may fail to get what it wants when the actors with whom it interacts have more at stake over that particular issue. See Stephen M. Walt, "American Primacy: Its Prospects and Pitfalls," *Naval War College Review* 55:2 (Spring 2002), 18-19.

⁷⁰ John J. Mearsheimer, "The False Promise of International Institutions," *International Security* 19:3 (Winter 1994/95), 5-49; Stephen M. Walt, "Keeping the World 'Off Balance': Self-Restraint and U.S. Foreign Policy," in G. John Ikenberry (ed.), *America Unrivaled: The Future of the Balance of Power* (Cornell University Press, Ithaca, New York, 2002), 129-132.

arrangements make coordination easier and reduce transaction costs. As opposed to societal explanations, the use of international organizations here stems from purely utilitarian considerations, not because the hegemon appeals to international legitimacy. When international organizations are the most efficient form, the hegemon will use them. When they are not the optimal instruments, it will turn to other means. Because the hegemon is assumed to be able to force its way on important issues, turning to “coalitions of the willing” rather than established organizations such as the UN is attributed not to a failure to mobilize broad support, but to a determination that a coalition is more effective and less costly.

Hegemony in the International Society

Hegemonic stability theory has been criticized on numerous grounds. It relies on only two cases: British hegemony before World War I and American hegemony afterwards. Even these two cases do not match well empirically with the theory’s prescriptions. Questions about the measurability of hegemony and the relations between its economic and military foundations have also been raised. Some doubt the necessity and the ability of hegemony to provide certain economic goods, highlighting alternative means to achieve these goods. Lack of details about the process whereby the hegemon achieves its goals and how changes in capabilities translate into different outcomes further undermine the appeal of the theory.⁷¹

A criticism more directly linked to this study concerns the claim that the power of the strongest hegemon is limited by the extent to which secondary states can fruitfully resist its agenda. Even when the hegemon has the capacity, the costs of coercion may outweigh the benefits.⁷² Thus, despite being at the peak of its power

⁷¹ Timothy J. McKeown, “Hegemonic stability theory and 19th Century Tariff Levels in Europe,” *International Organization* 37:1 (Winter 1983), 73-91; Isabelle Grunberg, “Exploring the ‘Myth’ of Hegemonic Stability,” *International Organization* 44:4 (Autumn 1990), 431-477.

⁷² Robert O. Keohane, *After Hegemony: Cooperation and discord in the World Political Economy* (Princeton University Press, Princeton, New Jersey, 1984), 45-46.

following the Second World War and during the 1990s, the U.S. has not always been able to translate its hegemonic position into policy assets. Even within the core of its sphere of influence, it has not always managed to shape order according to its preferences, and its closest allies have occasionally pursued policies opposed to U.S. interests.⁷³ Today, Realists such as Steven Walt, who regularly emphasize the current unique position of the U.S., nevertheless concede that it is vulnerable, incapable of reaching full security, and has only limited ability to control and determine outcomes.⁷⁴

Some scholars argue that the hegemon often declines to impose its will, instead demonstrating flexibility and willingness to compromise.⁷⁵ In fact, the U.S.-centered order has been based on reciprocity and legitimacy much more than a Realist conception based on power hierarchy would predict.⁷⁶ Often, the hegemon prevails not because of its reputation for power (the Realist conception of legitimacy as presented by Robert Gilpin), but because other actors have access to the hegemon's decision making process, enabling them to express their concerns and promote their interests.⁷⁷ Compliance may also result from attraction to the hegemon's "soft power": its ideas, values and culture.⁷⁸

⁷³ G. John Ikenberry, "Rethinking the Origins of American Hegemony," *Political Science Quarterly* 104 (Fall 1989), 375-400; John A. Hall, *International Orders* (Polity Press, Cambridge, MA, 1996), 169.

⁷⁴ Ignatieff, "The Challenges of American Imperial Power," 53-63; Walt, "American Primacy," 9-28.

⁷⁵ John Gerard Ruggie, "International Regimes, Transactions, and Change: Embedded Liberalism in the Postwar Economic Order," *International Organization* 36:2 (Spring 1982), 379-415; Ikenberry, "Rethinking the Origins of American Hegemony." Walt provides a Realist notion of "compromise." He suggests that in order to prevent balancing against the U.S. it should, among other things, offer concessions to others to minimize their concerns that the U.S. is indifferent to their interests. But the concessions seem to be on issues that are not of priority. They should be made when possible and as long as there is still net benefit to the U.S. See Walt, "Keeping the World 'Off Balance,'" 144-145.

⁷⁶ Daniel Deudney and G. John Ikenberry, "Realism, Structural Liberalism and the Western Order," in Ethan B. Kapstein and Michael Mastanduno, *Unipolar Politics: Realism and State Strategies After the Cold War* (Columbia University Press, New York, 1999), 109.

⁷⁷ *Ibid.*, 109-110.

⁷⁸ Compare Gilpin, *War and Change in International Politics*; Joseph S. Nye, Jr., *Soft Power: The Means to Success in World Politics* (Public Affairs Press, New York, 2004); and Joseph S. Nye, Jr., *The*

Thus, a preponderance of material power, critics argue, is not a sufficient condition for the establishment of a hegemonic order. In order to overcome the possible objections of secondary states, the hegemon must see that its interests converge with theirs. Ideological hegemony, usually through the persuasion and socialization (or for Gramscians, manipulation and cooptation) of elites, may also be needed to shape secondary states' perceptions that their interests are compatible with those of the hegemon. In other words, the hegemon succeeds in creating order because through its self-interested behavior it serves the real or perceived interests of the overall system. Shared interests reduce the hegemon's costs of creating a good, sometimes through direct contributions from secondary states, but often because the cost the hegemon would have incurred otherwise, in an attempt to overcome the resistance of secondary states, is diminished or absent. In fact, in the absence of common interests, the hegemon may fail to achieve its goals.

While the Realist depiction of hegemony captures significant elements of state behavior under a hegemonial power structure, it emphasizes only the material and oversimplifies the relationship among states in the system. The breadth of the hegemon's interests, a natural result of its tremendous power and cross-regional engagement, compels it to seek multiple goals simultaneously. But the achievement of multiple goals while interacting with numerous actors cannot be achieved through material power alone. Indeed, disaggregation of the tasks of the hegemon and a focus on the accomplishment of specific policy goals rather than on the general concept of creating order reveals the inadequacy of explanations that emphasize only material power.

Paradox of American Power: Why the World's Only Superpower Can't Go It Alone (Oxford University Press, New York, 2002).

Therefore, a more robust formulation of hegemony starts with the determination that a hegemon cannot achieve everything it wants, especially if it relies on material power alone. But a conception of hegemony that incorporates social factors, such as legitimacy, to complement the influence of material power explains why the hegemon may achieve a significant portion of its objectives. It can also account for the limited repercussions to the hegemon's status and ability to pursue future objectives when it fails to meet its goals.

Moreover, to gain a better purchase on the working and limitations of hegemony, we should see the hegemon as embedded in an international society. In this way, we can assess the hegemon's prospects of obtaining other states' cooperation as a function of the compatibility between its goals and the fundamental principles of the international society: everything else being equal, when the hegemon's goals are in line with the common goals and the complexes of rules of the international society, it is more likely to produce a collective effort. This result cannot be understood without an encompassing conception of state interests that accompanies the idea of an international society: some states' interests arise from their membership in the international society and a "We" feeling that binds states together and consequently encourages cooperation and reduces resistance to the hegemon. As this study will show, the bond among the international society's members is especially useful for explaining the form of a hegemony-led campaign to uproot transnational terrorist entities that threaten the international system and the type of states' measures it includes.

Drawing upon the works of Ian Hurd and Thomas Franck, legitimacy is defined in this work as the normative belief by an actor that a rule or institution ought

to be obeyed.⁷⁹ Legitimacy as the cause for behavior is distinguishable -- theoretically at least, if not always in observed behavior -- from coerced compliance or calculated self-interest. It is also distinct from the Gramscian conception of consent resulting from ideological hegemony.⁸⁰

Hegemonic order that is based on legitimacy is more stable, enduring, and resilient than Realism predicts.⁸¹ Legitimacy saves the hegemon resources that it would otherwise need to elicit cooperation through coercion or material inducements.⁸² The broader the range of goals the hegemon pursues, the bigger the constraints on its power are and the more valuable legitimacy is. Legitimacy also reduces collective action problems.⁸³ Cooperation that results from self-interest or coercion takes place under specific circumstances and dissipates when those circumstances change; if a state can escape punishment or if it believes it can free-ride -- an especially tempting option in the presence of a hegemon with plenty of resources and intrinsic interest in the achievement of the goal -- it will opt out. But when an action is perceived as legitimate, the incentive to free-ride declines. Legitimacy also helps leaders to justify compliance with unpopular policies in the face of a hostile domestic audience.⁸⁴

⁷⁹ Ian Hurd, "Legitimacy and Authority in International Politics," *International Organization* 53:2 (Spring 1999), 379-408; Thomas M. Franck, *The Power of Legitimacy Among Nations* (Oxford University Press, Oxford, New York, 1990).

⁸⁰ Note that while legitimacy facilitates compliance, its absence does not necessarily imply resistance. The lack of legitimacy would render compliance the result of coercion or self-interest. On the other hand, illegitimacy -- the normative belief by an actor that a rule or an institution ought to be objected to -- is expected to produce active resistance. The scope and magnitude of such resistance vary corresponding to power considerations. Indeed, a powerful state that violates the fundamental principles of the international society could generate opposition, at times even violent, but due to power differentials opposition to a superpower is more likely to take diplomatic characteristics than to lead to armed resistance.

⁸¹ Deydney and Ikenberry, "Realism, Structural Liberalism and the Western Order," 111.

⁸² Robert Keohane, "The Globalization of Informal Violence, Theories of World Politics and the Liberalism of Fear," *Dialog IO* (2002), 37.

⁸³ Hurd, "Legitimacy and authority in International Politics," 388.

⁸⁴ Keohane, "The Globalization of Informal Violence," 37.

What are the sources of legitimacy? Material power alone is not sufficient. Legitimacy is associated with external recognition of the hegemon's right to primacy, not just the fact of this primacy. States recognize the hegemon's power, but they develop a set of expectations that go beyond the notion that the hegemon will do what it wants because it can. Instead, the primacy of the hegemon is manifested in the belief that the hegemon has special rights that other members of the international society do not have, but also a set of duties to the members of the international society.⁸⁵ These duties include the provision of an overarching conception of ordered international politics that serves the collective international society,⁸⁶ the promotion of goals shared by all states, a commitment to the good of the society, and the exhibition of some self-restraint and respect for the concerns and interests of the remaining society members. As long as the hegemon realizes its commitment to the collective, its hegemonial position will be deemed legitimate.

The influence the hegemon exerts on other states goes beyond shaping behavior to affecting the way states perceive their interests. Its leadership is manifested in fostering "cooperation and commonality of social purpose among states."⁸⁷ It leads states to internalize this normative order and make the preservation and promotion of this order an integral part of their identity. States define their interests on the foundation of the order the hegemon lays down.

Yet, the recognition of the hegemon's legitimate position does not guarantee immediate and unconditional compliance with all of the policies it articulates. First,

⁸⁵ This claim is in line with Bruce Cronin's idea of hegemony, Hedley Bull's idea of great powers, and Barry Buzan's of both hegemony and great powers. See Barry Buzan, *The United States and the Great Powers: World Politics in the Twenty First Century* (Polity Press Ltd., Cambridge, United Kingdom, 2004), 60-61; Cronin, "The Paradox of Hegemony"; Bull, *The Anarchical Society* 200-205.

⁸⁶ G. John Ikenberry and Charles A. Kupchan, "Socialization and Hegemonic Power," *International Organization* 44:3 (Summer 1990), 283-315.

⁸⁷ G. John Ikenberry, "The Future of International Leadership," *Political Science Quarterly* 111:3 (Autumn 1996), 386.

accepting hegemony as an institution of the international society -- that is, as an institution that promotes common goals -- does not imply continuous harmonious relations between the hegemon and the rest of the society of states. The hegemon's work as an institution in the service of the collective may be most identifiable when the international society is experiencing crises. At other times, the hegemon may pursue -- sometimes aggressively -- its own distinct self-interests with little regard for the wishes of other actors.⁸⁸ In fact, as Bull made clear, the international society need not be the sole or even the dominant element in international events; division is always found, even in the most collaborative efforts.⁸⁹ The coexistence of collaboration and discord is quite natural. Just as the international agenda comprises many issues, with states agreeing on some and diverging on others, cooperation should not be seen as a phenomenon of all or nothing. States may cooperate on some issues while bitterly arguing about others. Even within one issue, some policies attract international cooperation and others do not. Similarly, the hegemon may gain cooperation on some subjects but have to settle for unilateral action on others. Therefore, if we observe collaboration in one significant issue area and discord on another equally important subject, this is evidence that legitimacy and not power is at work.

Second, the legitimacy of the hegemon's position has limited value when it attempts to advance policies that are not perceived as a natural derivative of the existing order. While the recognition of the special rights that come with its position transfers to its actions and gives the hegemon some leeway, it does not legitimize every policy it pursues. The hegemon cannot exercise its power uninhibited; it is constrained by the need to routinely legitimate its actions, particularly when the achievement of its goals requires collaborative effort. In contrast to Realist

⁸⁸ Cronin calls the difference between the hegemon's role as a leader and as a great power a "role strain." See Cronin, "The Paradox of Hegemony," 111-115.

⁸⁹ Bull, *The Anarchical Society*, 51.

expectations, cooperation relies quite heavily on legitimacy. The more legitimate the goals promoted are perceived to be -- often a function of their affinity with the principles of the "social pact" that binds members of the international society -- and the more acceptable the means of accomplishing these goals, the higher the level of international cooperation.

To mobilize the international society, the hegemon acts in the context of the principal rules of the system and its legitimate, and consequently legitimating, institutions; the status of hegemony by itself is insufficient. Policies that are considered a natural derivative of that order will gain legitimacy and will be conducive to international cooperation. Policies that aim to protect the system by tightening it and reinforcing the institution of the State, while preserving the principles of sovereignty and non-intervention, reflect just such first order goals. In such cases, states see the defense of the system as the interest of each and are willing to take potentially costly steps, including restructuring state institutions. Such steps should not be taken lightly: unless credibly threatened, states emphasize the adverse domestic repercussions of their policies and thus prefer to avoid internal measures such as restructuring. Compliance with such measures, then, is an indication that the rules from which they are derived, or the institution that undertook the decisions, are considered legitimate.

However, when there is disagreement about the link between some policies and the overarching goal of protecting the system (as in the Iraqi case), or about the utility of these policies, cooperation will be limited. Moreover, when the policies that the hegemon promotes clash with the accepted underlying principles of the international society, the hegemon's overreach or overreaction could go beyond hindering cooperation to undermining the international society altogether. Indeed, the hegemon holds the keys not only to protecting the international society but also to

undermining it by promoting goals, or using means, that are in opposition to the basic tenets of the international society.

The motives behind the hegemon's actions are less significant than how they are perceived by the rest of the international society. It may pursue policies it deems necessary for the general good even if they necessitate deviation from the accepted rules of "rightful conduct"; but if these policies are perceived as breaching the international consensus and undermining order, they could lead to a confrontation within the international society.⁹⁰ The hegemon could use a variety of channels through which to persuade the rest of the international society of the need for a change to its foundations and to renegotiate the boundaries of legitimate hegemonial behavior. Such changes have historical precedents: the Westphalian system is dynamic and has accommodated significant changes (for example, the shift from dynastic to popular sovereignty).⁹¹ Often, attentiveness to other states' concerns would provide the hegemon necessary feedback and prevent a threatening discord. But a careless hegemon may fail to reduce the anxieties of other actors. Its subsequent actions thus could unintentionally wreak havoc on the international society. Similarly, failure of the rest of the international society to see the need for significant change could render the hegemon's actions futile and even counterproductive; the hegemon may end up saving the international society from one threat to the existing order, only to inadvertently destroy order through its own benignly-intended deeds.

The institutional setting for a collaborative effort is of significance as well. When the institutional setting reflects the fundamental principles of order in the system, resulting policies are recognized as authoritative and consequent actions as legitimate. Measures taken within the UN framework enjoy higher levels of legitimacy

⁹⁰ Of course, the hegemon could decide to destroy the existing order for egoistic reasons that reflect its interest in reinforcing its domination, but this is a clear case and of less interest to our discussion.

⁹¹ Ian Clark, *Legitimacy in International Society* (Oxford University Press, Oxford, 2005).

than policies pursued outside it. Thus, the frameworks to which the hegemon turns -- global international organizations, “coalitions of the willing” or bilateral agreements -- reflect variation in its success in persuading the international society that the cause and means are worthy (with the exception of limited bilateral or multilateral agreements sanctioned by global or regional frameworks). Often, the use of “coalitions of the willing” rather than global cooperative frameworks does not indicate a utilitarian consideration on the part of the hegemon but a failure to persuade secondary states that the agenda and the specific strategies it advances are appropriate and serve the larger good.⁹²

To summarize the argument made so far: When the international society is attacked by an anti-systemic force, its self-defense mechanism should become most apparent. The desire to maintain the system mitigates states’ inclination toward egotistic self-serving considerations and leads them to collaborate in order to repel the threat. After all, systemic threats by non-state actors affect the long-term security of every unit -- that is, every state -- in the system. Furthermore, because the threat does not emerge from one of the participating states, obstacles to interstate cooperation emphasized by the Realist paradigm -- such as anarchy and the security dilemma -- become less salient. As states see less possibility for change in their position in the international system, a higher level of cooperation can take place. But collaboration is not automatic; the leading powers serve as the driving operational force behind the collective response. In the post-Cold War era, American hegemony takes the lead in

⁹² This however is not always the case: the U.S. formed a “coalition of the willing” to invade Iraq because it failed to get the Security Council to sanction the invasion. On the other hand, the Strategic Defense Initiative (SDI), which focuses on interdiction operations on the high seas, is structured as a coalition and is not sanctioned by the UN -- not due to significant resistance to the initiative, but mainly in an attempt to avoid complex legal issues that concern general principles for state rights on the high seas. To determine if a certain “coalition of the willing” represents one of these unusual cases, one should trace the process that led to coalition’s establishment, take note of who participated in it, and identify how the arrangement is being perceived by the main actors in the international system. For an elaborate discussion of the SDI, see chapter seven.

promoting international society members' inclination for systemic self-preservation. The U.S. sets the agenda and the tone, and it mobilizes other states to act together.

Table 1 lays out the main differences between the English School and Realist explanations of international cooperation against a systemic threat posed by a transnational terrorist entity.

Table 1 - comparison of the English School and the Realist arguments

	Realism	English School
What drives states' interests?	Self-interest	Self-interest and collective interest
When do states cooperate?	Convergence of narrow interests, or a result of coercion and incentives. Hegemony is conducive to cooperation on a large scale.	Cooperation, led by the institutions of the international society, arises from a sense of community. The distinction between short- and long-term interests collapse.
Conception of hegemony	Material capabilities	Material capabilities and leadership. Hegemony is embedded in a society of states.
Conception of international organizations	Reflection of power relations and states' interests	Manifestation of states' comity, means for action in the service of the society of states
Why does the hegemon use international organizations?	Utility, a function of the hegemon's will and interests	A source of legitimacy, an appropriate instrument in the face of collective threat.
Motivation behind states' responses to transnational terrorism	Egotistic	Egotistic and protection of the system.
Why would non-targeted states cooperate?	Coercion, side payments.	Coercion, side payments; but also solidarity and the legitimacy of the goal.

Defining Threats

If the international society exhibits self-preservationist traits, we would expect to observe a systemic, collective response to an entity that endangers the survival of the system. Therefore, the theory proceeds in two stages: first, we must define what

constitutes a systemic threat and what does not; second, we have to define a systemic society-based response and contrast it with narrow self-regarding behavior.

In order to avoid tautology, the criteria for a systemic threat must be determined separately from the way in which states perceive and respond to threats. The English School theory I offer relies on “objective criteria” for systemic threats; but, in reality, threats are intersubjective and the result of an interpretative process. Moreover, while the theory focuses on the features of the threatening non-state entity alone, the threat is constituted, at least partly, in reference to the institution of the state and states’ actions; it continuously evolves through interaction between states and the non-state actor. Therefore, before discussing the difference between systemic and non-systemic threats, a few words about the nature of threats are in order.

Threats are not self-evident or given, but are socially constructed in a process that involves interpreting pieces of data and assigning them specific meaning as threats. For the U.S., nuclear weapons in the hands of Britain are not the same as nuclear weapons in the hands of Iran; the first is considered in line with U.S. national interest, the latter as a threat. That some information is immediately perceived as representing a threat does not reflect naturally self-evident and indisputable facts but usually the interpretation of incoming information according to an already established scheme.

Threat production is both the outcome of the process of identity construction and a response to it. The politics of identity involve the creation and highlighting of differences: Self is constructed in relation to Other, and that otherness is a potential source of insecurity.⁹³ Yet not all Others are perceived as threats, and threats can vary

⁹³ Jutta Weldes, Mark Laffey, Hugh Gusterson and Raymond Duval, “Introduction: Constructing Insecurity,” in Jutta Weldes, Mark Laffey, Hugh Gusterson and Raymond Duval (eds.), *Cultures of Insecurity: States, Communities, and the Production of Danger* (University of Minnesota Press, Minneapolis, London, 1999), 9-11.

significantly in magnitude. Some actions, in particular unprovoked attacks, clearly signal the presence of a threat. But often, the identification of an emerging threat is much more complicated. It results from differences in defining characteristics and values among actors (which at the same time feed back to reproduce and reinforce these differences and with them different Self identities) and in the way the actors relate to each other.

These differences need not only exist; they must also be salient, usually a result of contact between the actors. For example, two different entities may not see each other as threatening if geographical distance prevents their considerable differences from coming to light and becoming “otherness” (the prospects of cartoon wars emanating from a publication in a Danish newspaper were virtually non-existent three decades ago, due to the lower level of interaction capacity in the international system). The process does not end with the initial construction of a threat: once a threat is constructed, the dynamics between the actors may reproduce and magnify its perception.

In the process of interpreting the nature of the threat and the threatening entity, certain characteristics of the actors may be highlighted and then serve as precursors or schemas for a more encompassing understanding of the actors’ environment. With these schemas, actors could try to classify additional actors as enemies or allies. For example, threat construction did not end when the U.S. identified al Qaeda as a threat. Analysis of its defining features then had to take place. Viewing al Qaeda as a radical Islamic movement that uses unauthorized violence resulted in the expansion of the targets of states’ actions to the whole jihadi movement; but in theory, different interpretations of al Qaeda could have led to the portrayal of all Islamic movements, or even all Muslims or Islam, as a threat. Naturally, such interpretations, regardless of their merits, would have led to a complete redrawing of U.S. potential enemies and

allies. As a result of such an interpretive process, the number of actors included in the conflict could have increased and the conflict escalated. Other adverse affects are also possible: misguided interpretation may lead states to lose focus on the real threat, sabotaging their campaign against it (for example, bracketing Iraq with the jihadi threat resulted in an ill-timed invasion that undermined the efforts against the jihadis while increasing their appeal to many Muslims).

Though I emphasize the social construction of threats, one should note that threats are not just the artificial creation of states; terrorist entities clearly signal their “threat” quality in their acts, making the threat -- if not its scope -- genuine and evident. 9/11 was no doubt such a clear signal of a threat to the U.S. The discussion above does not do justice to the subject; but because the interpretive process of threat construction does not stand in the center of this dissertation, the full exploration of this question will await another opportunity. Let us now return to the scholarly criteria for identifying threats.

An entity qualifies as a systemic threat when it rejects constitutional normative principles of the existing system, as well as the institutions and rules that derive from and promote these principles. A systemic threatening entity advances an alternative organizing principle and has the potential to overcome the old order. An entity that meets these criteria can be considered a systemic threat to the current international society.

In the current system, the state is the main political unit in world politics; to reject it, or the principle of state sovereignty, is to reject the society. International law’s role in identifying the normative principles of the international society, stating the basic rules of coexistence between the system’s units and bringing about compliance to the principles of the society of states, makes an attack on the legitimacy of the institution of international law (as opposed to rejection of its content, or the way

it is being applied) an attack on the international society as well. Similarly, a rejection of the legitimacy of the UN as the main international institution to give voice to all people through their state representatives is a challenge to the system, the main tenets of which the UN embodies.

A threat to the international society is also evident when an entity displays enmity toward practical derivatives of the fundamental principles and institutions of the international society, such as rejection of states' rights to devise and implement an independent foreign policy; rejection of the designation of states as the only legitimate users of coercive means; negation of restrictions on the application of force, in particular the international norm against the use of weapons of mass destruction and the norm of sparing the lives of non-combatants; rejection of the UN as the main institution providing external recognition to new members in the international community; and rejection of the legitimacy that UN resolutions give to action (and non-action) in the international arena.

In addition, the entity's ideology may also conflict with the underlying logic of the current international order and present an alternative order. The current system is based on a logic of states. It accepts diversity of legitimating principles of state authority (manifested in different types of regimes) and goals between units and in its basic form does not prioritize universal goals.⁹⁴ Thus, it values the political fragmentation of the global terrain as the most effective institutional arrangement to attain particularistic goals while maintaining general order.

In the history of the state system, communism represented such an ideological challenge, but it was contained by the threat of force and systemic pressures that drove the socialization of communist states to the system.⁹⁵ Anarchist movements can also

⁹⁴ Jackson, *The Global Covenant*; Cronin, *Institutions for the Common Good*, 42-50.

⁹⁵ See Armstrong, *Revolution and World Order*.

constitute such a threat, because they are inherently antithetical to the notion of order on which the system is grounded. Order that is based on religion rather than on territoriality also has the potential to constitute a systemic threat, because religion inherently offers a competing logic to the sovereignty-based state system.⁹⁶

A religious challenge unfolds in several ways. A religious source of authority is divine, therefore more fundamental than the state's authority. The distinct sources of authority may constitute a problem when the imperatives of these two logics clash.⁹⁷ Because states and religions share the same constituency, difference in imperatives may lead to a conflict of loyalty: through its coercive power the state can demand the obedience of its citizens, but religious people may feel obligated to defy a state law that contradicts a "higher" religious command. Religion also challenges the territorial dimension of the state, as it ignores arbitrary national borders to unite people around a set of rules applied on a non-territorial basis. The more political the religion, the more it challenges the organizing principles of the international society.

Yet, religion does not have to clash with the state-based system. Sometimes when a state defines itself as a religious state, state and religious logic converge. This takes place to different degrees: some states equate religious law with state law and confer the highest authority on clerics (for example, Iran and the Taliban's Afghanistan). Others such as Israel, Egypt and Jordan claim religious identification but keep the connection between state and religion limited: authority and control over citizens is in non-religious hands, the state does not adopt the whole religious code, and the religion and its clerics do not enjoy superior status. In many cases, clerics are

⁹⁶ Susanne Hoeber Rudolph, "Introduction," in Susanne Hoeber Rudolph and James Piscatori (eds.), *Transnational Religion and Fading States* (Westview Press, Boulder, Colorado, 1997), 12.

⁹⁷ Paul J. Griffiths, "Religious Allegiance and Political Sovereignty: An Irreconcilable Tension?" in John D. Carlson and Erik C. Owens (eds.), *The Sacred and the Sovereign: Religion and International Politics* (Georgetown University Press, Washington DC, 2003), 247-255.

subordinate to state authority and the government nominates or approves the holders of the main clerical positions.

More often than not, state and religion find ways to accommodate each other, avoiding any confrontation that could undermine the international society. One way to reconcile the two logics is to locate sovereignty with a God who allows people freedom of choice. In this view, divine sovereignty is not part of this world; thus the two logics are located in different spheres and do not conflict.

This, however, is not the perspective of violent transnational religious groups (as opposed to nationally-based religious terror groups). Violent fundamentalist groups believe that God's kingdom is part of this world. They see the placing of sovereignty in any authority other than God as a usurpation of "God's throne."⁹⁸ These groups do not confine their attack to a specific territory; their battle is designed to challenge the foundations of the international society in order to replace it with a religious world order. Because the characteristics of various violent religious groups are not self-evident, a thorough examination of their ideological programs and their willingness to invest effort in pursuing that broader goal is crucial if one is to determine the nature of the threat they represent. For example, state-based fundamentalist groups might limit a promised fight to impose their religion over a broader part of the world to a future, second stage. Other groups may call for the transformation of the whole system for purely strategic reasons without serious intentions of following through. Declaring a global agenda may help a group's recruiting or assist the group in extracting resources from donors and other terror groups. A group may initially intend to impose its broad agenda, but in the face of

⁹⁸ William I. Zartman, "Islam, the State and Democracy," in Charles E. Butterworth and William I. Zartman (eds.), *Between the State and Islam* (Cambridge University Press, Cambridge, 2001), 234.

adversity may decide later to abandon some of its original goals (for example, the Islamic regime in Iran).

A crucial test of the nature of the threat a violent NGO represents to the international society is whether it possesses, or has the potential to obtain, the means of producing the breakdown of order through destruction on a large scale, the collapse of the global economy, or denial of states' abilities to provide general security, with a consequent erosion of state-society relations. One does not need to produce these effects to be considered as a systemic threat; the potential of bringing about such a result is sufficient to meet the criterion.

WMD may be the most salient threat. States have acknowledged that the destructiveness of WMD represents a grave risk to the existence of the international system that necessitates restricting their availability and prohibiting their use. To reinforce and cement this understanding, the international society has ratified numerous international treaties, embedded in a general norm against the use of WMD.⁹⁹ Even when acquisition of WMD was allowed, as in the case of the five nuclear states in the Non-Proliferation Treaty (NPT), the words and spirit of the treaty signaled this outcome as suboptimal and needing remedy in the future. The actors who do hold WMD -- including those who acquired them without international legitimacy - - are expected to ensure that these weapons not be used.

To be considered responsible, an actor must be rational, or at least sensitive to costs. Rational actors can calculate costs and benefits and will therefore avoid the use of WMD. For these calculations to work, the actors should be states, because states can be held accountable to the international society, which has established frameworks and institutions that facilitate cooperation, signal intentions, and reduce risks. These

⁹⁹ On the nuclear and chemical weapons taboo, see Richard Price and Nina Tannenwald, "Norms and Deterrence: the Nuclear and Chemical Taboos," in Peter Katzenstein (ed.), *The Culture of National Security* (Columbia University Press, New York, 1996), 114-152.

considerations may also apply to non-state actors who aspire to statehood, with strong incentives to behave responsibly and to comply with the norms in order to preserve international support and gain external recognition for their claims and later for their regime. Such actors also have constituencies that can be threatened with retaliation and whose extermination is not in the best interest of the non-state actors who claim to represent them.

Some non-state actors, however, are not so sensitive to costs; the logic of deterrence cannot be applied to them. Groups who do not identify with a specific constituency, or whose constituencies are tied to and represented by states capable of providing protection (for example, even though bin Laden has a large Saudi constituency it is hard to believe that the U.S. would threaten to strike the Saudi population in response to an al Qaeda attack), may feel unconstrained in the use of WMD. Similarly, the use of WMD may be an option for groups who seek to punish and destroy, or actors who wish to provoke an overreaction from state actors, believing it would advance their cause. According to Scott Sagan, jihadi groups believe that mass killing may be both morally justified and effective in pursuing their political objectives and, therefore, would not be deterred.¹⁰⁰

WMD might inflict destruction at a level that would seriously reduce the international society's ability to function and create an unprecedented level of terror. In addition to the enormous loss of life and the devastating psychological impact, such an attack would also have tremendous economic cost. The 9/11 attack cost the global economy hundreds of billions of dollars and affected every state on the globe. The use of nuclear and biological weapons would deliver an even stronger blow to the global economy, which might take years to recover -- or might not recover at all. Even the

¹⁰⁰ Scott D. Sagan, and Kenneth N. Waltz, *The Spread of Nuclear Weapons: A Debate Renewed* (W.W. Norton & Company, NY, London, 2003), 160.

use of a radiological bomb, which would cause fewer fatalities, would have immense psychological impact and enormous financial costs. Media coverage would multiply the psychological effect, spreading the terror across national boundaries.

The repetition of such attacks would demonstrate states' inability to provide security and thus undermine the public's trust in the institution of the state. Damage to critical infrastructure in an electricity-saturated society could prevent states from providing services. If states cannot meet their obligations to the people, and if the people lose confidence in the institution of the state, the whole system is threatened. One instance of WMD use, particularly if limited to chemical or radiological weapons, would probably not be sufficient to bring the international society down; but it could cripple it seriously. It could also bring states and terrorized irresolute publics into confrontation, further diminishing the system's ability to protect itself. Repetition of WMD attacks would increase the likelihood of a collapse of the state system.

While I have focused on WMD, lesser types of terrorism may also erode the fabric of the international society. Recall the terror when serial snipers targeted citizens in the Washington, D.C. area in the fall of 2002. The level of terror from repeated attacks on key targets such as public transportation (especially suicide attacks in subway stations) or critical infrastructure facilities (for example, power grids or nuclear reactors) would be much higher and could lead to the erosion of order and trust in the government. The pictures from New Orleans in the aftermath of 2005's Hurricane Katrina provide a useful demonstration of states' lack of preparedness to cope with large scale catastrophes and the concomitant lawlessness that may evolve under such circumstances. If such disorder can be produced within the U.S., usually characterized by order, imagine the potential for disorder in weaker states.

The overthrow of the state system could also take place gradually as the systemic threat gains strength cumulatively through gradual expansion. Terrorist

entities may succeed in controlling separate territories or creating enclaves of disorder from which they could operate and gradually expand their reach. Clearly successful takeover of a number of Muslim states by the jihadis would increase their ability to overthrow the existing order by providing them additional resources and degrading the overall capabilities of the international society at a time when it needs additional resources to match the increase in jihadi power. Therefore, while the use of WMD is probably the quickest way to undermine the international society, the argument I bring forth does not rely upon it; there are additional routes to bringing down the international society.

I have dedicated significant space to the criteria for identifying a systemic threat; but it is important to clarify the distinctions between actors who represent threats to the international society and those who pose a much more limited non-systemic threat. An actor represents a non-systemic threat when it does not deny the constitutive principles on which the state system is based. Although it may violate a few principles in practice and for a limited time, it does not challenge the general validity of these principles and may even aspire to participation in the state system, including assumption of state responsibilities. Such an actor accepts the importance of international law and its role in setting rules for state behavior. What it may reject are some tendencies in international law (i.e. the broadening of international law from interstate law to include subjects like human rights, which were the prerogative of states) and the way in which it is implemented in practice. Similarly, such an entity does not challenge the importance of the UN or the legitimacy of actions based on either the UN charter or its resolutions. Its grievances are directed at the practices of the UN, such as tolerance of violations of its principles by some states, or its use in a manner that contradicts the original purpose for which the institution was created. Such a non-state entity may complain that the UN fails to accommodate the needs of

weak actors or that it is a cover for the unlawful actions of the strong powers. Therefore, such an actor may seek to reform and even to restructure the organization while accepting the existence of the UN, its main ideals, and the legitimacy it provides to state actions. Moreover, while such an actor may violate some of the accepted restrictions on the application of force, it does not renounce the principles behind them. Even when it violates some of these restrictions, the violation is limited in scope and duration. Often such actors also try to justify their actions, characterizing them as being in line with the acceptable rules of the game.

Some may argue that the U.S., particularly under the Bush administration, meets the criteria for a systemic threat. The U.S. clearly walks a thin line, and some of its actions could be construed as conflicting with the principles upon which the international society's operation is based. Indeed, worries about the compatibility of its new approach toward the use of WMD with the prevailing norms in the international society are not unwarranted. Yet, I argue that the U.S. does not constitute a threat to the system. The U.S. criticizes many practices in the international society (for example, the management of the UN) and seeks to adapt the international society to the challenges the society of states is facing (the adjustments of international law to changing circumstances is one such adaptation); but it does not deny the existing order, its principles and its legitimacy. In fact, as an institution of the international society, American hegemony is expected to promote the modification of the principles, rules and practices of the international society, a process that is likely to generate some opposition. This is not to deny that the style by which the hegemon acts does not shape perceptions of its intentions and potentially hinder its agenda. But while the policies of the first Bush administration provoked significant controversy and international resentment, as the years passed, in particular under the second Bush administration, the U.S. has modified its aggressive style and is significantly more

attentive to the concerns of other states. Such changes have not yet been captured in general public opinion around the world; but states have seen a marked change in the attitude of the U.S., allowing it to continue to lead the international society in the war on terrorism and a host of other international issues.

Defining Responses

In order to demonstrate the importance of systemic response, we must define it. First, because the international society is an abstraction, we need to look at its components, namely the states and international organizations. Such institutions are not merely arenas for states to discuss and decide on courses of action; they have large bureaucracies that can formulate policies and push states to engage in issues of general interest.

A collective response is an action taken by a significant majority of states based on a shared understanding that they are facing a systemic threat that must be confronted through participation of all states. A few states may still be forced to collaborate; but a response will not be considered collective if a considerable number of states cooperate because of coercion. The collective response is initiated and shaped by the system's leading powers, presently the U.S. hegemony. The response includes a range of simultaneous activities, from active international cooperation, to coordination between states, to each state's independent efforts to realize its duties to the international society within its own borders. While some states -- usually the hegemon and the secondary powers -- carry a larger share of the burden, the response requires the vigorous contribution of most members. Collective response does not imply complete and unwavering cooperation. Since elements of conflict and collaboration always exist in the international system, some actors may not cooperate fully. But states -- as opposed to individual sympathizers -- will rarely provide active support to the threatening non-state entity.

Collective response also does not imply that states act in a purely other-regarding manner. Often the collective good and states' self-interest converge. Occasionally states act against their short-term interest, yet cooperation serves their long-term interests because the survival of the system is in everybody's interest. Still, the English School's conception of cooperation as is qualitatively different from the Realists'; states exhibit systemic cooperation, form and institutionalize multilateral cooperative frameworks, introduce the notion of individual states' commitments to the collective, and consider long-term interests.

Collective response may evolve slowly because not all states have reached sufficient levels of state capacity. The tendency of anti-systemic forces to take advantage of the system's weak spots and use them as havens or bases of operations may also hinder progress. Therefore, the elimination of the danger depends to some extent on the ability of weak states to rapidly reach levels where they can facilitate effective response. Stronger states will have to assist weak states to enhance their capacity to contribute; and states that are not fully integrated into the international society or sufficiently socialized to its norms need time to acclimate to operating in a web of international relations and institutions.

These caveats are important, but they do not imply that a general trend of cooperative collective action cannot be observed. However, they do suggest that the process may be slow and uneven among different segments of the international society. Consequently, it could take years to get a fuller picture of the quality of the collaborative effort. Moreover, willingness to protect the international society and the actual results could diverge. Note that focusing on will and observable acts rather than on the results of cooperative endeavors as standards for evaluating cooperation is in line with both Realism and the English School.

The differences between the English School and the Realist perspectives will be observed through a number of factors:

a) The actors' scope of action: the English School predicts that states will be willing to take higher risks for smaller direct payoff than Realism would predict;

b) The motives behind states' actions: the English School predicts that states will identify their interests with the interests of the international society and act out of a sense of comity;

c) The characteristics of the measures taken: Realism is mute on this point, while the English School predicts a comprehensive design that corresponds with the fundamental principles on which the international society is based;

d) The density of cooperative arrangements: the English School expects a proliferation of cooperative arrangements, which for the Realist approach would represent a perplexing "overkill."

The validity of the English School's preservation-seeking claim requires evidence that the system's sense of community and the working of shared rules and norms in the pursuit of order have led states to a type and level of cooperation beyond the limited expectations of Realism. We need to show that the international society is engaged in an ambitious and extensive program that exceeds the ability of any one power -- however strong -- to shape state behavior. Thus, a common Realist explanation that attributes interstate cooperation to convergence of interests, pressure from stronger powers, or the expectation of side payments is inadequate for explaining the breadth of cooperation and the attempt to bring a revolutionary change in the relations among different types of units in the international arena.

Below the systemic level, we expect to observe other-regarding behavior that is not intended to produce short-term benefits and may even incur considerable losses. Such other-regarding behavior should be observable because the threat does not

evolve uniformly throughout the globe. While some countries feel an immediate and acute threat, others may sense that they are not threatened directly or that a direct threat is not expected in the near future. Consequently, some states could attempt to pass the buck or hesitate to contribute to goods that they perceive as neither collective nor serving their own self-interest. Such states sense that cooperation does not correspond to their narrow and immediate interests and could make them and their citizens a direct target. Realism suggests that such actors are unlikely to participate in the collective effort. Thus, contributions to the collective effort by states in which the systemic threat has weak or no presence, or collaboration by states for which cooperation is expected to incur domestic cost while defecting is expected to result in minimal loss, would increase the strength of the English School explanation. Evidence pointing to such cooperation would demonstrate the existence of a sense of community and a perspective that transcends narrow state interest and identifies the interests of the state with those of the system.

This study gives special attention to states powerful enough to have various policy options from which to choose and independent from the will of any one strong country. They can elect not to cooperate and even to try to obstruct the hegemon's efforts. Cooperation by such actors, particularly when they act differently on other issues of similar significance for the hegemon, would reinforce the English School's claims and weaken Realist arguments. We should also look at weak states that choose to contribute to the collective effort without the benefit of side payments from powerful states or despite the potential that collaboration will destabilize their rule. Note that a lack of aggressive and persistent cooperation by weak states may result from low state capacity rather than lack of will. Such cases require careful tracing of the specific causes behind states' behavior.

More specifically, the indicators for the operation of the international society's survival mechanism are divided into three layers: system-wide indicators, bilateral indicators, and indicators from the domestic arena:

1. System-wide indicators – these focus on creating or strengthening collective frameworks on the one hand, and on the reconfirmation of the state's dominance in international politics on the other. The international society, led by its strongest powers, advances a program to reform the relations among states and between states and non-state actors. Such a change may include the reaffirmation of states' primacy in international politics and the actual bolstering of state power. In parallel, we expect to see attempts to strengthen the collective identity of the international society by introducing notions of state responsibility towards the international society -- and consequences of neglecting one's responsibilities -- as well as portraying states as "Self" and violent NGOs as "Other." More specifically, the international society attempts to enforce and increase the state's authority and control over individuals and non-state actors within its borders. Tightening the international society may require growing institutional uniformity among states in order to improve their ability to carry out anti-terrorism tasks and ease coordination. States' inclinations to perceive the problem through idiosyncratic lenses, reflecting different self-conceptions and institutional practices,¹⁰¹ is a strong incentive to seek standardization that would mitigate the consequences of these differences. States may also converge on best practices to make the defense of the system more effective.

These efforts translate into the establishment of frameworks for system-wide cooperation that could take the shape of (but are not limited to) international conventions and Security Council resolutions. In the case of international conventions, we seek to observe attempts to create new conventions, or to alter and reinvigorate

¹⁰¹ Katzenstein, "Same War – Different Views," 731-760.

existing ones, as well as increased participation in such treaties that renders them truly global and effective. As for Security Council resolutions, we are looking for the initiation of new and binding resolutions that specify particular courses of action to face the opponent. These resolutions assign concrete responsibilities to member states. The more encompassing the resolutions and the higher their legal status, the stronger the English School explanation. The level of compliance will be very telling as well, especially when we consider that resolutions forcing action upon all states may be easy to evade with low or no costs. The more taxing the steps required for compliance and the easier it is to evade participation, the more meaningful the evidence for true compliance.

2. Bilateral indicators – In these indicators, the focus is on states' foreign and military policies. Most important are actors that are not directly or immediately threatened, but cooperate with other states against the violent NGO although they may end up threatened as a consequence. The indicators include, but may not be limited to, deployment of military and police forces outside the country in conflict regions connected to the struggle against the violent NGO; willingness to compromise state sovereignty by allowing a second state to carry out a pursuit inside the first state's territory; and relaxation of restrictions on handing over suspects of terrorism -- with or without judicial procedures -- to other states.

Evidence that cooperation against the systemic threat continues uninterrupted while states are preoccupied by conflict in other issue areas would single out the purpose for which states unite in cooperative efforts. This indicator is especially important when secondary states cooperate with the hegemon while opposing its policies and objectives on other issue areas. Such an occurrence demonstrates the limits on the hegemon's coercive power and emphasizes the role of legitimacy in producing a collective response.

Another significant indicator is intelligence sharing. States are reluctant to share intelligence, particularly raw classified material, for fear of revealing resources and methods of data collection. If states, in particular potential rivals, were to share such highly classified intelligence, it would signal the operation of the international society. A state may also engage in a less costly but still important type of intelligence sharing by exchanging threat assessments and tipping off other states on planned attacks or suspected activities that concern them.

3. Domestic indicators - This category focuses on the steps that actors take domestically. Some states may be required to make substantial changes, including restructuring of state institutions and altering accepted rules of governance, that endanger domestic stability. Some may also need to deal with contentious issues that are integral to their identity, to take actions that might conflict with the core values and interests or upset important constituencies. The initiation of such policies may sometimes severely strain state-society relations. Among those steps are changes in states' core education programs, changes in states' fundamental traditional arrangements, legislation that reduces civil liberties in democratic societies, and hardening of asylum laws. The way in which decision makers justify their policies could be another indicator. Usually decision makers justify unpopular policies by claiming that they serve the interest of the state and its people. If, in contrast, they justify their action in an other-regarding manner that appeals to the general sentiment rather than to particular state interest, this is a signal of the working of the international society.

Propositions on States' Responses to Transnational Terrorism

Observing state behavior in the face of transnational terrorist entities allows us to pit English School and Realist explanations against each other. While Realism expects states to act in a self-regarding manner, usually defined in security terms, the English

School expects to see variations in state responses that correspond to the nature of the threat posed by the non-state actor. When states face a non-systemic threat, the English School converges with Realist predictions that states will employ a broad range of possible strategies, each in accordance with its self-interest.

But the predictions of the English School diverge from the Realist predictions when states face a threat that the English School considers systemic; it predicts that such a threat will be countered by a collective effort and take a form that corresponds to the society of states' fundamental principles and to the goal of preserving the system. Realism, on the other hand, sees cooperation as only one option. Realism does not deny the possibility of interstate cooperation, but such cooperation is expected to include many fewer actors, to be very limited in its depth, and to be conditioned by continuous calculation of each state's short-term costs and benefits. Indifference, neutrality, buck-passing and defections are expected to take a much more dominant place than in the English School's predictions. Realism also stays mute on the design and specific goals collaborative endeavor will seek to accomplish, concentrating instead on the conditions that sustain and restrict cooperation. Finally, neither Realism nor the English School expects the members of the society of states to collaborate against a terrorist actor that does not represent a systemic threat.

Table 2 - States' responses to transnational terrorism as a function of the nature of the threat that the transnational terror group presents

The nature of the group's threats	States' responses	Self-regarding behavior	Collective action
Systemic		Realism	English School
Non-systemic		Realism & English School	None

Below are the main explanations of each school of thought and the derivative propositions.

1. Realism: Different states respond in different ways, each in accordance with their own particular interests. Particular interests and self-regarding understanding of the threat account for variation in the strategies employed to serve those interests. Hegemony could force international cooperation.

Proposition 1 – States affected by transnational terrorism will devise independent strategies to respond to the threat; some may act unilaterally, choosing from a variety of potential strategies, while others may prefer cooperative alignments.

Proposition 2 – States that perceive a threat as not intrinsically targeting them will prefer passing the buck over forceful confrontation with the source of the threat, unless the expected utility from taking action outweighs its cost.

2. English School: State responses stem from the nature of the threat as either systemic or non-systemic. Since the primary goal of international society is the preservation of the state system, systemic threats will be met by a collective rather than a self-regarding response.

Proposition 3 – When faced with a systemic threat, states, led by the main powers, will collaborate to eliminate the threat.

Proposition 4 – States that are not threatened directly or imminently will still choose to cooperate over passing the buck or defecting.

Proposition 5 – Facing a systemic threat, states will design a response in line with the fundamental principles of the international society, including steps to reinvigorate the international society and the institution of the state.

State responses to the al Qaeda-led jihadi movement stand at the center of this study. The next two chapters are dedicated to explaining the al Qaeda phenomenon

and the nature of the threat to the international society the network represents. I begin with an account of the scale shift of jihad from a marginal factor in international politics, used in a very limited manner in domestic struggles, to a global endeavor. I then explain why the jihadi movement constitutes a systemic threat. The following three chapters deal with the multilateral response to that threat; I present the general logic that guides the collective effort against the threat and the more specific efforts to suppress terrorism financing, reinforce border controls, and prevent the proliferation of WMD to non-state actors. In chapter eight, I shift my focus to other cases. I begin with the PLO of the 1970s and discuss the response of the U.S., Western European states, and Middle Eastern countries to its operation. That chapter also touches upon the case of the Peruvian Shining Path. Chapter nine focuses on the response of Southeast Asian states to the current threat posed by the Jemaah Islamiyah network. In the concluding chapter, I restate the study's main findings, highlight important insights and open questions, and suggest extensions to the theoretical framework.

Chapter Three:
Spreading Jihad:
From Local Jihads to a Global Jihad

Introduction

The concept of jihad is not new; it has been embedded within Islam from its inception.¹⁰² Its implementation has oscillated between genuine attempts to carry out holy war (such as Salah al-Din's war against the Crusaders) and use as a mobilization tool by cynical leaders (for example, Saddam Hussein's attempts to portray his wars as jihad); but its appeal has receded in the last few hundred years. Even when the concept of jihad was invoked, it was restricted to a narrow context within specific countries and their populations. Furthermore, the declaration of jihad and its undertaking were largely the responsibility of leaders. Against this background, it is puzzling that jihad became such a familiar notion in world politics at the beginning of the 21st century. This chapter focuses on the revival of jihad and how it has acquired a global dimension. It seeks to explain how jihad evolved from a localized struggle involving mostly local Muslims, into one that attracted or compelled the participation of Muslims throughout the world – even if in relatively small numbers.

I trace the roots of the globalization of jihad to the 1980s war in Afghanistan, which had a major impact on the revival of the notion of jihad as a collective duty. I emphasize Afghanistan as a formative event for global jihad, mainly through its effects on the many volunteers who came to Central Asia to wage or to support jihad. The battleground brought together jihadis from around the world to exchange ideas and fight side by side. Stemming from political considerations, governmental support from Saudi Arabia, Pakistan, and the United States provided the technical and

¹⁰² For two important studies on the evolution and meaning of jihad through time, see David Cook, *Understanding Jihad* (University of California Press, Berkeley, Los Angeles, and London, 2005); Richard Bonney, *Jihad: From Qur'an to bin Laden* (Palgrave Macmillan, New York, 2004).

financial aid required for carrying out jihad against the Soviets. But jihad turned out to be a double-edged sword, as states lost control over its application and zealous jihadi radicals sought to export it outside of Afghanistan after their success against the Soviet Union. The interpersonal connections that were forged between mujahideen from different nationalities reinforced their extreme beliefs, while increasing their capabilities through experience on the battleground and the exchange of knowledge of military and terror operations. The eventual retreat of the Soviets gave a further boost to their belief in the feasibility of success.

But the war in Afghanistan, while necessary for the globalization of jihad, was insufficient for its consolidation on a global scale. Two additional stages were required to create a global phenomenon from a set of disconnected local struggles between jihadi groups and governments. The second stage took place during the 1990s, as veterans of the Afghan war tried and failed to win separate struggles against their home governments. Less controversial jihadist attempts in the periphery – Chechnya, Bosnia, and Kashmir – also resulted in little success. Against these obstacles, a third alternative offered by Osama bin Laden won out. Bin Laden and his al Qaeda network provided an organizational and ideological base for a jihadi movement comprising members from different nations, a global reach, and an ideology with global scope.

The third stage in the globalization of jihad started with the 9/11 attack on the U.S. and the ensuing American responses. The dynamics of the engagement between radical Islamists and states, mainly the U.S., in the period following 9/11 shaped public perceptions of the struggle as global, causing even local terror attacks to be perceived as part of the broader struggle. This change in framing relieved, although it did not eliminate, the problems of collective action, resource allocation, and constant personal conflicts that had characterized the Islamist movement in the past. Various

jihadi groups could now operate either locally or internationally and still be regarded as part of a larger movement, their actions perceived as serving the attempt to undermine not only local but also international order.

This chapter details the three stages of the globalization of jihad, from the war in Afghanistan during the 1980s to the aftermath of the 9/11 attacks.

Stage One – The War in Afghanistan

On December 26, 1979, the Soviet Union invaded Afghanistan in an attempt to prevent the fall of the communist regime in Kabul. The invasion sent shockwaves throughout the world. In the West, the Soviet intervention was perceived as a violation of the “rules of the game” between the two superpowers.¹⁰³ Coming on the heels of the Iranian revolution and the takeover of the American embassy in Iran, the Soviets’ step appeared to confirm the prevalent perception of growing American weakness. The view from the Middle East was different, as the invasion was viewed in the context of growing turmoil in the Muslim world. The invasion of a Muslim country by a non-Muslim state aroused coreligionists’ sentiments,¹⁰⁴ as many enraged Muslims understood the Soviet intervention as an aggression against the whole Muslim nation, requiring a forceful response to force the Soviets into retreat.

This reaction was promoted on two levels: by states, and by jihadist entrepreneurs. This allowed networks below the state level to sustain the jihad even when state sponsorship decreased substantially or was no longer available. At the state level, the Afghan resistance was supported mainly by Pakistan, the U.S., and Saudi Arabia – whose interests converged to support fighting the Soviets.¹⁰⁵

¹⁰³ Gilles Kepel, *Jihad: The Trail of Political Islam* (The Belknap Press of Harvard University Press, Cambridge, Massachusetts, 2002), 138-9.

¹⁰⁴ The public sentiment stood in sharp contrast to the weak response by Muslim regimes. See Bernard Lewis, *The Crisis of Islam: Holy War and Unholy Terror* (Phoenix, third edition, London, 2004), 78-79.

¹⁰⁵ On the interests of the three states to intervene in the war and to prefer Islamic opposition over the Afghan nationalist opposition, see Mohammad Yousaf and Mark Adkin, *Afghanistan – The Bear Trap: The Defeat of a Superpower* (Casemate, Havertown, PA, 1992); Kepel, *Jihad*, 136-150; Ahmed Rashid,

While state sponsorship was highly significant, states' direct contribution to the funding of the jihad did not amount to more than 25 percent.¹⁰⁶ This number attests to the importance of the Muslim NGOs and networks of Muslim activists who traveled around the world collecting donations and recruiting volunteers to support the Afghan jihad. Some of these non-state elements sowed the seeds for the global proliferation of jihad.

The globalizers of jihad were of Arab descent. This determination is rather counterintuitive, since the role of the Arab volunteers in the actual fighting against the Soviets was at best marginal.¹⁰⁷ For example, Burke argues that whereas at any given time there were between 100,000 and 250,000 Afghans fighting, there were only a few hundred Arab volunteers taking part along the front line.¹⁰⁸ By all accounts, before the mid-1980s Arabs hardly participated in actual combat, and only a few of the Arab mujahideen demonstrated admirable fighting skills.¹⁰⁹

The overall number of Arab volunteers who made their way to Pakistan, especially in the first years of the war, was very modest.¹¹⁰ Most served in supportive roles in humanitarian agencies, media offices, political organizations, and hospitals.¹¹¹ Only in the mid-1980s was there a noticeable increase in their participation, which

Taliban: Militant Islam, Oil and Fundamentalism in Central Asia (Yale University Press, New Haven and London, 2001), 186; Jason Burke, *Al Qaeda: Casting a Shadow of Terror* (I.B. Tauris, London & New York, 2003), 57-8; International Crisis Group (ICG) Middle East Report no. 28, *Can Saudi Arabia Reform Itself?*, July 14, 2004.

¹⁰⁶ Burke, *Al Qaeda*, 57.

¹⁰⁷ Kepel, *Jihad*, 147-148

¹⁰⁸ Burke, *Al Qaeda*, 58. Other telling statistics: According to one of the mujahideen's journals, until 1988 the number of Arabs who died in fighting was no more than a few dozen. See Ahmad Muaffaq Zaidan, *The "Afghan Arabs" Media at Jihad* (The Pakistan Futuristic Foundation & Institute, Islamabad, 1999), 13.

¹⁰⁹ Among those few was Osama bin Laden, who years later would build a myth around a very small scale battle in Jaji (1986). See Burke, *Al Qaeda*, 74.

¹¹⁰ According to CIA estimates, the overall number of Arabs who contributed to the general war effort (including support roles) was no more than 20,000. See Milt Bearden and James Risen, *The Main Enemy: The Inside Story of the CIA's Final Showdown with the KGB* (Random House, New York, 2003), 366.

¹¹¹ Burke, *Al Qaeda*, 68.

reached its peak only after the Soviets had withdrawn. Even then, it did not amount to more than a few thousand at any given time.¹¹²

Friction between the locals and Arab volunteers, with many local Afghan mujahideen resenting the “arrogant” Arabs, further marginalized the foreigners’ role. Conflicts between Afghans and Arabs became more frequent with the growing number of radical Arabs adhering to a strict interpretation of Islam, which rejected traditional Afghan practices as violations of the purity of Islam.¹¹³ Nevertheless, despite their insignificant role in this specific jihad, the experience of the Arab mujahideen shaped the future direction of radical Islam and served as a launching pad for a movement with global goals and global reach.

Paving the road: Azzam and the evolution of jihad

The emergence of a group of Arabs willing to go to Afghanistan to participate in jihad was itself an important development. Arab regimes, in particular the Saudi regime, encouraged young Muslims to join the ranks of the mujahideen.¹¹⁴ But technical and financial support was not enough; the war also had to be framed in religious terms and propagated as a religious duty. However, prior to the war in Afghanistan there was little discussion about the contemporary use of jihad even among the radical Salafis.¹¹⁵ Abdallah Azzam, a Palestinian theologian who had received his education in Syria and Egypt,¹¹⁶ constructed the religious legitimation for Arab participation in the war, giving the war its needed religious and transnational dimension. Shortly after the

¹¹² The CIA estimated that in 1989 there were 4,000 Arab volunteers, mostly affiliated with the party of Abu Sayyaf, the closest among the Afghan leaders to the Saudi authorities. See Steve Coll, *Ghost Wars: The Secret History of the CIA, Afghanistan, and bin Laden, from the Soviet Invasion to September 10, 2001* (The Penguin Press, New York, 2004), 201.

¹¹³ Burke, *Al Qaeda*, 75.

¹¹⁴ Saudi Arabia, for example, provided cheap one-way tickets to youth who wanted to travel to Pakistan to participate in the war effort. See Interview with Dr. Saad al Fagih, www.pbs.org/wgbh/pages/frontline/shows/binladen/interviews/al-fagih.html, accessed April 16, 2004.

¹¹⁵ Quintan Wiktorowicz, “The New Global Threat: Transnational Salafis and Jihad”, *Middle East Policy* 8:4 (December, 2001), 22.

¹¹⁶ Kepel, *Jihad*, 144-9.

Soviet invasion, Azzam left his job in Saudi Arabia, took a teaching position in Pakistan, and started inciting for jihad.¹¹⁷

According to Islamic tradition, there are two categories of violent jihad. Offensive jihad serves to enlarge the Dar al Islam -- the house of Islam -- and is considered a collective duty managed by a Muslim ruler. Defensive jihad, on the other hand, is invoked when a Muslim territory and population come under attack by non-Muslims. In such a case, partaking becomes the responsibility of every individual Muslim: the mujahideen do not even need family permission to fulfill this duty. Azzam framed the war in Afghanistan as a defensive jihad, reviving the theory of circles of obligation. Under this theory, the responsibility falls initially on those Muslims nearest the enemy. If they are unable to repel the enemy, then the obligation expands to the next circle.¹¹⁸ Obviously, fighting a superpower required the mobilization of the entire *ummah*.

Azzam's role was not restricted to providing religious justification for jihad. He also played a very significant role in the community of mujahideen close to the front line. His importance grew in the mid-1980s with the substantial increase in Arab volunteers coming to Peshawar, the Pakistani border city where most Afghan refugees found shelter and where the headquarters of the seven Afghan parties were located. The flow of volunteers required the creation of an infrastructure for housing and training. Because many arrived for only a few months at a time and moved between Peshawar, the training camps, and the missions inside Afghanistan, there was also a need to keep records of their whereabouts. This need stemmed in part from the wish to provide information to the families of volunteers who inquired about the fates of their

¹¹⁷ Mary Anne Weaver, "Blowback," *The Atlantic Monthly* 277:5 (May, 1998), 24-36.

¹¹⁸ Wiktorowicz, "The New Global Threat", 23; Jonathan Randal, *Osama: The Making of a Terrorist* (Alfred A. Knopf, New York, 2004), 87.

loved ones.¹¹⁹ In 1984, Azzam, together with his disciple Osama bin Laden, established the Maktab al-Khidamat (MAK), the Services' Office, one of fifteen Arab aid organizations established to serve the mujahideen and the Afghan refugees.¹²⁰ Azzam also founded the most important journal in Peshawar, *al Jihad*, which served the mujahideen and brought news from the jihad arena to interested Muslims throughout the Arab world.¹²¹

Azzam traveled often to spread the call for jihad, to recruit excited youth (mainly from the ranks of the Muslim Brotherhood), and to collect financial contributions.¹²² In his travels, he even journeyed to the U.S. His activities were critical to the evolution of the jihad in Afghanistan from an Afghan effort supported by a small number of Arab volunteers, to a duty that resonated with a larger Arab audience and created the precedent for Muslim volunteers fighting outside their country under the banner of jihad.¹²³

But Azzam's contribution goes even further. First, he rejected all options but violent jihad to free Muslim lands.¹²⁴ Second, he stressed that jihad should not stop in Afghanistan, but rather "will remain an individual duty until all other lands which formerly were Muslim come back to us and Islam reigns within them once again."¹²⁵ Third, the revival of the notion of defensive jihad and its adaptation to contemporary affairs allowed its use some years later by violent salafi groups seeking to justify their deeds. Groups such as the Algerian Armed Islamic Group (GIA) combined Azzam's concept of defensive jihad with Sayyid Qutb's justification for excommunicating

¹¹⁹ PBS, Interview with Dr. Saad al Fagih.

¹²⁰ Zaidan, *The "Arab Afghans"*, 9-12.

¹²¹ For a detailed account of the journal's history and content, see *ibid.*, 36-49.

¹²² Rohan Gunaratna, *Inside al Qaeda: Global Network of Terror* (Columbia University Press, New York, 2002), 19.

¹²³ While the Muslim Brotherhood in Egypt sent volunteers to fight against Israel in 1948, that intervention was much more institutionalized and based on an organizational affiliation.

¹²⁴ Burke, *Al Qaeda*, 78.

¹²⁵ Quoted in Kepel, *Jihad*, 147.

Muslim rulers. Qutb advanced the notion that a Muslim ruler who does not follow the shari'ah is an apostate who must be fought and killed as part of the doctrine of jihad.¹²⁶ These most violent groups of Islamists distorted those concepts and took them to the extreme, using them to justify the mass killing of Muslims.¹²⁷ Fourth, Azzam articulated the notion of the Muslim vanguard, the spearhead in front of the camp that would carry out jihad against the infidels and encourage the Muslim masses to follow through and join the jihad. Azzam believed that most Muslims were still unprepared to accept the responsibilities of their religion and that every ideology had first to be implemented by a select group of people dedicated to the cause. In fact, by the time Azzam started writing about this vanguard, he was already thinking about how he could channel the energies of the mujahideen into other missions in the name of jihad. He envisioned the veterans of the Afghan war as a mobile strike force throughout the Islamic world.¹²⁸

Islamist opposition groups and the war in Afghanistan

The Arab volunteers came from numerous countries and belonged to various classes as well as Islamic traditions. Many came as individuals; others were encouraged by local branches of the Muslim Brotherhood movement or wahhabi clerics. In addition, Islamic activists from violent opposition groups in the Arab world, who had been hunted down in their own countries, found in the war in Afghanistan both refuge and a novel cause. The Arab regimes were happy to see these troublemakers leave to fight the Soviets¹²⁹ and thought little about the longer-term consequences of bringing together a large group of radicals from different countries.

¹²⁶ See, Sayyed Qutb, *Milestones*, Translated by S. Badrul Hasan (International Islamic Publishers, Karachi, 1981).

¹²⁷ Wiktorowicz, "The New Global Threat," 26-29.

¹²⁸ Gunaratna, *Inside al Qaeda*, 21-22; Burke, *Al Qaeda*, 69.

¹²⁹ Kepel, *Jihad*, 148.

When opponents of the Arab regimes started arriving in large numbers in Afghanistan in the mid-1980s, they gradually transformed the shape and ideology of the Arab Afghan movement.¹³⁰ Whereas Azzam's vision of jihad focused on Muslim lands under non-Muslim control and precluded the idea of jihad against Muslim leaders, the opposition elements subscribed to a more radical ideology inspired by Qutb's writing. Azzam's vision had to compete with this more radical view and the growing influence its carriers gained among the community of Arab mujahideen in Afghanistan and Pakistan.

To some extent, this was a struggle for the loyalty of the enthusiastic youth who came to Afghanistan without any previous affiliation to the Islamic opposition groups, often resulting in the radicalization of these young and still uncommitted volunteers. The radical activists quickly gained leadership positions among the Arab Afghans. Indeed, some of al Qaeda's leading figures were Egyptians who came to Afghanistan without previous affiliation with the Egyptian opposition but who were radicalized through their fighting experience and exposure to the rhetoric of Ayman al-Zawahiri -- a leader of the Egyptian al Jihad groups and today bin Laden's deputy -- and others like him.¹³¹ As the stream of inexperienced volunteers increased, more training camps were needed for the Arab arrivals.¹³² Consequently, there was an increase in the role and influence of the more experienced leaders, usually from the ranks of the organized Islamic groups, as well as in their ability to recruit new members. At the same time, new groups from states that had previously lacked such organizations -- most importantly, Saudi Arabia -- started to emerge.¹³³

¹³⁰ Burke, *Al Qaeda*, 72.

¹³¹ Montasser al-Zayyat, *The Road to Al Qaeda: The Story of bin Laden's Right-Hand Man* (Pluto Press, London; Sterling, Virginia, 2004), 68-9.

¹³² Burke, *Al Qaeda*, 72-3.

¹³³ Weaver, "Blowback".

Meanwhile, another process increased the lethality of the movement and mitigated the differences among its various elements. Islamists from different countries spent significant time discussing the condition of the Muslim *ummah* and ways to revitalize it, introducing ideas that were anchored in their local experiences. These encounters helped bridge some doctrinal differences and further radicalized the ideology of many activists.

The growing fellowship of radicals from different countries also had the effect of improving their operational skills, building upon the training they received. Each group brought its expertise and learned from the strengths of others. The Arab mujahideen were usually affiliated with Afghan parties (mainly the parties of Rabbani, abu Sayyaf, and Hekmatiar, who were close to Saudi Arabia) and trained in their camps. But as the war progressed, special training camps were also built for the Arab Afghans. Experience gained through participation in active combat was another force multiplier. Although this experience was more relevant to guerrilla warfare than to terrorism tactics, the fighting experience increased the mujahideens' knowledge of explosives, shooting skills, and other less tangible assets such as self-confidence and the ability to function under tremendous pressure.

One of the war's most underestimated contributions to the emergence of the global jihadi movement was the interpersonal connections that were created among the Arab Afghans. The Arab mujahideen were usually organized in groups according to their own nationalities,¹³⁴ but there was still significant interaction among mujahideen of different nationalities in Peshawar, in the training camps, and on the battleground. Such interactions, especially inside Afghanistan, were instrumental in cementing interpersonal relations among individual mujahideen, for many of whom the war served as a formative experience that would shape their adult lives. Al-Zawahiri and

¹³⁴ Randal, *Osama*, 91.

bin Laden provide two examples of mujahideen who argue that the experience changed their lives, enriched them, and gave them a sense of satisfaction, destination, and confirmation of their beliefs at the highest levels.¹³⁵ The Arab mujahideen shared not only their religious zeal, but through this transformative event also shared memories and experiences with brothers from other countries. Once created, these bonds were robust and helped the newborn global jihadi movement to surpass national boundaries and organizational affiliations. They would hold for years to come and facilitate future cooperation. Organizational affiliation remained a highly significant factor in the politics of the Arab mujahideen, but the interpersonal relations functioned as another layer in the relations among them and allowed for cooperation without official sanctioning from the groups with which the individual operatives were affiliated.

In his book *Knights under the Banner of the Prophet*, al-Zawahiri summarizes the contribution of the jihad in Afghanistan to its participants this way:

...it also gave young Muslim mujahideen -- Arabs, Pakistanis, Turks, and Muslims from Central and East Asia -- a great opportunity to get acquainted with each other on the land of the Afghan jihad through their comradeship-at-arms against the enemies of Islam... came to know each other closely, changed expertise, and learned to understand their brethren's problems.¹³⁶

But discord existed among the Arab mujahideen as well. The sources of contention were many, mainly involving ideological differences and conflicts over strategy and financial resources, as well as personal conflicts. Azzam's MAK, the beneficiary of large sums of money, was one subject of such contentions. Azzam wanted to use the funds in the Afghan arena first, later directing them to other

¹³⁵ Ayman al-Zawahiri, *Knights under the Banner of the Prophet* (Published by al Sharq al Awsat, London, December 2001); Peter Arnett, CNN interview with Osama bin Laden, May, 1997.

¹³⁶ Al-Zawahiri, *Knights under the Banner of the Prophet*.

occupied Muslim lands (such as Palestine¹³⁷) -- a plan that required an emphasis on training in guerrilla warfare and channeling money away from struggles against Arab regimes. Al-Zawahiri and his Egyptian followers had entirely different ideas about how the money should be spent, focusing on diverting some of the money back to the Egyptian arena and to training in terrorism tactics.¹³⁸

The relationship between bin Laden and Azzam also deteriorated around that time. It is not clear whether this tension resulted from al-Zawahiri's influence on bin Laden -- contrary to conventional claims portraying al-Zawahiri as the ideologue behind bin Laden, the relationship between the two reflects mutual influence.¹³⁹ However, bin Laden opinions were closer to the direction the Egyptians wanted to take the MAK. He also did not hide his dissatisfaction with what he saw as nepotism by Azzam.¹⁴⁰

At that stage, bin Laden was already much more self-confident and much less dependent on his mentor. He spent more time near the front line and even in actual combat. In 1986, bin Laden established several camps of his own within Afghanistan and in 1988 established a database of all the volunteers who passed through his camps;¹⁴¹ however, he did not leave the MAK. A tacit battle for control over the MAK ended with Azzam's assassination in November 1989. The mystery of his death remains unsolved, with responsibility assigned to various parties. The most intriguing is Rohan Gunaratna's implication of al-Zawahiri and his people, with the approval of

¹³⁷ Daniel Benjamin, and Steven Simon, *The Age of Sacred Terror* (Random House, New York, 2002), 103.

¹³⁸ Gunaratna, *Inside al Qaeda*, 22-4.

¹³⁹ Compare Gunaratna, *Inside al Qaeda*, 25-7, 38, to Al-Zayyat, *The Road to al Qaeda* and Anonymous, *Imperial Hubris: Why the West is Losing the War on Terror* (Brassey's Inc., Washington DC, 2004), 109.

¹⁴⁰ Burke, *Al Qaeda*, 72.

¹⁴¹ Kepel, *Jihad*, 315.

bin Laden.¹⁴² Bin Laden himself was in Saudi Arabia at the time of the murder¹⁴³; and Jason Burke, while ignoring the possible involvement of the Egyptians, emphasizes the lack of evidence linking him with Azzam's death.¹⁴⁴ Nevertheless, bin Laden was subsequently able to complete his takeover of the MAK's facilities, finances, and broad recruiting network, after easily marginalizing Azzam's son-in-law.¹⁴⁵

Second Stage: The Afghan Alumni's Failure and the Redirection of Global Jihad

The Soviets withdrew from Afghanistan in 1989, but the war did not end. The Soviets continued to prop up the communist regime in Kabul. Meanwhile, as the war drew near its end, infighting among the Afghan factions increased as they attempted to position themselves for the postwar era. These internal rivalries were at least partially responsible for delaying the regime's collapse. However, the Soviet retreat marked for many Arab Afghans the end of their Afghan experience.

The mujahideen left Afghanistan with a stronger commitment to jihad and with a more radical perspective. Emboldened by the Soviet retreat, they understood their victory and the consequent disintegration of the Soviet Union as the result of their own -- and only their own -- deeds (with the support of God). Victory over a superpower was seen as a sign that the long hoped for resurgence of Muslims' past glory had finally arrived.¹⁴⁶

Attributing the collapse of the Soviet Union solely to their work¹⁴⁷ reflected a genuine belief of the mujahideen, but it also served some tactical purposes. First, it magnified the strength of the mujahideen and consequently reinforced their belief in

¹⁴² Gunaratna, *Inside al Qaeda*, 23-24. Another account ties the Egyptians to the murder but exonerates bin Laden. See Hasin al Banyan, "The Oldest Arab Afghan Talks to al Sharq al Awsat about his Career that Finally Landed him in Prison in Saudi Arabia", *Al Sharq al Awsat*, 25 November, 2001.

¹⁴³ Marc Sageman, *Understanding Terror Networks* (University of Pennsylvania Press, Philadelphia, 2004), 37.

¹⁴⁴ Burke, *Al Qaeda*, 77.

¹⁴⁵ Coll, *Ghost Wars*, 204.

¹⁴⁶ Rashid, *Taliban*, 131.

¹⁴⁷ Bin Laden's Interview with CNN, March 1997.

their ability to prevail in the next phase of the holy war, whichever direction it would take. Second, it created a myth that would assist the Islamic extremists in recruiting new members.

With the end of the Afghanistan chapter, the Arab mujahideen were now ready to look ahead. Some went back to their homes and returned to mundane lives. Others married locals and chose to live in Pakistan or Afghanistan. Mujahideen who were denied entry to their home countries or were arrested and harassed joined those who chose to remain in Afghanistan or reluctantly searched for new jihadist arenas. There was also a large group who wanted to use the knowledge and the experience they had acquired in order to keep the flame of jihad alive, but were conflicted about what they should do next. Some, especially those who came with previous experience in fighting Arab governments, were inclined to bring jihad back to their home countries. Others, however, argued that the mujahideen should travel to other places where Muslims were oppressed by non-Muslims. This direction appeared to be in line with the late Azzam's ideas about the future of jihad. These two strands -- one focusing on change in Arab states and the other seeking to spread jihad -- characterized the jihadi movement of the 1990s. By the end of the decade, the failure of localized jihads tilted the balance toward globalization.

Bin Laden's position at that point regarding the future direction of the jihadi movement is not clear. It appears that he was closer to the camp of the globalists. But unlike Azzam, he did not dismiss the importance of local agendas. At first he seemed to emphasize the need to preserve the international nature of the jihadi movement over the question of what the movement should do; in the unity of the mujahideen, bin Laden found a crucial source of power. Thus, he acted to prevent discord among the

mujahideen¹⁴⁸ and to maintain the international alliance that was created during the war.¹⁴⁹ To this end, he established al Qaeda in 1989 with a very small group of fellow mujahideen. The new organization relied on the infrastructure of the MAK; but its ideological orientation was unsure and its operational capabilities almost non-existent.¹⁵⁰

The following sections will look at the development of the different jihadi strands throughout the 1990s and the emergence of al Qaeda's perspective as the dominant one.

Local jihads

Local jihads were the most common form of violent Islamic opposition before the war in Afghanistan. With the end of the war, Arab states saw a resurgence of Islamic domestic violence, as more zealous and able Afghan returnees started working to undermine local regimes. The Arab Afghans found themselves to be the most radical elements among the Islamist opposition to the Arab regimes. They held the most rigid ideology and were more inclined to use force indiscriminately in order to advance their goals.

The influence of the returnees was most pronounced in Algeria and in Egypt. In Algeria, things began to heat up when a relatively moderate Islamic movement, the Islamic Salvation Front (FIS), emerged successful in the first round of general elections, leading the military to abolish the second round and take power in January 1992. The Arab Afghans -- mostly members of the GIA -- responded with a brutal fight. Soon after, the country spiraled into a deadly civil war in which both sides, but

¹⁴⁸ There are reports that on various occasions bin Laden tried to mediate between rival mujahideen groups. On his attempts to mediate between the Egyptian factions, see Gunaratna, *Inside al Qaeda*, 25-6. Coll and Randal tell of bin Laden's futile attempts to mediate between the rival Afghan factions of Hekmatyar and Masoud see Coll, *Ghost Wars*, 236, and Randal, *Osama*, 97.

¹⁴⁹ Burke, *Al Qaeda*, 79-80.

¹⁵⁰ *Ibid*, 80.

mainly the radicals, used unprecedented brutality, leading to the death of nearly 100,000 people during the 1990s. The GIA's extreme ideology led them to massacre many civilians for 'un-Islamic' behavior, which in the radicals' eyes rendered them infidels and worthy of death.¹⁵¹

Gilles Kepel sees in the Algerian experience a reflection of the failure of the Islamic movement during the 1990s. He argues that the movement was based on a fragile alliance between the young urban poor and the devout middle class. But this alliance was ill-prepared and unable to engage in a protracted confrontation with the entrenched state authorities. Thus, as the pressure on the movement mounted, the jihadis escalated the violence. This escalation broke down the consensus and created a rift between the jihadis and the more moderate middle-class Islamists, who were appalled by the level of violence. When the GIA lost the support of the more recognized Islamist intelligentsia, it also lost its compound identity and fragmented into a multitude of tiny groups that were even less inhibited in their brutality, further distancing themselves from the public.¹⁵²

Afghan returnees reinvigorated the radical Islamic movement in Egypt as well. The Egyptian violent opposition had suffered severe blows after the assassination of President Anwar Sadat in 1981, and its operation was brought almost to a standstill. Operatives from al Gama'ah al Islamiyah and al Jihad were imprisoned in large numbers, and many others left the country for Afghanistan to fight the Soviets and recuperate. When the Egyptian mujahideen returned home, they became the backbone of the violent Islamic opposition. They launched a terror campaign against regime

¹⁵¹ Such a version of takfir was so extreme that a few years into the Algerian civil war bin Laden distanced himself from the GIA. To declare a ruler an infidel and attempt to topple him and his regime were one thing; declaring a large proportion of the population infidels and massacring them was too much for bin Laden. On bin Laden and the GIA, see Burke, *Al Qaeda*, 185, Wiktorowicz, "The New Global Threat," 28.

¹⁵² Kepel, *Jihad*, 5-11, 254-275.

figures and symbols, but overall registered little success. Their brutality, though not remotely close to the level exhibited by the Algerians, backfired more than once when innocents were killed as a result of their terror attacks.¹⁵³ Their failed attempt to assassinate President Mubarak during a visit to Addis Ababa in 1995 and the massacre of about sixty tourists in Luxor in 1997 cost the radical movements public support and enabled the regime to crack down on them. With the local agenda blocked, most of the leadership of al Gama'ah al Islamiyah offered a truce to the regime and denounced the use of violence.¹⁵⁴ Those who wanted to continue the violent struggle had to leave the country in order to regroup -- but the Egyptian regime continued to pursue them even outside Egypt. The regime's pressure and endemic financial problems rendered a new violent campaign inside Egypt almost impractical.¹⁵⁵ Under these circumstances, al-Zawahiri decided it was time to change strategy and join forces with bin Laden, thus shifting to the globalist camp.¹⁵⁶

Jihad in the periphery of the Muslim world

Jihad against non-Muslim rulers was less controversial than the struggles against Arab regimes. Fighting in the name of Islam in these arenas did not involve the difficult religious questions of the rights and duties of a Muslim leader and the conditions that justify the waging of jihad against a Muslim ruler. While many in the Islamist camp agreed that it could be justified based on the ruler's policies and failure to act in accordance with the shari'ah, it was much more difficult to mobilize sympathizers around this cause. Most Muslim scholars consider a ruler who demonstrates effective control and does not grossly violate the shari'ah to be legitimate. Such considerations

¹⁵³ See al-Zawahiri, *Knights under the Banner of the Prophet*; Al-Zayyat, *The Road to al Qaeda*.

¹⁵⁴ Al-Zayyat, *The Road to al Qaeda*, 73-82.

¹⁵⁵ On the Egyptian al Jihad's financial problems and their impact on the group's decision to join bin Laden, see Allen Cullison, "Inside al Qaeda's Hard Drive," *The Atlantic Monthly* 294:2 (September, 2004); Sageman, *Understanding Terror Networks*, 46-51.

¹⁵⁶ Al-Zayyat, *The Road to al Qaeda*, 60-72, 109-110.

do not exist when the issue is non-Muslims oppressing Muslims and “infidels” occupying a Muslim land. The self-identity of the global jihadi movement emerging from the Afghanistan war embodies this type of jihad. Moreover, participating in such conflicts improves the operational skills of the mujahideen and increases their religious zeal, thus strengthening the jihadi movement. Furthermore, as in Afghanistan, by bringing together volunteers from various Muslim countries, interpersonal bonds are created. These relations would help to spread and reproduce the individual-based networks. Therefore the controversy was not whether Muslims should fight in these struggles, but rather whether they should get priority.

The main weakness of this directional shift was that none of these jihad arenas succeeded in becoming a focal point to mobilize large numbers of Muslims. Muslims were supportive of the cause, but that support was not translated into action. The number of foreign volunteers in Bosnia and Chechnya never exceeded the high hundreds, with a much lower number at any given time.¹⁵⁷ Furthermore, in Kashmir, the one arena where the mujahideen were a meaningful force, they were an instrument of a state (Pakistan) and yet failed to achieve their political goals. Thus, while this type of jihad was not meaningless and continued to exist alongside the other visions, it could not be the leading ideology for the Islamic movement.

Global jihad : taking on the “far enemy”

As jihad against non-Muslim rulers failed to attract support and the local jihads failed to topple secular Arab regimes, an alternative strategy of a globalized jihad started taking root. Globalized jihad was a mix of a worldwide agenda linked to local struggles and provided a new focal point around which the different jihadi movements would eventually converge.

¹⁵⁷ Randal, *Osama*, 185-186, 250.

Bin Laden returned from Afghanistan to Saudi Arabia in 1989. Following the Iraqi invasion of Kuwait in August 1990, he offered to form a force of mujahideen. To bin Laden's dismay, the Saudi regime rejected his offer. When the regime allowed the deployment of foreign troops on Saudi soil, the cradle of Islam, bin Laden was enraged.¹⁵⁸ Later, the maintenance of a U.S. military presence in Saudi Arabia in the absence of the original rationale for this presence (the Iraqi conquest of Kuwait) cemented the perception of the American presence as an occupation of the holiest sites in Islam. Even during his years in Afghanistan, when it was one of the greatest supporters of the mujahideen, bin Laden showed no affection for the U.S. In 1987, he started calling for an economic boycott of American goods.¹⁵⁹ Consequent to the Gulf War, the U.S. gradually became the focal point of bin Laden's view of the troubles in the Muslim *ummah* and the required response to those problems.

It seems that in the first years after the Gulf War, bin Laden's ideas still were not consolidated into a coherent perspective. He was occupied with the problems in his home country and his troubled relations with the Saudi regime. Bin Laden supported the independent ulama who called for strict implementation of the shari'ah, an end to corruption and immoral behavior among members of the royal family, and the ejection of the American forces. Although he did not take a leading role among the opposition, the aura that surrounded him due to his role in the war in Afghanistan made his vocal disagreement disquieting enough for the Saudi authorities. The regime was especially disturbed to see the legitimacy of the official religious establishment eroding because of its support of the regime, while the popularity of the opposition -- independent ulama and people like bin Laden -- soared.¹⁶⁰

¹⁵⁸ Coll, *Ghost Wars*, 222-223.

¹⁵⁹ Al-Zawahiri, *Knights under the Banner of the Prophet*.

¹⁶⁰ Joshua Teitelbaum, *Hollier Than Thou: Saudi Arabia's Islamic Opposition* (The Washington Institute for Near East Policy, Washington DC, 2000), 25-32.

The authorities warned bin Laden a few times to stop his incitement against the royal family; when he refused, his passport was revoked. Unwilling to stay in Saudi Arabia as a prisoner, he outsmarted the authorities and left the country. In 1992, following an invitation from Sudan's pan-Islamic leader Hasan al Turabi, bin Laden, accompanied by a small group of close associates, settled in Sudan. He dedicated most of his efforts and time to economic enterprises, helping the country that hosted him while also providing occupation to fellow mujahideen who were no longer welcomed in Pakistan or in their home countries.¹⁶¹ At the same time, bin Laden developed a comprehensive theory regarding the troubles of the Muslim world and the required military solution. Terrorism, while contemplated and encouraged,¹⁶² was still on the back burner rather than a main occupation.

In 1996, it became clear that all three of the principal jihad arenas -- Egypt, Algeria, and Bosnia -- had failed to achieve their goals.¹⁶³ The field was now open for bin Laden's version of global jihad.

In bin Laden's view, the local jihads had failed due to U.S. support of the secular regimes. He perceived the Arab rulers as slaves serving their American masters. In return, the U.S. supported those regimes and guaranteed their survival. As long as American power was behind those regimes, the mujahideen could not achieve their goals; the U.S. would not let them fall even if it necessitated direct intervention. Thus, the American military presence in the Gulf countries was seen as an escalation of American involvement in the region. As al-Zawahiri later wrote: "In the Gulf war the U.S. moved to the region to oversee the management of its interests by itself.

¹⁶¹ Kepel, *Jihad*, 316.

¹⁶² In 1992, American forces headed to Somalia were attacked in Aden, Yemen. The year after, a local Somali militia, allegedly trained by close associates of bin Laden, killed 18 American soldiers. The real nature of the links between bin Laden and those attacks is still unclear, but it seems that bin Laden's group played no more than a facilitating role.

¹⁶³ Kepel, *Jihad*, 13.

Hence, it transformed its role of hidden mover of events into the role of the Muslims' direct opponent."¹⁶⁴ The remedy to this situation was to confront the U.S. and bring about its collapse. Once the U.S. fell, the Arab regimes would lose their shield and the believers could take control.

Identifying the U.S. as a target was also useful in light of the continuous power struggles within the jihadi camp. The jihadis could not agree on any one Arab country upon which to concentrate their efforts; groups from within individual countries were trapped in bitter rivalry over ideology, strategy, and distribution of resources. Above all were the never-ending personal rivalries that hindered cooperation among groups and fragmented the movement even further. All too familiar with these personal rivalries and their devastating effect on the jihadi movement, bin Laden was careful to present himself not as a competitor for leadership, but as a devout mujahid, focused on the goals and free of personal interest. His demeanor after attacks and al Qaeda's avoidance of claiming responsibility for their work helped in consolidating that image, lubricating the flow of many radical groups to bin Laden's sphere of influence.

Articulating the connection between the hated Arab regimes and the U.S. enabled the mujahideen to surpass earlier debates about the future of jihad and the mujahideen. By rechanneling the resources of the jihadi movement to attack the U.S. and remove its influence from the Muslim world, the advocates of local jihads could be accommodated. With defeat of the U.S. would come the fall of the hypocritical and oppressive Muslim rulers, thus paving the way to installing Islamic regimes in their stead. Furthermore, the focus on American targets could still damage local governments by demonstrating their incompetence in providing security to their "American masters." Consequently, such attacks could sow discord between the U.S.

¹⁶⁴ Al-Zawahiri, *Knights under the Banner of the Prophet*.

and the Arab regimes, as well as damaging the reputations of the local regimes in the eyes of their people and the world.

However, bin Laden had to convince the jihadi movement that it could indeed beat the U.S. After all, if the jihadis were unsuccessful in their local struggles, how could they defeat a superpower? The solution to this dilemma lay in the experience of the war in Afghanistan. Unity was crucial to success and could produce unimaginable results. Instead of dividing the power of the jihadi movement, its various factions should unite against the real target, the U.S. The war against the Soviets generated other lessons as well. Attributing the victory in the war and the disintegration of the Soviet Union solely to the work of the mujahideen highlighted the corresponding weakness of the U.S. The U.S. had struggled with the Soviet Union for fifty years and did not prevail, while the Muslim fighters, despite their material weakness, emerged victorious. This comparison led to conclusions that strength of belief was crucial to the mujahideen's success, and that American power was no more than a myth. To support the dismissal of American power, bin Laden pointed to the U.S. retreat from Vietnam, Beirut, and especially Somalia after it met resistance.¹⁶⁵ The fate of the Soviets also served to draw parallels for the coming confrontation with the U.S.: the U.S. was bound to lose, and with its fall, the problem of the Arab regimes would be solved. As bin Laden stated: "Russia was the head of the communist bloc. With the disintegration of Russia, communism withered away in Eastern Europe. Similarly, if the U.S. is beheaded the Arab kingdoms will wither away."¹⁶⁶ Bin Laden's inevitable conclusion, therefore, was that the mujahideen who brought about the collapse of one superpower could destroy the remaining superpower as well.

¹⁶⁵ For example, Interview with CNN, March 1997; Interview with al-Jazeera, aired June 10, 1999.

¹⁶⁶ From an interview with bin Laden held on March 18, 1997. Quoted in Simon Reeve, *The New Jackals: Ramzi Yousef, Osama bin Laden and the Future of Terrorism* (Northern University Press, Boston, 1999), 262

Meanwhile, the infrastructure that the mujahideen had created in Afghanistan continued to produce a new generation of mujahideen. Pakistan wanted to use the mujahideen and Afghanistan as a strategic weapon to advance its geo-strategic interests, in particular in conflict-ridden Kashmir,¹⁶⁷ and thus supported the preservation and even enlargement of this infrastructure. It encouraged devout youth from network of madrassas system to get training; later, driven by religious zeal, these young men would fight in the name of Islam while also serving Pakistani interests. Thus, not all the training camps were al Qaeda's. In fact, before the Taliban grabbed power in Afghanistan in 1996, bin Laden had little influence in the country. He was respected for his contribution to the war during the previous the decade, but his political power was relatively low. While some of his close allies in al Qaeda operated training camps in Afghanistan, they were only part of a larger group of Arabs with similar camps. Bin Laden himself was focused at that point on his enterprises in Sudan.

Only after he established substantial influence over the Taliban did bin Laden receive authority over non-Pakistani jihadis in Afghanistan.¹⁶⁸ Bin Laden's importance grew as he began to provide the Taliban with a conventional force -- Brigade 055 -- made up largely of Arabs who fought alongside the Taliban against the Northern Alliance (led by Ahmad Shah Massoud); eventually the Taliban became dependent on his skillful infantry force. Under these conditions, al Qaeda broadened its training camp system and its overall influence among the mujahideen. It is important to note that most visitors to its facilities were trained as foot soldiers to serve in the different

¹⁶⁷ Coll, *Ghost Wars*, 221.

¹⁶⁸ Mariam Abou Zahab and Olivier Roy, *Islamists Networks: The Afghan-Pakistan Connection* (Columbia University Press, New York, 2004), 48; Randal, Osama, 239;

jihad arenas and with the Taliban.¹⁶⁹ Only a small fraction received training for terrorist missions¹⁷⁰ and a select few offered the chance to join al Qaeda's ranks.¹⁷¹

Admission to the training camps often depended on personal connections: the ability to bring a recommendation from an Afghan alumnus or from reliable acquaintances of the mujahideen. This was another example for the reproduction of global jihad: a second generation of mujahideen used the connections of the war veterans to enter the melting pot that had created the first generation.

The training camps were essential for preserving the spirit of global jihad, producing a new pool of able and dedicated members. In addition to extensive military training, the trainees went through several hours of indoctrination -- religious and political -- every day. The camps also enabled youth from different countries to interact. They were socialized around a goal that surpassed national boundaries, and which provided all trainees with a salient shared identity.

Some of the volunteers came for a new experience and stayed for only a short while without even participating in any real fighting. Others remained in the camps for additional training or traveled to other jihad grounds to fight the "infidels." Still others were already members of radical groups seeking to improve their operational skills for use back home. A small number of highly qualified trainees remained in the camps' system to serve as trainers.¹⁷² The camps' graduates would spread the message and become recruitment magnets.

¹⁶⁹ Gunaratna, *Inside al Qaeda*, 58-60; Randal, *Osama*, 215-216, 246.

¹⁷⁰ According to one writer, the ratio of foot soldiers to trainees in terrorist methods was about 15:1. See Anonymous, *Imperial Hubris*, 62-63.

¹⁷¹ Sageman puts the number of volunteers who received such offers at 10-30%. See Sageman, *Understanding Terror Networks*, 121; Zachary Abuza, *Militant Islam in Southeast Asia: Crucible of Terror* (Lynne Rienner Publishers, Boulder and London, 2003), 8.

¹⁷² Ramzi Yousef, responsible for the bombing of the World Trade Center in 1993, is one such example. He trained in explosives and later became a trainer. See Reeve, *The New Jackals*, 138.

In promoting his vision of globalized Jihad, bin Laden was sensitive enough to avoid competing with other radical groups. Instead, in its early years al Qaeda functioned mainly as a facilitator, extending assistance to various groups. It provided training for volunteers from throughout the Muslim world, regardless of organizational affiliation. Al Qaeda also provided financial and technical support for terror operations. By supporting nationally based groups of radicals, al Qaeda made them increasingly dependent on its services, thus increasing its leverage. But al Qaeda's influence existed at the individual level too, as members of those groups who received training in the al Qaeda camps met its charismatic leading figures and were indoctrinated into the network's ideology. Furthermore, as the only militant group with transnational membership and an ideology that linked a global platform with local struggles, al Qaeda members could help to advance the network while retaining their affiliation to local groups. Since joining al Qaeda did not require abandoning membership in nationally based groups, the network managed to create bridgeheads to the different radical groups on the individual level as well. Hambali, for example, played a significant role in both al Qaeda and the Jemaah Islamiyah. As a result, al Qaeda gained substantial influence and even absorbed some of these fundamentalist groups. Al Qaeda also guided mujahideen to participate actively in fighting in Afghanistan, Chechnya, Bosnia, Somalia, Yemen and Kosovo, further cementing its credentials in the fundamentalist camp.

Through its facilitator role, al Qaeda's strength increased, as the network became more potent and better able to undertake independent operations. More important, this role positioned al Qaeda as the spearhead of the fundamentalist camp. Bin Laden knew that the small core of al Qaeda operatives would be insufficient to achieve the network's goals. Al Qaeda should function as the vanguard; but for change to take place, the various components of the Islamic movement had to collaborate and

the Muslim street had to be awakened. Understanding the benefits of ambiguity, al Qaeda avoided taking responsibility for operations that were linked to or carried out by the network, thus demonstrating a lack of regard for prestige and, consequently, obtaining the trust of other groups. Bin Laden himself always emphasized his role in inciting the people rather than in executing attacks.¹⁷³

Feeling ready to move forward, al Qaeda began a new stage in its operations in February 1998, with bin Laden's announcement of the creation of the "World Islamic Front for Jihad against Jews and Crusaders," which encompassed a number of terrorist organizations. In taking that step, bin Laden reorganized and formalized al Qaeda's connection with its various affiliates. The front issued a fatwah (an Islamic religious ruling) signed by bin Laden and the heads of other organizations, calling on Muslims to consider it their personal duty to kill Americans and their allies in order to liberate the holy places in Saudi Arabia and in Palestine.¹⁷⁴ To give the fatwah further legitimacy and to counter claims that bin Laden was not authorized to issue religious rulings, bin Laden convinced Muslim scholars in Afghanistan, Pakistan, and London to issue supporting opinions.¹⁷⁵ In the spirit of the fatwah and in order to establish al Qaeda's credentials within Islamist circles, al Qaeda started carrying out independent attacks. The bombing of the American embassies in Tanzania and Kenya (1998) and the attack on the American destroyer USS Cole (2000) should be understood against this background. With these operations, al Qaeda signaled its capacity to move beyond its facilitator role, as well as its readiness to advance its agenda through action. The attacks were also designed to increase the recruiting appeal of al Qaeda and to radicalize the Muslim street.¹⁷⁶

¹⁷³ E.g. Osama Bin Laden, Interview with ABCNEWS, December 1998; Interview with Al Jazeera, aired June 1999.

¹⁷⁴ Osama Bin Laden, "Jihad against Jews and Crusaders", *Al Quds al Arabi*, February 23, 1998.

¹⁷⁵ Gunaratna, *Inside al Qaeda*, 46-7; Burke, *Al Qaeda*, 166.

¹⁷⁶ Burke, *Al Qaeda*, 163-4.

Stage Three – 9/11 and its Aftermath

The 9/11 attacks on New York and Washington marked the beginning of the third and current stage in the globalization of jihad. 9/11 was designed to change the nature of the battle by provoking greater U.S. involvement in an unwinnable war that would eventually lead the U.S. to retreat from the region while eroding its basis of power. This weakening would result in the demise of the U.S. and open the field to a new power structure in which the Muslim *ummah* would dominate.

Al Qaeda is attentive to the psychology of its Muslim audience. It plays on the grudges that resonate with Muslims¹⁷⁷ (for example, by increasing the number of references to the Israeli-Palestinian conflict after the intifadah¹⁷⁸), attempting to tailor a strategy that would trigger the response that would best serve its goals. Al Qaeda observed the effects on Muslim public opinion of the futile American retaliation to the embassy bombing in August 1998. The failed strike on the training camps in Afghanistan boosted bin Laden's public image and increased the network's appeal.¹⁷⁹ This reinforced the perception that al Qaeda attacks on U.S. soil would provoke a forceful response, in turn awakening "the Muslim street" and causing it to rise against both invading U.S. forces and corrupt Arab regimes.¹⁸⁰

Indeed, the Muslim masses play a vital role in al Qaeda's strategy. Bin Laden and his lieutenants understood that they could not achieve their goals with only the network's resources. Al Qaeda could not be more than a vanguard; success hinged on

¹⁷⁷ Al-Zawahiri, *Nights under the Banner of the Prophet*.

¹⁷⁸ Gilles Kepel, *The War for Muslim Minds: Islam and the West* (Harvard University Press, Cambridge, Massachusetts, and London, 2004).

¹⁷⁹ Burke, *Al Qaeda*, 163.

¹⁸⁰ Michael Duran, "Somebody Else's Civil War," *Foreign Affairs* 81:1 (January/February, 2002), 23-24. Al Jazeera argues that the bombing of the destroyer Cole was intended to provoke a retaliation which in turn would increase al Qaeda's popularity and Muslim anger towards the U.S. According to the report, al Qaeda hoped that the American retaliation would provide the justification for escalating al Qaeda's operations. Michael Scheuer confirms that the 9/11 attack did create a public relations problem for al Qaeda among Muslims. See FBIS Report in Arabic, "Al Jazeera Program Traces Origins, History of al Qaeda," September 10, 2004; Anonymous, *Imperial Hubris*, 152-158.

the mobilization of the masses -- hence the constant appeal to Muslims to join the cause and start taking action. In his book, al-Zawahiri articulates the relations between the vanguard and the masses: "The jihad movement must come closer to the masses... We must win the people's confidence, respect, and affection. The people will not love us unless they felt that we love them, care about them, and are ready to defend them... The jihad movement must be in the middle or ahead of the ummah. We must not blame the ummah for not responding or not living up to the task."¹⁸¹

Yet al Qaeda was well aware of the difficulties in bringing the Muslim public into action. Bin Laden identified disbelief in the power of Muslims to affect reality and the concomitant passivity as two of the main factors in the malaise of the Muslim public. By successfully hitting the most important symbols of American power, bin Laden wanted to restore the self-confidence of the *ummah* in its ability to triumph over even the strongest power. Thus, by force of example and success, bin Laden sought to free the Muslim public from their state of submission. His appeal to the youth -- the more physically able and easily influenced -- should be understood in this context as well, because the youth are also less captivated by years of degeneration and passivity.

Nonetheless, empowering the Muslim youth would have a higher payoff if al Qaeda could draw the U.S. into an unwinnable battle inside the Muslim world. Bin Laden rightly assumed that the U.S. would have to respond to the 9/11 attacks and hoped to draw American foot soldiers into the Afghan swamp.¹⁸² The assassination of Ahmed Shah Massoud, commander of the Northern Alliance, a few days before the

¹⁸¹ Al-Zawahiri, *Knights under the Banner of the Prophet*.

¹⁸² There seems to be broad consensus on this point. See Paul Eedle, *Al Qaeda and the Language of Jihad*, Paper presented in the third annual international conference, The Center for the Study of Terrorism and Political Violence, St. Andrews University, 7-8 June, 2002; Anonymous, *Imperial Hubris*; David Cook, "The Recovery of Radical Islam in the Wake of the Defeat of the Taliban," *Terrorism and Political Violence* 15:1 (Spring 2003), pp. 31-56. Allen Cullison provides the most compelling evidence that this was indeed the case. See Cullison, "Inside al Qaeda's Hard Drive," 55-70. For different opinions, see Sageman, *Understanding Terror Networks*, and Randal, *Osama*.

attack on the U.S. was not merely a gift from bin Laden to the Taliban. It was also intended to guarantee that the U.S. would not have any capable proxy on the ground and would have to engage the mujahideen with its own ground forces.¹⁸³ With American forces on the ground combating Muslims, the call to jihad would reverberate louder.

Pictures from the battlefield would help in awakening Muslims. When the mujahideen fought the Soviets, news about the war was disseminated to the Muslim public through written and often government-controlled media. But the 1990s technological revolution made it easier for non-state actors to gain access to the newly emerged independent media outlets, to quickly reach a much larger Muslim audience attentive to Muslim-oriented issues, and to take advantage of the power of pictures to simplify and distort a complicated reality. Media-savvy bin Laden quickly understood the power of the media to help him in reaching his audience. His video- and audiotapes, aired by satellite networks such as al Jazeera, rapidly reached many millions. The focus of the Arab media on the suffering of Muslims at the hands of non-Muslims serves bin Laden's interests by providing visual evidence that seems to support al Qaeda's claims. Even American acts that were clear responses to al Qaeda's operations received the appropriate spin, successfully depicting the U.S. as the undeniable source of evil. In this way, the media became an important mobilization tool.

In making Afghanistan the principal battleground with the U.S., bin Laden saw a number of advantages. Afghanistan carries a high symbolic value, its role as the "graveyard of empires" burned deeply into Muslim consciousness. Just a little over a decade after the defeat of the Soviets, al Qaeda assumed that the symbolism of a

¹⁸³ Michael Duran, "The Pragmatic Fanaticism of al Qaeda: An Anatomy of Extremism in Middle Eastern Politics," *Political Science Quarterly* 117:2 (Summer 2002), 188.

superpower fighting poor but resolved Muslims would not be lost on its audience and would facilitate the expected awakening. Afghanistan seemed a promising battleground on a tactical basis too: its people had a reputation as ferocious and relentless warriors. Moreover, its harsh weather conditions and extremely difficult terrain would make the invaders' mission torturous.

Bin Laden believed that once on the ground, the American forces would find themselves trapped and beaten, much like the Soviets and the British before them. His lack of respect for the standing power of the U.S. reinforced this perception. In interviews, bin Laden repeatedly referred to the American experience in Vietnam, Lebanon, and Somalia as testimonies to the weakness of the U.S. military and American society. Therefore, he argued, once American soldiers began to return in 'body bags', the U.S. would retreat from the Middle East. This failure would then trigger a process of collapse similar to the one the Soviets experienced. The corrupt Arab regimes would lose power without the U.S. to support them and would be replaced by "true believers" who would establish the new Caliphate. In this entity, Islam could reclaim its past glory and realize its expansionist mission to bring Islam to all mankind.

But the attacks produced only some of the intended effects. The U.S. did respond forcefully by invading Afghanistan. However, the assassination of Massoud three weeks later than initially planned came too late and failed to result in the expected disintegration of the Northern Alliance.¹⁸⁴ With a local Muslim proxy on the ground, the U.S. was free to employ its overwhelming military advantage, topple the Taliban regime, and send al Qaeda on the run. Long after the Taliban's collapse, al Qaeda operatives engaged in a post mortem analysis of the defeat, blaming the weak

¹⁸⁴ Anonymous, *Imperial Hubris*, 34.

Taliban forces as well as various careless al Qaeda fighters for the ease of the American victory.¹⁸⁵

Even worse, the 9/11 attacks and the American reprisal failed to produce the expected awakening and mobilization of the “Muslim street.” Gilles Kepel argues that al Qaeda made a gross miscalculation, putting too much faith in the emotional reaction of the Muslim masses and no effort into organizing and mobilizing them.¹⁸⁶ Popular response following the invasion of Afghanistan is striking when compared to the reaction to the Soviet intervention in the same country twenty years earlier. Apparently, the “Muslim street” did not share bin Laden’s view of the Taliban as the only legitimate Islamic state. Few Muslims shed tears over the fall of the ruthless regime, although many were disappointed at the ease with which the U.S. managed to oust it. Al-Zawahiri’s argument that the jihad needs an arena inside the heart of the Arab world appeared truer than ever.¹⁸⁷ Afghanistan could not serve as a magnet for new Mujahideen.

Despite these failures, the 9/11 attacks did serve al Qaeda’s goals to some extent. The war in Afghanistan increased Muslim resentment towards the U.S. This anger was further fed by the constant pictures of Afghan suffering widely distributed by the Arab media outlets. President Bush’s verbal slip, calling the war on al Qaeda a crusade, was interpreted literally by many and reinforced the perception of a war on Islam. The retraction of the statement and countless explanations and clarifications provided little help. Thus, U.S. steps at that stage of the war on terror sowed the seeds for future and more successful attempts to rally the Muslim street.

¹⁸⁵ Cook, “The Recovery of Radical Islam.” No doubt, some of the less extreme Taliban leaders held grudges against al Qaeda too. Even before 9/11 they were worried that bin Laden’s growing influence over Mullah Omar would be detrimental to the success of the Taliban. See Cullison, “Inside al Qaeda’s Hard Drive,” Randal, *Osama*, 12-13, 239-240.

¹⁸⁶ Kepel, *Jihad*, 376.

¹⁸⁷ Al-Zawahiri, *Knights under the Banner of the Prophet*.

In addition, 9/11 helped al Qaeda in uniting most of the militant groups behind it. The response of the international community put all Islamic groups under tremendous pressure. As Montasser al Zayyat, a spokesman for the Egyptian al Gama'ah al Islamiyah complained, the attack turned many Islamic groups into "victims" of a war in which they did not choose to take part.¹⁸⁸ Al Zayyat's perspective does not appear to be shared by the vast majority of the radical groups, although other militant groups, in particular the Palestinian groups and Hezbollah, condemned the attacks and tried to dissociate themselves from al Qaeda. But other radical groups indeed found themselves drawn into the conflict. The transnational nature of al Qaeda's membership and the network's global reach rendered the struggle against it global. Its extensive links with groups around the Muslim world and the interpersonal web of connections that became a defining characteristic of the jihadi movement trapped both governments and militants in a direct confrontation.

President Bush's statement that in this battle one cannot sit on the sidelines but needs to take sides further raised the stakes. As al Zayyat complains: "In the post-9/11 world no countries can afford to be accused of harboring the enemies of the U.S. No one ever imagined that a Western European country would extradite Islamists who live on its lands...After September 11 2001, everything changed."¹⁸⁹ States all around the world started legislating or amending anti-terror laws that gave governments more instruments in confronting the terrorist threat. Further pressure on the militants resulted from improved and much more extensive cooperation among states. Some states also took advantage of the permissive atmosphere to increase the pressure on their local Islamic opposition, with less concern for possible repercussions from the international community.

¹⁸⁸ Al-Zayyat, *The Road to al Qaeda*, 97.

¹⁸⁹ *Ibid*, 99.

Al Qaeda lost Afghanistan as a base of operations, but other unruly regions (in Somalia, Pakistan, Indonesia, the Philippines, and other countries), though less comfortable, were still available. The network also found cyberspace to be another useful alternative. The growth in the number of Internet users in the Muslim world opened a new public space and enabled those sympathetic to the radicals' ideology to gain more information that reinforced their disposition. Furthermore, it has been instrumental in shifting sympathizers from passive support to active participation. This is done mainly through lively discussions in chat rooms and through detailed publications that provide professional instructions to those interested in joining the cause.¹⁹⁰

Conditions became more favorable for al Qaeda's goals with the American invasion of Iraq. On its face, Iraq was the ideal arena for jihad and could serve as the focal point that the Taliban's Afghanistan failed to become. As the home of the Abbasid caliphate, Iraq has a central place in the history of the Muslim nation. The fall of Baghdad to the Mongols in the 13th century still stands as one of the most significant traumas in the history of the Muslim *ummah* and serves as an effective symbol around which Muslims can be mobilized. Those perceptions are reinforced by the negative image of the U.S. and especially of the Bush administration. The near consensus among Muslims that the administration rushed to an unjust war in order to serve the narrow interests of the U.S. and Israel renders the historical analogy more vivid. Moreover, coming on the heels of the war in Afghanistan, the Iraq war increased the sense of the invasion as part of a broader American campaign against Islam.

¹⁹⁰ Gabriel Weiman, *www.terror.net: How modern Terrorism Uses the Internet* (The United States Institute of Peace, Special Report 116, Washington DC, March 2004).

The American presence in Iraq also provides the jihadis with operational opportunities. More than 130,000 coalition soldiers give the jihadis ample targets. Large caches of weapons, leftovers from Saddam's regime, are readily available throughout Iraq.¹⁹¹ That armory can compensate for the lack of the sort of state sponsorship the mujahideen enjoyed in Afghanistan twenty years ago. Young Muslims, largely from Arab countries, have been heeding bin Laden's call to travel to Iraq, taking advantage of its porous borders. Iran and Syria's silent cooperation or reluctance to invest in efforts to stop the infiltration of volunteers into Iraq also helps its development as the new jihad arena. The failure of the U.S. to stabilize the country further empowers the radicals,¹⁹² and their increasing confidence feeds back and strengthens the movement's ability to recruit. The appeal of this recruitment drive has become evident in Europe, where well-established networks that surround radical imams and jihad alumni capitalize on the anger against the U.S. The failure of European countries to integrate their disenfranchised Muslim population renders these youth a receptive audience to al Qaeda's call. Indeed, some, even if a notably small segment of the Muslim population, have made their way from Europe to Iraq. Others have joined the effort to carry out terrorism on European soil, as demonstrated by the attacks on the transportation systems in Madrid (on March 11, 2004) and in London (on July 7 and 21, 2005).

The war in Iraq also supplied the radicals with ample ammunition against the Arab regimes. No Muslim state stood forcefully against the U.S.: they settled for voicing public opposition, but most did nothing more. Furthermore, some Arab states, mainly the Gulf countries, even cooperated with the U.S. The failure of the leaders of

¹⁹¹ One of the al Qaeda spokesmen hailed Iraq as a better jihad arena than Afghanistan: "Iraq is a copy of Afghanistan but a bigger arena for the confrontation and bleeding the enemy," in Ben Venzke, *Al Qaeda Al Ablaj Threat Assessment*, v 1.0, May 30, 2003.

¹⁹² Though the progress achieved in the political process in Iraq represents a looming threat on the success of the jihadis.

the Muslim states to come to the aid of a “sister state” served the jihadis’ propaganda machine. Under the softest critique, the Muslim leaders were accused of being incompetent and unable to protect the interests of the Muslim *ummah*. Harsher criticisms blamed them for complicity with the acts of the U.S. Their behavior was portrayed as confirmation of the allegations that these rulers are illegitimate American puppets in the service of American interests. At the same time, the jihadis were able to contrast the “apostate” leaders’ betrayal with the jihadis’ fight against the occupation forces, and to present themselves as the only real force safeguarding the interests of the people.

Consequent to the war in Iraq, it appears that al Qaeda has managed to complete the transition from local to global jihad. The transition is largely psychological. Most attacks are being carried out by local groups in their own countries, mainly inside the Muslim world. But there is some shift in the targeting policies of those groups. The jihadis pick targets identified with the West or with Israel and Jews, including tourist sites (arenas of Western penetration and immorality) and Western embassies, as well as Western economic enterprises and contractors. By focusing on this type of target, the militants hit both the “far enemy” – the U.S. and its allies -- and the “close enemy” -- the Muslim regimes. In this way, al Qaeda provides the jihadi camp another bridge between local and global agendas. The U.S.’s continuous assertion that the war on terror is global in scope further cements the perception that nearly any terror attack is part of a larger global scheme orchestrated or inspired by al Qaeda.

Paradoxically, al Qaeda’s success in instilling its ideological perspective among jihadis and in fact in shaping a dangerous worldwide jihadi movement came at the same time that the network lost much of its ability to carry out independent spectaculars similar to the 9/11 attack and nearly disintegrated as an operating terrorist

entity. There is little resemblance between the pre-9/11 al Qaeda and the current one, but the global jihadi movement is clearly very much alive and lethal.

Would the globalization of jihad have occurred without bin Laden? I argue, cautiously, that it would have, but probably a few years later. The Islamists' aspirations to revive the Islamic *ummah* are perpetual; only the strategy and the timing may vary. Bin Laden served as a strategy entrepreneur. His aspiration to reestablish the caliphate and spread Islam throughout the world was not uniquely his, and was shared by many Islamists. His distinct contribution was in providing a new explanation for the surprising failure of the jihadi movement after the tremendous success against the Soviet Union; in designing a strategy focused on the U.S.; and in staging daring and deadly attacks against it.

Absent bin Laden, someone else would have pointed at the U.S. as the reason for the failed struggles; after all, his ideas have not evolved in a vacuum but rather through continuous discussions and debates within the jihadi camp. Furthermore, the failure of alternative diagnoses, the growing awareness of the interdependency of events throughout the world, and the global reach of the U.S. (fostered by the globalization of communication systems) made bin Laden's view an explanation waiting to be articulated.

Even without bin Laden, the U.S. would inevitably have suffered a devastating attack on its home front. Recall that the first attack on the World Trade Center, in 1993, was masterminded by Ramzi Yousef with only a loose connection to bin Laden. The Egyptian sheikh Omar Abd al-Rahman, a prominent leader within the jihadi movement, inspired a group of followers to attack other New York landmarks as well. Even though these attacks failed to achieve the desired outcomes, they clearly indicate that the U.S. was in the jihadi sights and that grandiose plans to attack it were designed by actors other than bin Laden. If not bin Laden, then someone else would

have picked up where the followers of Abd al-Rahman left off. The increased accessibility of ever more lethal weapons would have resulted eventually in a devastating attack and provoked a massive American response.

Conclusions

Holy war is an old concept in Islam; but there has never been a consensus about its prominence. For some Muslim scholars, its importance was temporary, conditional, and usually attached to Islam's early years. Even large parts of the salafi movement negate the implementation of jihad in today's context. But for others, jihad is "the neglected duty," an underestimated and underutilized fundamental tenet of Islam. Because of such people, jihad as a holy war has never completely disappeared from the Islamic discourse, as Muslim thinkers continuously called for its revival and tried to reinterpret it in light of different political circumstances and considerations. There have also been occasions, including in the 20th century, when the discourse of jihad was used to legitimize and reinvigorate local struggles.

On its face, it seems sensible that in a world penetrated by processes of globalization, jihad would take on a global dimension as well. But such a claim is not enough of an explanation. In order to understand the globalization of jihad, I have traced the process from the war in Afghanistan, a critical turning point in the modern use of jihad, to the present. I have highlighted a myriad of political, security, socio-economic, religious, personal, and perceptual factors that have shaped the form of the jihadi camp. Today's jihadi movement, led by al Qaeda, has created a bridge -- though with unstable foundations -- between national and global agendas. This movement is in no way the authoritative interpreter of Islam in general or of jihad in particular, but it claims to be the correct one and is intolerant to alternative interpretations. In its actions and through the responses it provokes from the U.S. and other states, the global jihadi movement does manage to radicalize the discourse among Muslims about

jihad, and to gain new recruits. In the following chapter I will argue that the process culminating in the globalization of jihad has rendered the jihadi movement a systemic threat -- one requiring a systemic response from the members of the international society.

Chapter Four:
Irreconcilable Approaches:
Jihadism and the Society of States

Introduction

The 9/11 attacks marked the culmination of al Qaeda's struggle to position itself as the spearhead of the jihadi camp and as the ideological lighthouse showing the direction for others to follow. I argue that the attack also marked the point when most states understood that al Qaeda and the global jihadi movement it led represented a threat to the society of states, requiring a systemic and systematic response. To provide support for this theory, the systemic aspect of the threat needs to be identified independently from states' perceptions. The argument requires that the dependent variable -- interstate cooperation -- be inferred separately from the independent variable -- the nature of the threat. A systemic threat cannot be inferred from states' understanding that they are facing a systemic challenge, since the theory could not be invalidated. Instead, I argue that a systemic threat, which can be identified objectively, should also be identified as such by states and lead to interstate collaboration. In addition to avoiding tautology, this approach allows for systemic change should the collaborative effort fail to achieve its goals and effectively combat the threat.

In this chapter, I expound upon the reasons why the threat represented by the al Qaeda-led jihadi movement is systemic. My argument focuses on four main elements: first, I explain the radical break between the jihadis' view of jihad and the understanding of jihad in mainstream Islam. I argue that the behavioral prescriptions that emerge from the jihadis' view constitute a clear onslaught on the society of states. Second, I demonstrate the incompatibility of al Qaeda's view of the world with the tenets of the international society, showing how this disparity is translated into specific rejection of institutions, practical derivatives, and symbols of the society of states.

Third, I show that material capabilities and willingness to use them supplement the ideological aspect of the jihadi threat: the jihadis' attempts to acquire weapons of mass destruction and their attitude towards the use of such weapons render them a threat to the whole system. The chapter also refutes the argument that the conflict with the jihadi camp could be solved by a more sophisticated American foreign policy. Through examination of jihadi texts, I determine that it is a mistake to view the jihadi threat only through policy lenses. A closer reading of the jihadis' ideology clearly demonstrates that the scope of the threat cannot be reduced to resistance to specific policies. Changes in the foreign policy of the U.S. will not suffice.

The Goals of Jihad

On its face, a war waged by a movement (in particular a transnational movement) rather than by a state is antithetical to the constitutive principles of the society of states because, in principle, the use of force in international relations is the prerogative of states. But when one scrutinizes the jihadis' interpretation of jihad, the threat to international society becomes even more pronounced. For hundreds of years, jihad was portrayed as a defensive response to an armed attack on Muslims in Muslim territories and as a means to regain power over territories that were once under Muslim control. But the today's jihadis diverge from this understanding in two important ways: they broaden the concept of attack on Islam, and they emphasize the expansionist aspect of jihad, viewing it as a tool to realize the obligation to make Islam the dominating religion on earth. Needless to say, even a "limited" war to create an Islamic empire stretching from Indonesia to Spain would constitute a serious challenge to order in the international system; but this section focuses, rather, on the danger of jihad taken outside the Muslim world.

In order to reveal today's jihadis' understanding of jihad, one must examine the writing of the movement's ideologues as well as the thinking of historical figures

that shaped and paved the way for the current jihadi perspective. Ideologues such as Ibn Taymiyya and Sayyid Qutb figure prominently in the worldview and ideology of bin Laden, al-Zawahiri, and their associates. Because the strategic leaders of today's jihadi movement are constrained by strategic considerations that will be discussed below, the works of their ideological forefathers have an added value as a means to clarify and strengthen the evidence regarding the thinking of the jihadis and the implications of their ideology for the state system.

According to Rudolph Peters, the motivations for defensive jihad are: 1) repelling aggression toward Muslim lives and property in the course of an attack by enemy forces; 2) preventing oppression and persecution of Muslims outside the territory of Islam; and 3) retaliating against a breach of a treaty by the enemy.¹⁹³ The second of these causes is especially intriguing and lends itself to the expansion of jihad in current times. It deems jihad outside Islamic territory permissible when the peaceful propagation of Islam is being hindered, or when Muslims living amongst unbelievers are perceived as discriminated against.¹⁹⁴ Among radical circles, the scope of what constitutes free proclamation is the broadest, making any restriction on their operation an attempt to curb the proclamation of Islam. These radicals get their inspiration and religious authorization from the radical jurist Ibn Taymiyya (died 1328), who held a broad definition of aggression against Muslims. According to Ibn Taymiyya, any infraction of Islamic law, belief, or practice can justify jihad.¹⁹⁵ Following Ibn Taymiyya's example, even measures to curb the operation of movements such as Hizb al Tahrir in various Western countries and the ban on the

¹⁹³ Rudolph Peters, *Jihad in Classical and Modern Islam* (Markus Wiener Publishers, Princeton, 1996), 120-121.

¹⁹⁴ Ibid, 122-123.

¹⁹⁵ Natana J. Delong-Bas, *Wahhabi Islam* (Oxford University Press, 2004), 252-253.

Muslim head scarf in France legitimate defensive jihad outside the Muslim world. Indeed, both of these specific examples led jihadis to call for action.

Parallel to broadening the concept of defense, the al Qaeda-led jihadi movement emphasizes the function of jihad in propagating Islam outside the borders of Dar al-Islam. Traditional understanding of jihad emphasizes that Islam cannot be forced on individuals; conversion needs to result from sincere acceptance of the Islamic message and not from coercion or the expectation of rewards. However, two of the leading thinkers of radical Islam in the twentieth century, the Pakistani Sayyid Abu al-Ala Mawdudi (died 1979) and the Egyptian Sayyid Qutb (died 1966), advanced an approach that accorded jihad a central role in creating conditions under which people can freely embrace Islam. According to their conception, Islam's global message must be promoted so that all people will be able to enjoy its just system. With Islam, the domination of man over man will end, and people will be subservient to God only. It is only through jihad that the recognition of God as the sole sovereign and implementation of the shari'ah as the only law can take place. Mawdudi explains:

Islam wants the whole earth and does not contend itself with only a part thereof. It wants and requires the entire inhabited world... Islam wants and requires the earth in order that the human race altogether can enjoy the concept and practical program of human happiness, by means of which God has honored Islam and put it above the other religions and laws. In order to realize this lofty desire, Islam wants to employ all forces and means that can be employed for bringing about a universal all-embracing revolution.¹⁹⁶

While Mawdudi operated in Pakistan, far from the core of the Muslim world, his colleague and leader of the Egyptian Muslim Brotherhood, Sayyid Qutb, had a

¹⁹⁶ Quoted in Peters, *Jihad in Classical and Modern Islam*, 128.

clear and direct effect on the thinking of the leaders of the current jihadi camp (in a book published shortly after the U.S. invaded Afghanistan, al-Zawahiri pays special tribute to Qutb's work and its influence on the jihadi movement¹⁹⁷). Due to the significance of Qutb's thinking for understanding the ideology of the global jihadis, I will discuss his perspective at length. For Qutb, jihad is a progressive program leading from peaceful proclamation, to warfare on a limited scale, to revenge for wrongs done to Muslims, to the final stage of unlimited warfare.¹⁹⁸ It is the means by which Muslims ensure that the proclamation of the message of Islam can be heard. He believes that for the peaceful proclamation of the truth to be heard, the world must be ridden of the power structures that hinder its call. The political, social, economic, racial, and class structures block the role of religion in the public sphere to the extent that preaching and persuasion alone will not suffice. Therefore, a violent struggle is required.¹⁹⁹

According to this view, jihad is not a specific type of warfare pursued under limited circumstance, but a permanent state as long as the world remains divided between Islam and the forces of ignorance.²⁰⁰ The ultimate state of peace will be achieved only when the religion is "entirely Allah's" and when people do not have any lords other than Allah.²⁰¹ In his words, "when Islam strives for peace, its objective is not that superficial peace which requires that only that part of the earth where the followers of Islam are residing remain secure. The peace which Islam desires is that the religion (i.e. the law of the society) be purified for God, that the obedience for all people be for God alone, and that some people should not be lords over others."²⁰²

¹⁹⁷ Al-Zawahiri, *Knights under the Banner of the Prophet*.

¹⁹⁸ Cook, *Understanding Jihad*, 103-104.

¹⁹⁹ Qutb, *Milestones*, 58-59.

²⁰⁰ Delong-Bas, *Wahhabi Jihad*, 261.

²⁰¹ Cook, *Understanding Jihad*, 104.

²⁰² Qutb, *Milestones*, 63.

If the universal mission of Islam is to be promoted by jihad,²⁰³ then the distinction between defensive and offensive jihad becomes superfluous: the concept of defense is overstretched to point of meaninglessness. Defense is no longer restricted to the protection of Muslim land against military attack; instead, it becomes the “defense of man against all those elements which limit his freedom.”²⁰⁴ Not only are Muslims allowed to intervene violently anywhere in the world where they are unable to proclaim their faith freely; in the name of spreading God’s rule, they are entitled to intervene in places that are not inhabited by Muslims. Qutb harshly criticizes those who emphasize defensive jihad in protection of territorial assets while ignoring Islam’s universal mission. “Those who say that Islamic jihad was merely for the defense of the ‘homeland of Islam’ diminish the greatness of the Islamic way of life and consider it less important than their ‘homeland.’”²⁰⁵

Indeed, David Cook argues that for Qutb, jihad must be worldwide and aggressive because the stakes are global. The world in its entirety needs to be free to choose to accept or reject the message of Islam; but for that condition to exist, the anti-God institutions of the international society that deny humanity of its right to make that choice must be forcefully removed. The only condition under which such free choice is possible is when the whole world is under Muslim control.²⁰⁶ In the words of Qutb:

Islam - that is submission to God - is a universal message, which the whole of mankind should accept of make peace with. No political system or material power should put hindrance in the way of preaching Islam. It should leave every individual free to accept or reject it, and if someone

²⁰³ Ibid, 75-76.

²⁰⁴ Ibid, 62.

²⁰⁵ Ibid, 71-72.

²⁰⁶ Cook, *Understanding Jihad*, 105.

wants to accept it, it should not prevent him or fight against him. If someone does this, then it is the duty of Islam to fight him until either he is killed or until he declares his submission.²⁰⁷

The global scope of jihad in the jihadis' thought is expressed in the work of Abd al-Salam Faraj, the leader of the Egyptian Islamic Jihad group in the early 1980s. Shortly after writing the manifesto of his group, titled "the neglected duty," Faraj was arrested for his involvement in the assassination of President Anwar Sadat (1981) and executed by the Egyptian authorities. Faraj's book is important especially because of his organizational and personal connections with al-Zawahiri, who headed the same organization a few years later. While Faraj's platform focuses on the "near enemy" of the Egyptian regime, his conception of jihad is instructive. Faraj viewed jihad as a global imperative that would enable Muslims to rule the world, convert it, and reestablish the caliphate. Cook argues that, as opposed to Qutb, Faraj believed that the conversion to Islam would stem from the attraction to its power: its victorious nature would validate its religious supremacy.²⁰⁸ Thus, while differing in their reasons for an expansive vision of jihad and the mechanism for victory, both Qutb and Faraj inscribed the same grandiose goal of spreading Islam throughout the world. Both sought first to attack the enemy at home, a program that al-Zawahiri himself adopted. But as the opportunity for such jihad closed on the jihadis during the 1990s, there was a receptive audience to change the operational direction, skip the "near enemy," and emphasize instead attacks on the "far enemy." In this way the jihadis brought the already existing global aspirations of the movement into the light.

The rejection of the distinction between defensive and offensive jihad can also be seen in thinkers who represent the transition from jihad against the oppressive

²⁰⁷ Qutb, *Milestones*, 57.

²⁰⁸ Cook, *Understanding Jihad*, 107-108.

regimes to an internationalized jihad. Such is the case of Omar Ibn Abd al-Rahman, a prominent figure in both the Egyptian jihadi scene and the global jihadi movement. When standing trial after Sadat's murder, the blind sheikh dismissed the idea of a defensive jihad, asking the judges if the imperial expansion of the Islamic empire since the seventh century was also "defensive."²⁰⁹ Abd al-Rahman's words were followed by deeds: he is currently incarcerated in the U.S. for his involvement in the 1993 bombing of the World Trade Center and in a plot to attack other New York landmarks.

If the jihadis indeed reject the division between defensive and offensive jihad and see it as a universal revolutionary struggle,²¹⁰ why do many statements made to external audiences -- Muslims and Westerners -- focus on the defensive rather than the expansionist nature of the jihad waged by the al Qaeda-led jihadi movement? Indeed, the jihadi speakers continuously declare that defending Islam has become an urgent need because Islam's enemies have now moved to the stage of direct occupation of the Muslim world.²¹¹

There is a clear rationale behind such a presentation. First, it represents the jihadis' true sense that Islam as a religion is under attack. But this characterization conflates pure defense against occupation with the view that the attack on Islam is a permanent condition that will last until the Day of Judgment, when the Muslim *ummah* will prevail over "the forces of falsehood" and Islam will dominate the globe. Because the rivalry between Islam and its opponents is eternal, such defensive jihad cannot end with the alteration of the foreign policies of non-Muslim states.

²⁰⁹ Fawaz A. Gerges, *The Far Enemy: Why Jihad Went Global* (Cambridge University Press, New York, 2005), 5.

²¹⁰ Peters, *Jihad in Classical and Modern Islam*, 130-131.

²¹¹ For example, see "Al Zawahiri Urges Defense of Palestine, Forming Resistance Command," *Al Jazeera*, October 1, 2004.

Second, political and strategic considerations require justifying jihad as a response to specific policies of non-Muslim states. If the jihadis were to emphasize their view of a permanent cosmic struggle and their wish to impose Muslim rule throughout the globe, many Muslims would be reluctant to extend their support. Such emphasis would probably lead numerous Muslims to see the jihadis' goals as exaggerated and impractical and the jihadis as dreamers living in a fantasy world, unworthy of being followed by the masses. In contrast, the masses find the defense of Islam a more compelling reason for joining the war.

Revealing the scope of the jihadis' aspirations could also be detrimental in relation to the non-Muslim audience. An important element in al Qaeda's strategy is the attempt to cause division between the U.S. and its allies.²¹² States must believe that they have an option: that there is a way to avoid being attacked, and that the conflict could be solved with changes in policies. But if the true scope of the jihadi mission were to become self-evident, al Qaeda would risk improved interstate cooperation.

Third, the doctrine of jihad that is accepted by mainstream Islam puts the legitimacy of offensive jihad at the current stage in doubt. Defensive jihad is recognized as obligatory upon each Muslim (Fard Ain), while offensive jihad is a collective duty (Fard Kifayah) that is applicable only under the leadership of an imam and for which there could be exemptions. Consequently, if jihad is portrayed as offensive before a caliphate has been established, Muslims could argue that it is not supported by the scripture and that they are not obligated to participate. Furthermore, emphasizing the defensive nature of jihad helps to avoid diluting the message.

Note that not all declarations to the masses stick to the more careful exposition of the goals of jihad. For example, in one of his statements, al-Zarqawi promises

²¹² For example, see bin Laden's "offer" of truce to the Europeans after the Madrid bombing. See "Osama Bin Laden Speech Offers Peace Treaty with Europe, Says Al-Qa'ida 'Will Persist in Fighting' the U.S.," *Memri: Special Dispatch Series – No. 695*, www.memri.org, April 15, 2004.

Muslims extensive conquests. “God will make the Muslims conquer Rome, as his prophet, may God’s peace and blessing be upon him, has promised when he said that it will be conquered in the same way that Constantinople was conquered before... We hope that God will render us more victorious than this. We ask God to conquer the White House, the Kremlin, and London.”²¹³ One jihadi publication describing the jihadis’ strategy in Iraq claims that all Arab and Western countries intervene there because they fear the consequences of a jihadi victory. They know, states the author of the document, that “if the jihad fighters triumph, jihad will spill out from the boundaries of Sykes-Picot, spread to the Arab countries adjacent to Iraq and to nearby enemies, and then spread to the other Western states [within] a global jihad campaign.”²¹⁴

Bin Laden himself explains that jihad is needed in order to strengthen Islam -- necessary because a powerless Islam will be unable to realize its mission of spreading throughout the world as the one true religion. Thus, jihad is not merely a means to repel attacks on Muslim lands; it is also a crucial part of purifying Islam from the flawed Western values of materialism and secularism and allowing it to realize its mission of conquering the world.²¹⁵

Further evidence for al Qaeda’s true vision of jihad is revealed in the doctrinal manifestos that are designed mainly for internal consumption. There, Yousef al-Ayiri asserts that “Muslims can have only one goal: converting all humanity to Islam and effacing the final traces of all other religions, creeds and ideologies.”²¹⁶ The religious

²¹³ “Al-Zarqawi Message Defends Executions, Calls for Jihad,” FBIS Report in Arabic, July 5, 2004.

²¹⁴ “The Global Islamic Media Front: Al-Qaeda in Iraq Has Replaced the Mother Organization in Afghanistan and is Spreading Jihad Throughout the World,” *Memri: Special Dispatch Series – No. 1003*, www.memri.org, October 12, 2005.

²¹⁵ Yoram Kahati and Yoni Figchel, *Osama bin Ladin as the New Prophet of Islam* (The Institute for Counter-Terrorism, Herzliya, Israel, July 15, 2003).
www.ict.org.il/articles/articledet.cfm?articleid=489, accessed October 31, 2005.

²¹⁶ Cited in Amir Taheri, “Al Qaeda’s Agenda for Iraq,” *New York Post*, September 4, 2003.

mission of spreading Islam globally and the derivative need to bring all non-Muslim countries to submit to Islam is also expressed in al Qaeda's official publication, the "Voice of Jihad."²¹⁷

An interesting article by Ali al-Aliyani, published on al Qaeda's website,²¹⁸ discusses the importance of jihad and its goals. Due to the clarity of the presentation, it is worth elaborating upon. Al-Aliyani writes that "the Islamic state is not a territory on earth that has specific boundaries to be guarded, but it is everywhere in which Islam has penetrated and removed the polytheistic organizations -- that has become part of the Islamic state." Such a formulation renders every territory once under Muslim control a target for jihad. But al-Aliyani does not stop there, declaring that the Muslim leader should push towards adjacent lands "in order to expand the area of the Islamic state, because Islam seeks [to dominate] the entire earth in order to subject it to the laws of Allah and His Messenger."²¹⁹

Indeed, al-Aliyani asserts that jihad's most important goal is to return all of humanity to its original state of monotheism, submitting to God and living according to God's word and no other.²²⁰ In line with Qutb's ideas, al-Aliyani views jihad as a means to remove temptations, allowing people to appreciate the truthfulness of monotheism without impediments and see the system of Islam, its justice and righteousness to humanity, in its totality. To achieve this goal, jihad must be carried out until infidelity is exterminated in its entirety. "This is because infidelity is like cancer or even worse, so when an infidel does not convert to Islam or is not

²¹⁷ "2nd Issue of 'Voice of Jihad' Al-Qa'ida Online Magazine: Strategy to Avoid Clashes with Saudi Security Forces, Convert the World Countries to Islam," *Memri: Special Dispatch Series – No. 601*, October 31, 2003.

²¹⁸ www.alneda.com operated until a few months after the 9/11 attack until its domain name was taken. Many additional websites became mouthpiece to the jihadi camp but for a long time al-Neda served as the official one.

²¹⁹ Ali al-Aliyani, "The Importance of Jihad, on the Goals of Jihad," cited in Cook, *Understanding Jihad*, 184.

²²⁰ Ibid, 182-184.

submissive to the laws of Islam then it is necessary to extirpate him so that the society in which he exists is not corrupted.”²²¹ An additional value of the extermination of infidelity is that it would lead to the glorification of the Muslims, lifting disgrace from them.

Jihad, al-Aliyani clarifies, can cease only once its ultimate goal of converting the entire world to Islam (except for the People of the Book and the Zoroastrians, who would have to pay the *jizya* tax and remain in a state of subservience and submissiveness) is achieved. However, he does not expect this to occur because Satan will continue to lead humanity astray until he is defeated on the Day of Judgment. Thus, jihad will continue permanently.²²²

The Jihadi Movement and the Tenets of the International Society

Though significant, the jihadis’ interpretation of jihad is not the only reason that the jihadi movement poses a threat to international society; their attitude to the tenets of the society of states further supports this argument. An entity qualifies as a systemic threat when it rejects constitutive normative principles of the existing system, as well as the institutions and rules that derive from and promote these principles. At the same time, the threatening entity offers an alternative order and advances a different organizing principle for world politics. As I will demonstrate in the following pages, the attitude of the al Qaeda-led jihadi movement towards the fundamentals of international society meets those criteria for representing a systemic threat.

The state system

Al Qaeda’s vision rejects the legitimacy of the state system. It does not accept the anchoring of political life in a secular institution such as the state or the division of the global terrain into independent separate states bounded by rules and norms that are set

²²¹ Ibid, 184-185.

²²² Ibid, 188.

through practice or man-made decisions. A number of reasons stand behind this rejection. First, the jihadi worldview is divinely centered. The reference point for all aspects of life is religious; the Islamic shari'ah provides the tools and prescriptions for every aspect of behavior. Any political division of the world that is not sanctioned by the shari'ah is thus illegitimate. Furthermore, the system that is created and reproduced by the contact and association of those separated states is guided by considerations and decisions made by men, whereas the jihadis negate any organizing principles and rules that do not derive from God's decrees.

Second, the jihadis reject the division of the world into states because it breaks the Muslim world into numerous entities, where only one Muslim empire should exist. The jihadis argue that the West, and especially the U.S., conspire to split the Muslim "nation," the *ummah*, in this way in order to weaken the Muslim community and prevent Muslims from realizing their religious and political destiny. This political division pits Muslims against themselves, damages human and economic resources, destroys infrastructure, and divides society, rather than bringing all Muslims together to fight the war against the U.S. and Islam's other enemies.

Indeed, jihadi speakers continuously emphasize the indivisibility of the *ummah* and declare that what happens to Muslims in one place is the business of the entire Muslim nation. In a statement made in early 2005, al-Zawahiri provided an illuminating example of this approach. Referring to the plight of the Palestinians, he declared that the problems of the Palestinians are not a regional issue confined only to Palestine but rather "an aggression on the house of Islam, as the Muslims are one nation, and their land is that of one country."²²³ The indivisibility of the *ummah* and its primacy over arbitrary physical and territorial divisions is the foundation of every call

²²³ "Dr. Ayman Al-Zawahiri: The Freeing of Humanity And Homelands Under The Banner of the Qur'an," February 11, 2005. www.jihadunspun.com, accessed March 8, 2005.

to Muslims to assist their brethren in conflicts throughout the world, whether in Kashmir, Chechnya, Iraq, or elsewhere. The territorial divisions, the attempt to anchor people's identity in national affiliation and to establish loyalty to states, are perceived as an obstruction to the divinely-ordained order where the source of people's identity and loyalty is their religion.

Sovereignty

Sovereignty is one of the main tenets of the society of states. It serves to denote a state's sole authority over a territory, which ideally means that a state is sovereign to design and carry out policies inside that territory and regarding the people that reside within its borders without the intervention of external actors. This implies that states have the authority to devise their own domestic and foreign policies and are the only accepted agents to legitimately employ coercive means. In its second role, sovereignty represents an organizing principle for the international system, establishing patterns of behavior that reduce conflicts among its states.²²⁴

Al Qaeda rejects sovereignty on several grounds. Most important, the jihadis negate the idea that sovereignty lays in any source other than God. Neither the artificial institution that is the state nor men can claim sovereignty, because this is God's privilege as the creator of all things. Any attempt to locate sovereignty elsewhere amounts to equating oneself to God and deserves the punishment of death. Most religious currents reconcile the tension between God's sovereignty and that of states and people by asserting that sovereignty belongs to God, who allows people to do as they choose. In this view, God's sovereignty is not part of this world; thus the logic of the state and the logic of religion are located in different spheres and do not conflict. However, the jihadis reject this formulation because they believe that God's

²²⁴ For a discussion of sovereignty as a two-layered concept, see Barak Mendelsohn, "Sovereignty Under Attack: The International Society Meets the Al Qaeda Network," *Review of International Studies* 31:1 (2005), 45-68.

kingdom is part of this world, and that placing sovereignty in any other authority is usurpation of “God’s throne.”²²⁵

Al Qaeda’s understanding of sovereignty restricts states’ rights to act. Sovereign rights in the international society include states’ discretion to grant some rights to other actors and to enter into contracts with external actors without compromising their overall sovereignty. But for bin Laden and his followers, the use of one state’s territory and facilities, even with the explicit consent of the host country, is indicative of loss of sovereignty. For this reason, bin Laden argues that the reliance of the Gulf countries, especially Saudi Arabia, on Western support, and their agreement to serve as a launching pad for attacks against Iraq, led them to lose their sovereignty.²²⁶

Such a conception narrows the authority of leaders of Muslim countries. Muslim states are not allowed to pursue foreign policy that the jihadis interpret as conflicting with divine imperatives. The jihadis assert that there are basic imperatives that Muslim rulers may never ignore, regardless of any consideration of political and military interests. For example, Muslim leaders must maintain the religious purity of their states and resist any Western presence; foreign non-Muslim elements, and especially military forces, must not be allowed to reside on Muslim land. Muslim governments do not have the authority to ignore their obligations; after all, “these countries belong to Islam and not to those rulers.”²²⁷ Domestic opposition to a state’s policies is not uncommon, but the negation of a regime’s legitimacy is usually attributed to lack of popular support or to deficiency in the procedures by which rulers gain power or decisions are taken, rather than to violation of religious imperatives.

²²⁵ William I. Zartman, “Islam, the State and Democracy,” in Charles E. Butterworth and William I. Zartman (eds.), *Between the State and Islam* (Cambridge University Press, Cambridge, 2001), 234.

²²⁶ “The New Powder Keg in the Middle East,” *Nida’ul Islam* 15 (October-November 1996); Osama bin Laden’s interview with ABCNEWS, December 1998.

²²⁷ Interview with ABCNEWS.

The jihadi perspective is restrictive not only with regard to the political authority of Muslim states; the right of 'infidel' countries to pursue independent foreign policy is limited as well. The crucial factor in assessing the legitimacy of these countries' policies is their effects on Muslims and Muslim states. Thus, whenever U.S. actions hurt Muslims, even indirectly, these policies are illegitimate and require resistance, namely jihad.

It comes as no surprise that when war results from a religious imperative, it challenges states' exclusive right to declare war. Once the acts of a non-Muslim state meet the requirements for launching a holy war according to the interpretations of the jihadis, jihad then becomes obligatory. A true Muslim ruler will identify when these conditions exist and will lead a campaign against the "aggressors." To refrain from such imperatives makes a leader a sinner. The obligation to fight remains, however, even if a leader fails to meet his responsibilities; it will then be assumed by true believers, the mujahideen. Therefore, because the regimes of the Muslim world have neglected their duty to fight jihad, al Qaeda has assumed that responsibility and leads the Muslim *ummah* in the war on Islam's enemies -- in clear contradiction to the idea of states' privileges embedded in the concept of state sovereignty.

One of a state's fundamental privileges is the right to recognize the sovereignty of another entity (which Stephen Krasner calls "international legal sovereignty"²²⁸).²²⁹ Thus, states hold the right to provide legitimacy to statehood claims or status of other actors in the international system. But the jihadis do not accept that this prerogative can be awarded unconditionally to states, restricting its application to both Muslim and non-Muslim states. In the view of bin Laden and his associates, states' recognition

²²⁸ Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton University Press, Princeton, NJ, 1999), 14-20.

²²⁹ Janice E. Thomson, "State Sovereignty in International Relations: Bridging the Gap between Theory and Empirical Research," *International Studies Quarterly* 39 (1995), 229.

power is reduced in Dar al-Islam because once controlled by Muslims, a territory -- especially an Islamic sacred place -- cannot become non-Muslim (for example, Spain and East Timor), regardless of states' decisions.²³⁰ Hence, the recognition of Israel's sovereignty is unlawful and a source for the jihadis' criticism of Saudi Arabia, the Palestinian Authority, and other Arab regimes.²³¹ In bin Laden's words, "the creation of Israel is a crime which must be erased. Each and every person whose hands have become polluted in the contribution toward this crime must pay its price, and pay for it heavily."²³²

Bin Laden's conception of what constitutes a legitimate state is not external recognition or meeting some 'standards of civilization.'²³³ Instead, legitimacy comes from the strict application of God's injunctions. Thus, in the Muslim world, only states like the Taliban's Afghanistan (which received international recognition only from Saudi Arabia, Pakistan, and the United Arab Emirate) are legitimate. This example is illustrative of the huge distance between prevailing norms of state behavior in the current society of states and in the religiously sanctioned vision of the al Qaeda-led jihadi movement. Rejection of the authority of states (directly or through international organizations) to grant recognition, and the appeal to a different source of authority for such recognition, represent a challenge to the international society.

International Law

International law is an important institution in the service of international society. It identifies the society of sovereign states as the supreme organizing principle of the political organization of mankind; states the rules of coexistence among states; and

²³⁰ Bernard Lewis, "License to Kill," *Foreign Affairs* 77:6 (November/December 1998), 14-19

²³¹ Mamoun Fandy, *Saudi Arabia and the Politics of Dissent* (St. Martin's Press, New York, 1999), 187-190.

²³² Osama bin Laden, "Letter to America," *The Observer*, November 24, 2002.

²³³ On the standard of civilization in the expansion of the international society see, Gerrit W. Gong, *The Standard of "Civilization" in International Society* (Oxford University Press, New York, 1984).

helps in achieving compliance with the rules of the international society.²³⁴ Therefore, a rejection of international law and its role in international affairs (rather than its application in particular cases) is an evidence to the jihadis' approach towards the international society.

Al Qaeda rejects international law on a clear doctrinal basis. According to the interpretation the jihadis offer of the principle of *tawhid* (unity) in Islam, only God is sovereign to create law; any law that cannot be linked directly to the Qur'an and the shari'ah is a manifestation of unbelief. Any man-made law is invalid because, according to the jihadi narrative, those who create law in fact try to make themselves partners and equals to God.²³⁵ Such a perspective implies that states lack the discretion to make domestic law, let alone international law.

International law is renounced not only as the creation of men, but also because it is shaped by non-Muslim states and reflects Western norms antithetical to those that Islam prescribes for Islamic countries and Muslim people. Bin Laden makes it clear that international law is incompatible with Islamic law; Muslim leaders who refer to international law are automatically in opposition to the shari'ah and the teachings of the prophet.²³⁶ As will be discussed below, the jihadis also reject international law because it frequently stems from UN resolutions.

The United Nations

The UN is an important symbol of the society of states; therefore, actors' attitudes towards it indicate their attitude towards the international society. The UN is a source of broad jihadi criticism. Many of al Qaeda's grudges against the UN appear to be directed at specific practices of the organization, but a closer reading reveals that the

²³⁴ Bull, *The Anarchical Society*, 140-142.

²³⁵ Osama bin Laden, *Declaration of War*, October 12, 1996..

²³⁶ Osama bin Laden, "This War is Fundamentally Religious," November 3, 2001, *Washington Post*, published November 7, 2001.

jihadis' resentment goes much deeper and reflects a rejection of the basic premises upon which the institution is constructed.

In his declarations, bin Laden attempts to unmask the true nature of the UN as a tool that serves the narrow interests of the strong powers, while violating the principles on which it was founded. Instead of working to achieve its declared goals, the UN has become "an instrument of crime against Muslims,"²³⁷ cooperating with the aggressors, the strong powers, in the suppression of the weak, mainly Muslims: it ignores the aggressors' deeds but hastens to convict the weak who try only to defend themselves. It ignores the "torture" and killings of Muslims in Kashmir and Chechnya, while supporting the U.S. military campaign against innocent people in Afghanistan. The UN is accused of providing the cover for Islam's enemies to prevent Muslims under attack from obtaining weapons for their defense²³⁸ (alluding mainly to the weapons embargo on the parties to the war in the Bosnia). It also forced the separation of East Timor -- a part of the Islamic World -- from Indonesia,²³⁹ and in 1947 decided on the division of Palestine and thus "surrendered the land of Islam to Jews."

Some of these accusations could be legitimately construed as directed at the practices guiding UN action; but the depiction of the organization as a representative of an international order that is alien to what can be acceptable for Muslims and the denial of some actions taken by the UN represent a deeper and more fundamental hostility. The UN is depicted as "an organization of infidel [countries] that shapes the nature of the relations between the lords of the veto, headed by America, and the slaves of the General Assembly, and then speaks mendaciously and distortingly of justice, equality, and freedom."²⁴⁰ Thus, this is not an organization that lost its way but

²³⁷ Ibid.

²³⁸ bin Laden, *Declaration of War*, October 12, 1996.

²³⁹ Address of Osama bin Laden, *Al-Jazeera*, November 3, 2001

²⁴⁰ "Osama Bin Laden to the Iraqi People: It Is Forbidden to Participate in Iraqi & PA Elections; Jihad in Palestine and Iraq is Incumbent upon Residents of All Muslim Countries, Not Just Iraqis and

could be repaired if states remained loyal to the principles upon which it was founded. Instead, the jihadis view the UN as another manifestation of a conspiracy to perpetuate a world order serving the evil wishes of the “infidels” and preserving the alleged submission of Muslims to the Crusaders’ alliance, allegedly led by the U.S.

The global jihadi movement also rejects common roles that states have granted the UN. As a natural derivative of the jihadis’ rejection of states’ right to provide external recognition to the sovereignty of other state actors, the jihadis also deny the significance of the admittance of a state to the UN and other organizations, generally viewed as the ultimate external recognition of a state’s sovereign status and the concomitant international legitimacy. Moreover, the jihadis object to the practice in which some states (especially decolonized states) have acquired their independence and sovereign status directly through UN resolutions. The most bothersome of such cases in the jihadis’ eyes are the UN decisions to grant independence to Israel and East Timor. Both cases were harshly decried by bin Laden as part of a UN-led conspiracy to divide and annihilate the Muslim world.²⁴¹

Other features of the UN that are incompatible with the jihadi worldview are its symbolic role as the place where states realize the desire for international collective action, the anchoring of foreign policies in international norms, and the appeal for international legitimacy. Bin Laden argues that the desire for international legitimacy contradicts, at least with respect to the Arab leaders, the legitimacy and superiority of the Qur’an and Islamic law. As discussed earlier, al Qaeda also rejects the role of the UN and its organs in the creation of international law. Moreover, the norms on which the UN rests are Western and antithetical to Islam. Hence, in bin Laden’s opinion,

Palestinians; Zarqawi is the Commander of Al-Qa’ida in Iraq,” *Memri, Special Dispatch Series – No.837*, December 30, 2004. www.memri.org, accessed January 23, 2005.

²⁴¹ On bin Laden’s approach to the independence of East Timor see, bin Laden, “This war is fundamentally religious”.

those who seek the UN's support deny the legitimacy of the Qur'an, providing further evidence of their betrayal of Islam.²⁴²

A change in UN practices could not render it more legitimate or compatible with the jihadi visions. Its foundations, as well as those of other international institutions and universal conventions (including the Geneva Convention and other human rights treaties), are simply deemed un-Islamic,²⁴³ and consequently could never be compatible with the religious requirements that guide the jihadis' actions.

Democracy and Democratic elections

Since the end of the Cold War and the disintegration of the Soviet Union, there has been a noticeable spread of democracy throughout the world. Different states may be in different phases of their transitions or exhibit different democratic styles; but the proliferation of democracy is undeniable. In the current international society, a state does not have to be a democracy in order to be a member; but if one extrapolates from the manner in which norms of human rights slowly become causes for intervention in states' domestic affairs, it is reasonable to assume that in the future the presence of a certain level of democratic characteristics may become normative preconditions for membership in the international society. Thus, the jihadi approach to democracy can serve as an additional indicator of the compatibility between the jihadi movement and the international society.

For the jihadi movement, the trend of democratization in the Middle East, no matter how slow, is a serious threat. Once again, doctrinal concerns dictate the movement's objection to the democratic process. The jihadis view democratic reforms as the continuation of the Western plot against Islam. But strategic considerations are also present in the movement's opposition to democratic reform, as the jihadis feel

²⁴² Ibid.

²⁴³ Cook, *Understanding Jihad*, 149.

that the spread of democracy might hinder their attempts to capture power in Muslim states.

In December 2004, ahead of a wave of elections in the Middle East -- in Iraq, the Palestinian Authority and in Saudi Arabia -- bin Laden raised his objection to the electoral process and to democracy in general, invoking three main themes. First, he declared that participation in governmental legislative bodies is prohibited because such bodies legislate for the people, thus assuming God's prerogatives and trying to become like God. Both candidates and voters are deemed apostates.²⁴⁴ Legislation, bin Laden had asserted in an earlier statement, "is one of the main characteristics of godliness. Hence, he who wittingly endorses this [Iraqi] council and this constitution will then reject Allah the Almighty."²⁴⁵ Similarly, the head of al Qaeda's Shari'ah Committee declared that the drafting of the Iraqi constitution is

a very grave act, which contradicts monotheism and is against the religion of Allah. He who drafts the constitution is making himself equal to the Lord of Heaven and Earth. A mortal cannot make laws for the living side by side with Allah, because law making is one of the [exclusive] attributes of the Lord, and only tyrants and rebels compete in this with Allah." "Since democracy contradicts the law of Allah, we are commanded to regard as heresy the democracy, the constitution that is its symbol, and its regime, which guarantees deviation from the law of Allah, abolition [of the law of Allah], and sanctification of a human being, elevating him to the level of the Creator."²⁴⁶

²⁴⁴bin Laden's December 16, 2004 Statement," Jihadunspun, December 21, 2004. www.jihadunspun.org, accessed December 22, 2004; "Osama Bin Laden to the Iraqi People," *Memri, Special Dispatch Series – No.837*.

²⁴⁵ "Complete Text of Sheikh Osama Bin Laden's Latest Message to Ummah," May 12, 2004. www.jihadunspun.com, accessed May 16, 2004.

²⁴⁶ "Al-Qaeda in Iraq: The Drafters of the Iraqi constitution and Those Who Support Them Are Infidels Who Must Be Killed," *Memri: Special Dispatch Series – No. 962*, August 19, 2005.

A second (and secondary) reason to oppose democratic elections in the Muslim world is the belief that such elections do not represent genuine attempts to reform Muslim countries and to award people their rights. Rather, the electoral process is just another disingenuous act taken by ruling elites in Arab states, with the purpose of perpetuating their control.²⁴⁷ The third reason bin Laden raises is that elections taken under occupation cannot be legitimate -- as with the elections in Iraq, which were ordered by the U.S. In the same vein, bin Laden had opposed the presidential elections in the Palestinian Authority because “the land is under occupation, the constitution of the land is jahili, made by man... and the candidate Mahmoud Abbas is a Bahai [i.e. not a Muslim] who was brought in...under the Oslo Accords.”²⁴⁸

Bin Laden’s deputy, al-Zawahiri, has himself dedicated a number of declarations to combating the idea of democratic reforms in the Muslim world. Real reform, he argues, can be pursued only through return to the true tenets of Islam and in particular to jihad.²⁴⁹ Al-Zawahiri’s message is an attempt to promote a jihadi agenda through the utilization of the increasingly popular slogans of freedom and reform; but he presents a conception that is inconsistent with the meaning of these principles in well-established democracies. A more reliable testimony to al-Zawahiri’s attitude towards democracy can be found in his critique from the end of the 1980s of the Muslim Brotherhood movement in Egypt. In a book he authored, al-Zawahiri terms democracy an “infidel human religion.” Unsurprisingly, the core of his objection relates to the incompatibility he sees between democracy and the principle of *tawhid*.²⁵⁰

²⁴⁷“Bin Laden’s December 16, 2004 Statement.”

²⁴⁸ “Osama Bin Laden to the Iraqi People,” *Memri: Special Dispatch Series – No.837*.

²⁴⁹ Ayman al-Zawahiri, “The Freeing of Humanity and Homelands,” www.jihadunspun.com,

²⁵⁰ Mishari al Dhayidi, “Al Zawahiri: Turban for Every Idea,” *Al Sharq al Awsat*, June 26, 2005.

Yousef al Ayiri, one of al Qaeda's most prominent ideologues (who died in a gun battle in Saudi Arabia in June 2003) warned that secular democracy is another form of unbelief that aims to destroy Islam. Democracy, he argued, is even more dangerous than modernism, nationalism, and socialism -- other manifestations of unbelief -- combined because democracy has "seductive capacities." Democracy persuades people that they are in charge of their destiny, leading them to ignore God's "unalterable laws." The threat of democracy makes the fight against the democratic experiment in Iraq particularly crucial, because if democracy succeeds in Iraq it will spread to the whole Muslim world and lead Muslims to abandon jihad.²⁵¹

To reiterate, al Qaeda's attitude towards the basic tenets of the international society puts it in direct conflict with that system. The members of the network reject the state system, refuse to accept the principle of state sovereignty and the role of sovereignty as an organizing principle in the international society, deem the institutions of international law and the UN organization as contradictory to the divine message, and object to democracy and in particular its spread throughout the Middle East. In the next section, I will show that the jihadis also refuse to obey international norms concerning the limitations on the use of force, in particular the prohibitions on targeting non-combatants and the use of weapons of mass destruction. This evidence locates the al Qaeda-led jihadi movement in direct opposition to the international society.

The Jihadi Approach to WMD

The ideology of the jihadis and their attitude toward fundamental principles and institutions of the international society suggest that this movement is antithetical to the current system. But in order for the jihadi movement to become a tangible threat, attitudes and ideology must be supplemented by capabilities. To represent a systemic

²⁵¹ Taheri, "Al Qaeda's Agenda for Iraq".

threat, an actor must possess or actively seek capabilities that may put the survival of the system at risk, and be willing to use these capabilities. This section will show that the al Qaeda-led jihadi movement's pursuit and willingness to use WMD cement the argument that the movement represents a systemic threat.

Al Qaeda has never disguised its desire to acquire weapons of mass destruction, including nuclear capabilities. Bin Laden himself has stated that it is a religious duty for those fighting a jihad to acquire the most effective weapons available, including WMD. Furthermore, "it would be a sin for Muslims not to try to possess the weapons that would prevent the infidels from inflicting harm on Muslims."²⁵² Following India's nuclear tests in 1998, bin Laden called on the Muslim nation in general and Pakistan in particular to prepare for jihad, including a Muslim nuclear bomb.²⁵³ The Muslim nation, he argued, has at least the same right as Israel and the "Christian West" to possess nuclear weapons.²⁵⁴

An abundance of evidence proves that al Qaeda has been actively seeking to obtain WMD. After initially focusing exclusively on the acquisition of nuclear weapons, the network gradually began to consider biological and chemical weapons as well.²⁵⁵ Al Qaeda tried to buy radioactive material for nuclear weapons as early as 1994. But according to the information available, each time al Qaeda sought to procure these materials it either did not find a seller or was scammed.²⁵⁶ The last in a string of frustrating efforts preceding 9/11 came in August 2001, when two Pakistani nuclear scientists met bin Laden and his lieutenants in Afghanistan to discuss the

²⁵² Interview with ABCNEWS, December 1998.

²⁵³ Peter Bergen, *Holy War, Inc., Inside the Secret World of Osama bin Laden* (The Free Press, New York, 2001), 100.

²⁵⁴ Osama bin Laden's Interview with al-Jazeera, June 10, 1999.

²⁵⁵ Robert Wesley, "Al-Qaeda's WMD Strategy Prior to the U.S. Intervention in Afghanistan," *Terrorism Monitor* 3:19, October 7, 2005.

²⁵⁶ Ibid.; "Nuclear Capabilities May Elude Terrorists, Experts Say," *Washington Post*, December 29, 2004.

requirements of a nuclear project. The scientists also examined and dismissed the radiological material that the network had acquired through the Islamic Movement of Uzbekistan as unsuitable for manufacturing nuclear weapons. These scientists appear to have given to bin Laden a road map for building nuclear weapons. In addition, they apparently recruited other scientists to assist al Qaeda.²⁵⁷ The efforts to obtain nuclear capability proved especially costly for the network when one of al Qaeda's three founders, the Egyptian Abu Ubaydah al-Banshiri, drowned in a ferry accident in Lake Victoria in 1996 while on a mission to obtain material for the production of nuclear weapons, or at least for a dirty bomb.²⁵⁸

Al Qaeda had only modest success with the other elements of its WMD program as well. Its chemical weapons program in Afghanistan consisted of laboratories where it succeeded in figuring out crude procedures for making mustard agents, sarin, and VX, and in producing cyanide, but made little further progress before the American invasion disrupted its operations.²⁵⁹ Al Qaeda also launched a biological weapons program in 1999. The network tried to obtain equipment for a laboratory and planned a training program; but it had little success in obtaining the sample of deadly anthrax it wanted. Biological weapons experts assert that al Qaeda knew which material and equipment they needed, but their handling of the program at that stage was not sophisticated.²⁶⁰ Failing to obtain WMD, al Qaeda proceeded with the 9/11 plot but did not give up on its aspirations to obtain such weapons and use them in the later stages of the conflict.

²⁵⁷ David Albright and Holly Higgins, "A Bomb for the Ummah," *Bulletin of the Atomic Scientists* 59:2 (March/April 2003), 49-55.

²⁵⁸ "The Story of the Arab Afghans from the time of Arrival in Afghanistan until their Departure with the Taliban," part 1, *Al Sharq al Awsat*, December 8, 2004.

²⁵⁹ "An Easier, but Less Deadly, Recipe for Terror," *Washington Post*, December 31, 2004.

²⁶⁰ Eric Lipton, "Qaeda Letters Are Said to Show Pre-9/11 Anthrax Plans," *Washington Post*, May 21, 2005.

The tremendous difficulties the network faced in pushing forward its nuclear program before 9/11 only increased after the network lost its base and its labs in Afghanistan. Lacking the needed equipment and laboratories, al Qaeda could either obtain nuclear weapons by acquiring them off the shelf, or by purchasing enough fissile material to assemble a crude nuclear device. Experts agree that while the threat is real, the network is unlikely to obtain nuclear weapons in either way in the short term.²⁶¹ Consequently, the network's main drive since 9/11 has been toward the acquisition of biological and chemical weapons, as the technology for their development is comparatively easier (which in turn also allows for more people to participate in the acquiring them, thus increasing the chances of success).

European intelligence sources claim that al-Zarqawi's network in Europe has been actively seeking chemical weapons to use in an attack on European soil, concentrating on collaboration with Chechen jihadis to gain materials and knowledge.²⁶² Specialists are confident that al Qaeda will eventually manage to gain the expertise to launch a small-scale biological attack resulting in mass casualties.²⁶³ The route to chemical weapons is expected to be even easier.²⁶⁴

In the aftermath of 9/11, al Qaeda also abandoned its aspiration to monopolize the possession of WMD. It no longer focuses on obtaining such weapons by itself, in order to put them under al Qaeda control; it now also seeks to encourage other elements in the jihadi movement to acquire such weapons with or without its direct assistance.²⁶⁵

²⁶¹ "Nuclear Capabilities May Elude Terrorists, Experts Say," *Washington Post*, December 29, 2004.

²⁶² "Zarqawi's Network Mounts Quest for Chemical Weapons," April 2005. www.geostrategy-direct.com, accessed April 11, 2005.

²⁶³ "Technical Hurdles Separate Terrorists From Biowarfare," *Washington Post*, December 30, 2004.

²⁶⁴ "An Easier, but Less Deadly, Recipe for Terror," *Washington Post*, December 31, 2004.

²⁶⁵ Robert Wesley, "Al-Qaeda's WMD Strategy After the U.S. Intervention in Afghanistan," *Terrorism Monitor* 3:20, October 21, 2005.

Although al Qaeda had decided to pursue WMD almost a decade before the 9/11 attack, internal disagreements impeded the formulation of a clear strategy for their use. The hardliners among its leadership (led by Abu Atef and al-Banshiri) advocated obtaining WMD and storing them on U.S. soil for use immediately after an American attack on Afghanistan. According to a member in al Qaeda's leadership echelon, the hardliners viewed the possession of WMD as a means to punish the U.S. should it use similar weapons against Muslims and in particular Afghanistan. Part of the debate surrounded the permissibility of harming civilians through the use of WMD. The hardliners argued that killing civilians was inevitable due to the nature of modern armament and because civilians are an integral part of the overall scene. When the "moderates" claimed that the use of WMD could create negative public opinion in the West against the mujahideen, the hawks responded that the West is already using depleted-uranium bombs that allegedly have caused similar effects to the actual use of nuclear weapons in terms of number of fatalities inflicted and contamination of the environment.²⁶⁶ The debate was not resolved. Instead, bin Laden approved the efforts to acquire WMD, leaving the question of how they might be used to a later stage.

While prior to 9/11 al Qaeda's WMD-related statements concerned the right and the obligation to obtain such weapons but not how such weapons would be used, after 9/11 the jihadis explicitly declared their right to use WMD. Preparing the ground, al Qaeda spokesman Sulayman Abu Ghayth declared that under the principle of reciprocity, Muslims are allowed to kill four million Americans, half of them children.²⁶⁷ He insisted that under this principle the Muslims have the right to fight the U.S. "with chemical and biological weapons, to cause them to catch lethal, strange and

²⁶⁶ "The Story of the Arab Afghans from the Time of Arrival in Afghanistan until Their Departure with the Taliban," part 2, *Al Sharq al Awsat*, December 9, 2004.

²⁶⁷ "Why We Fight America': Al-Qa'ida Spokesman Explains September 11 and Declares Intentions to Kill 4 Million Americans with Weapons of Mass Destruction," *Memri – Special Dispatch series – No. 388*, June 12, 2002.

bizarre diseases that have struck the Muslims because of their [the Americans'] use of chemical and biological weapons.”²⁶⁸ A few months later, at the end of 2002, a moderator of a radical Islamic internet forum published a short article in which he called for the use of nuclear weapons in order to destroy the U.S. The author justified the use of nuclear weapons as the only way to kill large number of Americans and because the U.S. itself is allegedly using “the most violent weapons” to bomb civilians in Afghanistan and Iraq.²⁶⁹

The change may result from the growing understanding that in order to succeed in its battle, al Qaeda will need stronger means of violence. A member of bin Laden’s close circle criticized him after the fall of Afghanistan for underestimating the power of the U.S. and its standing power. Because bin Laden dismissed the U.S., he believed that a few hits would be sufficient to bring about its collapse and therefore failed to strategize for the possibility that his rosy scenario could fail to materialize.²⁷⁰ The defeat of al Qaeda and the Taliban in Afghanistan led al Qaeda to recognize that WMD should take a more prominent role in the networks’ plans.

In November 2001, bin Laden sent deterrence threats to the U.S. and its allies, declaring that he held nuclear and chemical weapons and would use them if the U.S. employed such weapons in their campaign against him.²⁷¹ Western sources do not believe that Al Qaeda possesses the bomb,²⁷² and it appears that this was a bluff to intimidate the U.S.; but this reference attests to WMD’s growing significance after 9/11. A book by Abu Musab al-Suri, one of the movement’s main ideologues (and a

²⁶⁸ Sulayman Abu Ghayth, “Under the Shadow of the Spears”. Cited in Cook, *Understanding Jihad*, 194.

²⁶⁹ Reuven Paz, *The First Islamist Nuclear Threat against the United States*, January 10, 2003. www.ict.org.il, accessed September 18, 2005.

²⁷⁰ “The Story of the Arab Afghans from the Time of Arrival in Afghanistan until Their Departure with the Taliban,” part 1, *Al Sharq al Awsat*, December 8, 2004.

²⁷¹ Hamid Mir, “Osama Claims He has Nukes: if the US Uses N-Arms it will Get Some Response,” *Dawn*, November 10, 2001.

²⁷² Webster and Watson, “Bin Laden’s Nuclear Threat,” *The Times*, October 26, 2001.

suspect in a number of terrorist attacks including the Madrid bombings), confirms the growing importance of WMD in the jihadis' thinking. Al-Suri argues that WMD are the only means by which the jihadis can fight the U.S. from a point of equality, even criticizing bin Laden for failing to use them in the 9/11 attack.²⁷³ The use of WMD, he argues, could shorten the struggle and could also serve to retaliate against the "barbaric behavior" of the U.S.²⁷⁴ Dismissing the usefulness of alternative means, al-Suri states that "the ultimate choice is the destruction of the United States by operations of strategic symmetry through weapons of mass destruction."²⁷⁵

The growing emphasis on WMD was coupled with increased public discussion about the permissibility of their use. To legitimize the use of WMD, al Qaeda sought a religious edict by an Islamic scholar; it obtained it in 2003. The fatwah was needed due to the indiscriminate nature of such weapons, conflicting with Qur'anic verses that prohibit the killing of innocents. Since even the permissibility of suicide bombing is hotly debated (though its extensive use by Palestinians against Israelis made it relatively acceptable to large numbers of Muslims in the Middle East), it is no wonder that the use of WMD raises serious religious questions. It is difficult to convincingly repeat the claim that non-combatants killed during attacks are no more than collateral damage; the scale of destruction and lethality requires stronger arguments.

The fatwah was not needed to convince al Qaeda's leadership about the legitimacy of using WMD, but rather to provide the religious authority needed to justify such an escalation to the network's followers and potential recruits. Michael

²⁷³ During the planning stage of the 9/11 attack al Qaeda considered hitting nuclear facilities with the hijacked planes but eventually decided that it would complicate the plan and preferred to keep this option for future plots. See, Nick Fielding and Yosri Fouda, *Masterminds of Terror: The Truth Behind the Most Devastating Attack The World Has Ever Seen* (Arcade Publishers, New York, 2003).

²⁷⁴ Reuven Paz, "Global Jihad and WMD: Between Martyrdom and Mass Destruction," in Hillel Fradkin, Husan Haqqani and Eric Brown (eds.), *Current Trends in Islamic Ideology* vol. 2 (Hudson Institute, Washington DC, 2005), 81-83.

²⁷⁵ Cited in Paz, *ibid*, 83.

Scheuer views its publication as part of a general effort to prepare Muslims for the use of WMD. After 9/11, there was criticism that according to the shari'ah, bin Laden had to offer America a chance to convert to Islam before the attack.²⁷⁶ Consequently, bin Laden has called on the American people and its leadership on several occasions to accept Islam's message and convert, in particular in his "letter to America"; he even offered to serve as their guide and teacher.²⁷⁷ According to Muslim scholars, refusal to accept Islam and resistance to the Islamic mission constitutes a rebellion against God and God's prophet and renders permissible the killing of those who commit this sin.²⁷⁸

The fatwah -- the first direct Islamic ruling about the use of WMD -- was issued by the Saudi Sheikh Naser bin Hamad al-Fahd, one of the young scholars among the Saudi Islamist opposition forces. In order to pave the way for a religious discussion of WMD, al-Fahd dismissed the attempts to anchor the answer in international law and the traditional international politics' discourse. He argues that because international law is not part of the Islamic divine law, and because the proscription of WMD belongs to God, not to humans, the reference to international law is unwarranted.²⁷⁹

Al-Fahd dismisses the reference to nuclear, biological, and chemical weapons as WMD, arguing that mass destruction could also be caused by bombs that are classified as conventional. In his opinion, the classification of WMD stems from the interests of Western countries, not from a wish to defend humanity. The West wants to protect itself and monopolize its control over these weapons under the pretext of

²⁷⁶ Anonymous, *Imperial Hubris*, 152-153.

²⁷⁷ bin Laden, "Letter to America."

²⁷⁸ Cook, *Understanding Jihad*, 19-20; James Turner Johnson, *The Holy War in Western and Islamic Traditions* (Pennsylvania State University Press, PA, 1997), 122; John Kelsay, "Religion, Morality, and the Governance of War: The Case of Classical Islam," *Journal of Religious Ethics* 18:2 (fall 1990), 125.

²⁷⁹ Anonymous, *Imperial Hubris*, 155; Reuven Paz, "YES to WMD: The First Islamist Fatwa on the Use of Weapons of Mass Destruction," *PRISM Special Dispatches* 1:1 (Global Research in International Affairs Center, May 2003), 5-6.

banning them internationally.²⁸⁰ Al-Fahd criticizes the alleged monopoly of the West over WMD and argues that if the U.S. and other states are allowed to possess such weapons, it cannot be prohibited for Muslims.

Al-Fahd uses a number of justifications for WMD. First, he states that under the principle of reciprocal response, Muslims are allowed to kill as many of their enemies as were killed by those enemies. More specifically to the possibility of attacking the nuclear-armed U.S., he argues that the mujahideen should attack their “aggressor by identical force.” Since the U.S. killed, he claims, ten million Muslims, it is permissible to bomb it in a way that will kill ten million people too.²⁸¹ Second, al-Fahd relies on the words of the Prophet that “if you are ordered to do something – do it according to your best ability.” And “Allah has ordered you to do everything perfectly. Hence, if you kill do it perfectly, and if you slaughter, do it perfectly. Everyone should sharpen his blade and ease his slaughter.” From these sayings, al-Fahd infers that if WMD is the perfect weapon to defeat the enemy, and if this is the only way to defeat that enemy (especially one “who attacks religion, soul, honor, mind, and homeland”), then WMD constitutes every means possible.²⁸² Third, al-Fahd contends that need could also render the use of WMD permissible, even if civilians -- including innocent Muslims -- could be killed. In his opinion, necessity surpasses all prohibitions.²⁸³ Al-Fahd’s opinion appears to reflect a consensus among jihadi circles. It was not followed by debate in the many radical jihadi websites, forums, and chat rooms. If anything, one may find expressions of hope that al Qaeda will use WMD against the West.²⁸⁴

²⁸⁰ Anonymous, *Imperial Hubris*, 155-156.

²⁸¹ Ibid.; Paz, “YES to WMD,” 6-7.

²⁸² Quoted Paz, “YES to WMD,” 5-6.

²⁸³ Ibid, 6-7.

²⁸⁴ Reuven Paz, “Global Jihad and WMD,” 80.

Recently, jihadis have escalated their claims that the U.S. is employing such weapons against the Mujahideen. In a speech by al-Zarqawi, he stated that “it has been proven to us beyond a shadow of a doubt that the Crusaders are using toxic gases in their battles against the mujahideen.”²⁸⁵ Such declarations appear to be motivated by more than one factor. Al-Zarqawi uses them in order to mobilize sunni Muslims inside and outside Iraq against the U.S. and the shi'ites in Iraq. But al-Zarqawi's known fascination with WMD, in particular chemical and biological weapons, suggests that the declarations are also intended to prepare the ground for the future use of WMD by al Qaeda. After all, if the U.S. is using such weapons, then retaliation using such weapons will be much less controversial among al Qaeda's audience.

In addition to the campaign to clear the ground for WMD use, a number of other considerations suggest that once al Qaeda obtains WMD it is likely to use them. First, as discussed above, it is quite clear that international norms regarding the use of force, of which the norm against the use of WMD is a part, do not affect the jihadis' calculations. Al Qaeda has proven repeatedly that it finds the norm against targeting civilians meaningless. The jihadis indiscriminately kill non-combatants, including women, children, and the elderly. They also do not shy away from massacring Muslims. If the jihadis do not respect the norm against targeting civilians, it seems unlikely that they will respect the norm against the use of WMD.

Second, even before obtaining the fatwah the jihadis presented, unapologetically, a set of explanations that supposedly justify mass killing of civilians.²⁸⁶ When mass killing is justified in principle, the scope of the killing can

²⁸⁵ “Leader of Al-Qaeda in Iraq Al-Zarqawi Declares “Total War” on Shi'ites, States that the Sunni Women of Tel'afar Had Their Wombs Filled with the Sperm of the Crusaders,” *Memri: Special Dispatch Series – No. 987*, September 16, 2005.

²⁸⁶ On al Qaeda's justifications for killing civilians, see Quintan Wiktorowicz and John Kaltner, “Killing in the Name of Islam: Al-Qaeda's Justification for September 11,” *Middle East Policy* 10:2 (Summer 2003), 76-92; Mendelsohn, “Sovereignty Under Attack,” 64-66.

easily be extended to cover the use of WMD. Moreover, if the establishment of the Islamic caliphate required annihilating all Jews and Christians, as a lead article in al Qaeda's online magazine determined,²⁸⁷ the use of WMD would be only reasonable.

Third, there have been specific schemes to use WMD. Most, but not all, were thwarted in their early stages; but they suffice to confirm the jihadis' willingness to employ WMD. In 2003, British authorities prevented a poison attack by al Qaeda-trained operatives who planned to place ricin on handrails and in elevators on the Heathrow airport express train.²⁸⁸ The Jordanian authorities claimed to have thwarted a larger chemical attack by al-Zarqawi's affiliates that could have killed thousands of people. The main designated target was the headquarters of the Jordanian intelligence department.²⁸⁹ However, it is not clear how advanced were the network's efforts to produce the chemical weapons for the planned attack. Al-Zarqawi himself admitted that the cell that was uncovered belongs to his network, but vehemently denied that the plot included the use of chemical weapons.²⁹⁰ Another foiled plot concerned an attack on a nuclear facility in the Netherlands.

Fourth, because al Qaeda does not have a territory-based constituency -- authority and control over the Muslim world are still reserved to states -- the calculations of deterrence are too uncertain and circumstantial. It is unlikely that the U.S. could retaliate with WMD against a Muslim country just because al Qaeda has strong popular support in that country. Such retaliation is possible only against countries that actively help and harbor al Qaeda leaders. In such a case, we are back to interstate relations and traditional deterrence considerations. Bin Laden himself may

²⁸⁷ "2nd Issue of Voice of Jihad," *Memri: Special Dispatch Series – No. 601*.

²⁸⁸ David Bamber, "Ricin terror gang 'planned to unleash terror on the Heathrow Express,'" *Telegraph*, April 17, 2005.

²⁸⁹ Jamal Halaby, "State witness testifies defendants plotted to release toxic cloud to kill and blind people," *Associated Press*, June 22, 2005.

²⁹⁰ "Sheikh Abu Musab al-Zarqawi Describes the Jordanian Intelligence's Claims as "Lies" and Threatens to Retaliate," Site Institute, April 30, 2004. www.siteinstitute.org, accessed April 30, 2004.

be susceptible to self-deterrence, as al Qaeda's temporary avoidance of direct attacks on the Saudi regime indicates; but unless the network gains a tangible asset, it is hard to imagine that a credible threat could be directed against it.

Despite the significant evidence that the al Qaeda-led jihadi movement poses a systemic threat, the jihadis' references to specific grudges can mask the incompatibility between the principles that the jihadis advocate and the fundamental principles guiding the society of states. Instead, some of the jihadi declarations may focus attention on policy disagreements. In the following section I will argue that policy adjustments will not be sufficient in dealing with the jihadi threat.

Jihadis and U.S. Foreign Policy?

One of the main objections that could be made to my argument that the al Qaeda-led jihadi movement represents a systemic threat is that al Qaeda resists only the foreign policies of specific countries (in particular the U.S.) and that it could accept the continued existence of the international society. If this is indeed the case, the way to resolve this conflict is relatively straightforward: simply amend the policies to which they object. I argue that while policies constitute a significant element in al Qaeda's resentment, their importance as the underlying cause for al Qaeda's existence should not be overstated.

Al Qaeda holds extreme views about the manner in which Islam should be reflected in the lives of Muslims, and about Islam's role in humanity in general. Naturally, when the vision conflicts with reality, the disparity takes on both ideological and visible dimensions. In the same way that the allegedly unjust situation takes concrete tangible form and is manifested in visible signs and events, so the hoped for "just order" would feature visible signs. To emphasize the observables without connecting them to the ideological program of the jihadis would lead to a partial understanding of the threat and to a misguided approach in addressing that

threat. After all, it is the broader ideological framework that provides the jihadis the lenses with which to interpret reality.

Bin Laden's statements and interviews provide numerous indications that looking beyond policy complaints is warranted. The jihadis' list of grievances stretches back in time to periods when the involvement of the U.S. in the Middle East was at best marginal. For example, bin Laden connects the current conflict to the Sykes-Picot agreement between France and Britain, which divided the Middle East after World War I and allowed the colonial powers to instate rulers of these artificially created states. Furthermore, he claims that the U.S.' (alleged) aspiration to conquer and divide Saudi Arabia did not originate in the U.S.; rather, Britain passed this plot to the U.S. when the latter assumed leadership of the Western world subsequent to World War II.²⁹¹

But the U.S. is not just the heir to the colonial powers; the perspective of the global jihadis extends farther back in history to the beginning of time. For the global jihadis, the struggle with the U.S. is just another phase in a cosmic struggle between the forces of truth, represented since the prophet's days by the Muslim *ummah*, and the agents of falsehood. Bin Laden has proclaimed that "the confrontation and conflict between us and them started centuries ago. This confrontation and conflict will continue because the conflict between right and falsehood will continue until Judgment Day."²⁹²

Often, the conflict is framed in religious and ideological terms. Names of states are mentioned, but they belong to wider groups whose identity markers surpass national boundaries. The targeting of the region's states by malevolent external

²⁹¹ Osama bin Laden, "Exposing the New Crusader War," February 11, 2003. www.jihadunspun.com, accessed February 18, 2003.

²⁹² "Islamic Website Posts Full Text of Bin Ladin 4 January Audio Message," FBIS Report in Arabic, March 4, 2004.

enemies does not stem merely from simple instrumental interests of the enemy states. It is primarily the consequence of the Muslim identity of the alleged victims, and the “infidel,” “Christian crusaders,” or Western identity of the attackers. The unfolding events are the result of a Zionist-crusaders conspiracy against Islam. Therefore, the attack is not merely on Muslim states; it is an attack on Islam and the whole Muslim *ummah*. In bin Laden’s words, “the battle is between Muslims -- the people of Islam -- and the world Crusaders.”²⁹³

Shortly after the beginning of the U.S. assault on Afghanistan in 2001, bin Laden tried to rally all Muslims to the cause by declaring the conflict a religious rather than an interstate war. “Under no circumstances should we forget this enmity between us and the infidels. For the enmity is based on creed.”²⁹⁴ Bin Laden finds partial support for this claim in President Bush’s innocent use of the term ‘crusade’ -- a common linguistic phrase that represents commitment to struggle and that lost much of its religious connotations many years ago -- to depict the campaign to uproot al Qaeda and its associates. If the enmity is based on religious differences, it cannot be stopped by political means. Consequently, for the jihadis the only way to end such a conflict is by the victory of one religion and the submission of the other. For bin Laden the outcome is inevitable, as it is ordained in the Qur'an that Islam will eventually dominate the world and its occupants.

In numerous declarations, the network’s spokesmen warn that hostility towards Islam has acquired a global dimension. That hostility, they argue, now manifests itself in a coordinated global campaign to eradicate Islam from the face of the earth. Before officially joining with al Qaeda, al-Zarqawi’s network in Iraq argued that the main goal of the U.S. is “to completely destroy Muslims, erase their ideology, and occupy

²⁹³ Osama bin Laden’s unreleased interview with al-Jazeera, conducted on October 21, 2001. www.muslimthai.com/jihad-online/article.php?a=250, accessed January 25, 2003.

²⁹⁴ bin Laden, “This war is fundamentally religious.”

their land to steal their wealth.” Therefore, all Muslims throughout the world must join forces and “assume their full responsibilities in facing this attack by the Crusaders and the Jews.”²⁹⁵

Al-Zawahiri credits the mujahideen with bringing to light the hostility towards Islam, as Islam’s enemies understood that the rise of a robust mujahideen force is antithetical to the existing world order and requires changing their strategy. “Of course the world order was not going to accept the existence of this growing phenomenon of Arab Afghans that is rebellious against it and a threat to its existence, especially after Western and, later, communist occupation made continuous efforts over an entire century to subjugate the Muslim nations with regulations, laws, forged elections, states of emergency, and immigration and naturalization laws.”²⁹⁶

Al-Zawahiri argues that the emergence of the mujahideen as a force to be reckoned with forced the U.S. to intervene directly in the events in the Middle East lest Egypt falls. But the American intervention cannot be attributed merely to the intrinsic value of Egypt to the U.S. According to al-Zawahiri, the U.S. was convinced that with the fall of Egypt “this spirit of jihad most likely turn things upside down in the region and force the U.S. out of it. This would be followed by the earth-shattering event, which the West trembles at the mere thought of it, which is the establishment of an Islamic caliphate in Egypt. Such a state... could lead the Islamic world in a jihad against the West. It could also rally the world Muslims around it. Then history would make a new turn.”²⁹⁷ From this analysis, al-Zawahiri concludes that the U.S. will open battlefronts against the mujahideen all over the world in order to repel any Muslim

²⁹⁵ “Communique No. (8) Issued by Zarqawi’s “Attawhid Wal Jihad Group” – Military Department,” Site Institute, May 22, 2004. www.siteinstitute.org, accessed May 22, 2004.

²⁹⁶ Al-Zawahiri, *Knights under the Banner of the Prophet*.

²⁹⁷ Ibid.

force that might threaten the existing order.²⁹⁸ Naturally, the response of the Muslim *ummah* must be in tandem with the onslaught -- that is, it must also be global.

If the struggle was just about political grievances, there would be room for compromise. But some of the Qur'anic quotes regularly used by the jihadis suggest that the termination of the conflict hinges on the elimination of the enemies or their submission to Islam, either by conversion or by accepting its rule and the position of a tolerated and subordinated minority in a Muslim entity. Bin Laden's decision to open his declaration titled "exposing the new crusader war" with verse 9:5 of the Qur'an is illustrative.²⁹⁹ "Then when the sacred months have passed, then kill the polytheists wherever you find them, and capture them and besiege them, and prepare for them each and every ambush. But if they repent and perform Salah and give Zakah, then leave them free. Verily, Allah is oft-forgiving, Most Merciful." Note that bin Laden uses this verse without providing any context that could mitigate its interpretation, signaling that he indeed views this verse in its most extreme interpretation.

The American presence in Saudi Arabia, its support for Israel, and in the last few years its occupation of Iraq and Afghanistan top the jihadis' list of grudges. If the conflict is mainly about policies, providing a solution to these contentious issues should in theory terminate the jihadi campaign against states outside the Muslim world. In reality, the focus on these policy concerns, though real, is misleading. The argument about the American presence in Saudi Arabia is weak because the U.S. preserves only a limited and unexceptional presence. One may then revert to an argument that the problem goes beyond physical presence and focus on the influence of the U.S. in the Muslim world, but this negation of the legitimacy of any influence

²⁹⁸ Ibid.

²⁹⁹ bin Laden, "Exposing the New Crusader War."

between states would force us to alter conventions and historical practices in international relations.

It is no surprise that the jihadis do not explain what their demands from the U.S. entail in practice. They settle for insisting that the U.S. “desist from aggressive intervention against Muslims in the whole world.”³⁰⁰ The list of claims leveled against the U.S. suggests that nearly every aspect of American foreign policy can be and is construed as an attack against Islam and Muslims warranting a violent response. Bin Laden accuses the U.S. of attacking Muslims in Somalia, a humanitarian mission to which the U.S. subscribed only reluctantly. The U.S. is blamed for supporting the Russians in Chechnya, despite the lack of evidence for any tangible American involvement. The jihadis also refuse to acknowledge that U.S. leverage over Russia is severely limited. Indeed, bin Laden fails to explain how the U.S. should respond to the events in Chechnya, thus strengthening the sense that his hostility goes beyond foreign policy disagreements.

Bin Laden also maintains that the U.S. supports India in its “oppressive” acts against Muslims in Kashmir. In these accusations he ignores reality once again: the U.S. allied with Pakistan and not India for most of the Cold War; its relations with India prior to 9/11 were usually characterized as distant. The U.S. failure to prevent the nuclear race in the subcontinent is a strong illustration of the significant limitations of its influence on India; but the jihadis’ conspiracy-driven worldview prevents them from entertaining this possibility. Taken together, these examples suggest that the policy changes al Qaeda demands represent nothing less than the subordination of U.S. policies to bin Laden’s agenda and making the U.S. responsible for actively advancing the jihadis’ conception of Islamic interests.³⁰¹

³⁰⁰ Osama bin Laden’s Interview with CNN, March 1997.

³⁰¹ For an example of bin Laden’s accusations, see bin Laden, “Letter to America.”

The accusations regarding U.S. relations with the regimes of the Middle East further illustrate the open-ended nature of the jihadis' grudges. Bin Laden blames the U.S., not just for supporting oppressive regimes in the region, but also for ordering this oppression and supervising the regimes' policies in order to guarantee their continued subjugation of the people of these countries.³⁰² Such extensive conspiracy does not easily lend itself to corrective behavior. Moreover, since the U.S. is charged with direct responsibility for Muslim suffering under these oppressive regimes, any outcome short of the complete realization of the jihadis' agenda will be attributed to malevolent U.S. action. In this way, the U.S. is in fact held captive by the regimes themselves: as long as they do not capitulate to the radicals' wishes to establish Islamic law in the jihadi style and continue to confront the jihadis, the U.S. will be held accountable and attacking it considered legitimate.

Bin Laden's "Letter to America" is instructive of the real nature of al Qaeda's goals. The letter seeks to address two questions: why does al Qaeda fight the U.S., and what does the network expect the U.S. to do to end the conflict. Bin Laden lists seven demands which, if met, will lead the mujahideen to stop targeting it. Two of these requirements are particularly relevant to our discussion. Bin Laden's first demand -- hardly a foreign policy issue -- is a call to Islam. This demand is followed by a call to the U.S. to stop the "oppression, lies, immorality and debauchery that has spread among you. We call you to be people of manners, principles, honor, and purity; to reject the immoral acts of fornication, homosexuality, intoxicants, gambling, and trading with interest."³⁰³ While some of those traits affect U.S. foreign policy, the call is a blanket demand for internal change inside the U.S. and to revolutionizing American society.

³⁰² Ibid.

³⁰³ Ibid.

David Cook argues that the connection between jihad and the policies of non-Muslim states is overstated. For the jihadis, jihad plays a much more important role than the instrumental attempt to change the policies of Islam's rivals. Jihad is a building block of Islamic society, an obligation equal to the five pillars of Islam (declaration of faith, prayer, charity, pilgrimage, and fasting), and for many, even more important. In the words of the late Egyptian radical leader Abd al-Salam Faraj, this is the "neglected duty." A jihad-based society is one that will enforce the boundaries between belief and infidelity, create the environment where the Islamic faith can be practiced in its entirety, and "where the Muslim will stand proud and dominant rather than weak and submissive."³⁰⁴

Conclusions

In this chapter, I have shown that the al Qaeda network and the global jihadi movements it leads represent a threat to the state system. Al Qaeda's worldview is antithetical to the principles on which the international society is based; it rejects the rules and institutions that derive from those principles and presents an alternative organizing principle, based on religion, for world politics. In the process of becoming a systemic threat, the jihadis have abandoned the traditional doctrine of jihad and created one that expands the justifications for jihad, its geographical scope and targets, and its role in Islam. The result is a belligerent vision that is irreconcilable with the norms and rules of behavior that guide actions in the international society.

The rhetoric of the jihadis, in particular in their statements to uncommitted audiences and non-Muslim crowds, may create the false sense that the motive behind al Qaeda's acts is resistance to specific foreign policies. But such a perspective misses the ideological foundation that gives rise to some of these complaints, the strategic considerations that dictate some ambiguity about the goals of the network, and the

³⁰⁴ Cited in Cook, *Understanding Jihad*, 138.

jihadis' statements when they feel free to express the full scope of their vision. Al Qaeda's ideology constitutes a substantive part of my argument about the nature of the threat the jihadis pose. But ideology is only a necessary, not a sufficient, condition for the emergence of a systemic threat. The al Qaeda-led jihadi movement represents a threat to the international society because in addition to its ideological rejection of that society, it actively seeks WMD, with the intention of using them. Thus, the combination of ideology, attitudes, and considerations of capabilities lead to the conclusion that the jihadis pose a threat to the whole system.

While in this chapter I determined the nature of the threat al Qaeda and its associates represent based on objective criteria and independent from states' interpretations of the threat, a few words are in order on the effects of the social construction of the threat and on the influence that dynamics of actions and reactions have had on its evolution. Though 9/11 and the attacks that preceded it were real events, states, especially the U.S., had to interpret al Qaeda actions as a threat, identify the threatening actor (al Qaeda, then the global jihadi movement), assess the magnitude of the threat (systemic), and decide what action shall be taken to face it. All these interpretations lead to actions that in turn further affect and shape the threat.

The U.S. understood that al Qaeda represented a threat prior to 9/11 mainly due to bin Laden's declarations of war and the actual attacks on U.S. interests; but it took 9/11 to alter its understanding of the nature and magnitude of the threat. For other states, al Qaeda did not become a threat until 9/11; only after the attack did they come to the non-trivial interpretation, supported strongly by the U.S., that al Qaeda does not threaten only the U.S. but all members of the international society. Further interpretation was needed to redefine the threat not merely as al Qaeda but as the whole jihadi movement, a broader, more flexible, illusive, and powerful entity. The 9/11 attack marked al Qaeda as a threat to the U.S., and interpretation rendered it a

part of a larger jihadi movement and systemic in nature. Such construction of the threat assisted the U.S. in conveying to the other members of the international society that the conflict concerned them as well.

At the same time, the international society has been desperately trying to avoid identifying the threat with Islam -- fully aware that the implications of such identification would be the collapse of the war on terrorism (largely because Muslim states critical to the success of the war would not be able to contribute or even worse, would have to participate in Huntingtonian “West against Islam” civilizational war). This endeavor appeared very complicated due to policy blunders by the U.S. as well as the significant appeal of the religious discourse and the sense of victimization that looms large within Muslim societies. Whether it is al Qaeda, jihadis, terrorism, or Islam that poses the threat illustrates the dependence of the conflict on competing frames concerning the actors in the conflict, the goals they pursue, and the nature of the threats.

These factors also allude to the conflict’s dynamic and interdependent nature. The American-led response and the jihadis’ reaction to it have affected the evolution and magnitude of the jihadi anti-systemic force. Al Qaeda hoped that by attacking the U.S. it would provoke a disproportionate response that could be presented as confirming al Qaeda’s claims of a campaign against Islam. Such a response, they hoped, would facilitate the “awakening” and mobilization of the Muslim *ummah*. Bin Laden miscalculated: most Muslims did not join the jihadis’ ranks; but he was right in his conviction that the American response would increase hostility toward the hegemon and render the religious discourse he had been promoting dominant. Similarly, actions taken by some Muslim governments -- some genuinely directed against jihadis but others directed against unrelated groups that opposed the regimes -- widened the gap between regimes and their societies and increased the sense that these

regimes collaborate with the U.S. and against Islam. The results are mixed: military and law enforcement efforts have crippled al Qaeda operationally, while at the same time a jihadi movement with stronger appeal among the disaffected youth has been solidified and strengthened the threat (partly by making it decentralized).

The invasion of Iraq and the attempts to portray it as part of the war on terrorism provides an interesting example of the complex dynamic among states, peoples, and the jihadis. Following the invasion, Iraq became a jihad arena and therefore a focal point for jihadis. The failure of the U.S. to sell the war as part of the war on terrorism, and the revelation that nearly all justifications for the invasion proved to be false, caused significant problems for counterterrorism. The U.S. created a jihad arena that was contaminated with “normal” nationalist conflict (as reflected in the complex identity and nature of the Iraqi insurgency). States that resisted the war hesitated to assist the U.S. in its post-conquest stabilization efforts because two different issues -- Iraq and jihadism -- on which these states had conflicting preferences (objections to the war in Iraq, support for war on the jihadis) were confounded. More important, worldwide, the war in Iraq undermined public trust in the war on terrorism. This was especially significant among Muslim states and peoples who became more hostile toward the U.S. and came to identify American policies increasingly as anti-Muslim rather than as designed to combat a genuine terrorist threat. Consequently, although governments have continued to cooperate with the U.S. in the war on terrorism, the price and risks involved in this collaboration have increased considerably. Fortunately for the international society, the design of many elements in the war on terrorism has facilitated significant progress despite growing dissatisfaction with U.S. policies.

The roles of images, threat construction, and threat manipulation deserve comprehensive treatment, but time and space constraints do not allow pursuing this

direction in this study. Let us return now to the main enterprise of this dissertation. My theory argues that when faced with a systemic threat, states will band together and cooperate to repel it. Therefore, the following chapters are dedicated to the response of the members of international society. I will show that states have indeed responded to the threat collectively and designed a comprehensive strategy against the jihadis, all the while taking costly measures and demonstrating collaboration superior to the expectations of Realists.

Chapter Five:

Multilateral Action and Terrorism: General Principles

Introduction

Several decades after a global jihadi movement evolved in the killing fields of Afghanistan and in Pakistan's border territories, its tentacles took root throughout the globe. Zealous radical Muslims have been fighting "infidels" in Kashmir, Chechnya and Afghanistan. Meanwhile, their comrades in various Arab countries have been struggling to topple un-Islamic regimes, or recovering from a round of clashes with the authorities and reorganizing to launch the next round. Cells of jihadis have been spreading throughout the West, many taking advantage of lax asylum laws and strong freedom of speech legislation in European countries. Meanwhile, al Qaeda has been devoting enormous efforts to strengthening connections between various radical groups and individuals, to broadening the ranks of the jihadi movement, and to igniting a "clash of civilizations."

Al Qaeda became a systemic threat years before 9/11. The powder keg that exploded that day was in place long before; it was only ignited on 9/11, providing a vivid demonstration of the danger posed by the jihadi movement. In chapters three and four I traced the evolution of the globalized jihadi movement and discussed the systemic threat the al Qaeda-led movement represents. In this chapter the focus shifts from the threat to the international society, to the manner in which states respond to that threat. The chapter elucidates the rationale behind the collective response and prepares the ground for discussing in detail two spheres of state action in the war on terrorism: the regime to prevent the financing of terrorism, and the regime to deny non-state actors access to weapons of mass destruction.

This chapter comprises six sections. In the first section I discuss changes in the international community's approach to counter-terrorism following 9/11. The

second section presents the principles guiding the war on the global jihadi movement: state sovereignty, state responsibility, interstate cooperation, and the bolstering of the state. In the third section, I use the efforts to reinforce (in some cases even create or reestablish) states' control over their borders to demonstrate the application of a general logic behind the collective response. The fourth section explains the role of the UN in the campaign against the jihadis. The enormity of the task states took on in their attempt to repel the jihadis is highlighted in the fifth section. Because the scope of the project does not lend itself to quick results, I argue that progress should be assessed not only in light of the threat, but also in light of the task. The chapter concludes with the assertion that Realism is ill-equipped to explain significant aspects of the collaborative endeavor exhibited in the war on the jihadi movement.

Anti-Terrorism Before 9/11 and After

Terrorism was on the international agenda prior to September 2001,³⁰⁵ but it was perceived as neither an urgent problem nor a collective one. The few efforts to advance multilateral approach to terrorism fell victim to states' failure to agree on a common definition. The colonial experience of many newly independent states, in particular those in the Muslim world, delineated the fault line in states' approach to defining terrorism: most post-colonial states argued that any action taken during struggle against a foreign occupation with the goal of achieving self-determination is legitimate regardless of the means used.³⁰⁶ These countries objected to the focus on killing civilians as an effort to delegitimize the right of the oppressed to resist. Meanwhile, they insisted that state terrorism should become the center of any anti-

³⁰⁵ The League of Nations adopted in 1937 the Convention on the Prevention and Punishment of Terrorism, but the treaty was ratified by only one country. See, Ilias Bantekas, "The International Law of Terrorist Financing," *The American Journal of International Law* 97:2 (April 2003), 315.

³⁰⁶ For example see, The Organization of the Islamic Conference, The Twenty-Sixth Session of the Islamic Conference of Foreign Ministers, *Convention of the Organization of The Islamic Conference on Combating International Terrorism* (July 1999).

www.ciaonet.org/cbr/cbr00/video/cbr_ctd/cbr_ctd_25.html ,accessed 24 February 2005.

terrorism campaign, thereby further distancing themselves from the position of most Western countries.

Consequently, multilateral action against terrorism could not be based on clear, agreed upon principles. Instead, the little collective action that took place was guided by a thematic approach that tackled specific components of terrorist activity such as kidnapping, aviation and maritime terrorism.³⁰⁷ This approach resulted in several anti-terrorism conventions, most with limited scope and no verification or enforcement mechanisms. In reality, they required little more than a verbal commitment. Many countries chose not to make even such a modest gesture and declined to join those instruments.

The pre-9/11 approach fell far short of successfully establishing a normative rejection of terrorism and designing a holistic strategy to confront the threat. As argued in the report of the High-Level Panel on Threats, Challenges and Change -- sixteen internationally recognized and highly-reputed figures³⁰⁸ charged with analyzing the challenges of the 21st century and making recommendations to the members of the international society -- “there is a clear difference between this scattered list of conventions and little-known provisions of other treaties and the compelling normative framework understood by all, that should surround the question of terrorism.”³⁰⁹

The 9/11 attack was a wake-up call for the international society. It demonstrated the severity of the threat and the negligent manner in which that threat

³⁰⁷ Adam Roberts, “Terrorism and International Order”, in Lawrence Freedman, Christopher Hill, Adam Roberts, R.J. Vincent, Paul Wilkinson and Philip Windsor, *Terrorism and International Order* (Royal Institute of International Affairs, Routledge, London, 1986), 12-16; Bantekas, “The International Law of Terrorist Financing.” 315.

³⁰⁸ The list of the panel’s members can be found at <http://www.un.org/secureworld/panelmembers.html>, accessed 22 June 2005.

³⁰⁹ Report of the High-Level Panel on Threats, Challenges and Change, *A More Secured World: Our Shared Responsibility* (United Nations, 2004), 48.

had been addressed. The society of states responded by striking back; members pooled their resources and as a group began taking action to fend off the threat. Yet, the definitional problem did not dissipate after the attack, especially with the second Palestinian Intifada in full force; it remains one of the main obstacles to the completion of a Comprehensive Convention on International Terrorism. Nevertheless, the gravity of the threat did not allow states the luxury of waiting for a consensus on a definition to emerge before they responded. Thus, they proceeded with practical action even while disagreement persisted over the general scope of the fight against terrorism.

At the same time, states persisted in trying to solve the controversy about the definition of terrorism; a growing pressure to settle on one definition is notable. The definition promoted by United Nations Secretary General Koffi Annan views terrorism as any action that intends “to cause death or serious bodily harm to civilians or non-combatants with the purpose of intimidating a population or compelling a government or an international organization to do or abstain from doing any act.” In an attempt to circumvent differences that had previously prevented reaching an agreement, Annan justifies refraining from referring to “state terrorism” because the use of force by states is already sufficiently addressed under international law. Similarly, he argues that the right to resist occupation cannot be an excuse for disagreement on a definition of terrorism because such a right does not permit the deliberate targeting of civilians.³¹⁰

Until the members of the international society agree on a common definition, they act less effectively and simply assume that they will be able to identify their rivals when they see them, regardless of whether an accepted definition exists. This approach cannot be dismissed out of hand. Even without a common definition,

³¹⁰ Annan, *In Larger Freedom*, 26.

members have taken significant and costly steps to fight the jihadis; success scored so far testifies to the merits of this approach. For example, following 9/11 there has been a dramatic attitude change regarding the anti-terrorism conventions. The international community overwhelmingly committed itself to those conventions: whereas before 9/11 only two states had become parties to all twelve,³¹¹ by 2005 their number totaled 58. Ninety-nine states are party to ten conventions or more.³¹² Conventions that address specific realms of terrorist activities such as “the convention for preventing and punishing crimes against internationally protected persons” have had a 20-40 percent increase in their rate of ratification.³¹³

The rate of ratification was even more dramatic for two recent and highly significant conventions on the suppression of terrorist bombing (from 1997) and the suppression of terrorism financing (1999). Only 28 countries ratified the first prior to 9/11; in the four years after the attack, an additional 87 states joined them. Similarly, 113 states joined the four countries that had ratified the convention on the financing of terrorism before September 2001. More countries are currently engaged in the process of acceding to and ratifying the treaties. Additional evidence of multilateral efforts and successes will be presented in chapters six and seven.

Principles for a War on the Global Jihadi Movement

Two main factors have been crucial to the ability of the international society to launch its campaign against the jihadi movement. The first is the leadership of the U.S. hegemony. Serving as an institution of the society of states, the U.S. has been

³¹¹ Curtis A. Ward, “UN Security Council Resolution 1373 and The Counter-Terrorism Committee,” paper prepared for presentation at The Stimson Center, Washington, DC, July 26, 2004.

³¹² Second Report of the Analytical Support and Sanctions Monitoring Team appointed pursuant to resolution 1526 (2004) concerning al-Qaida and the Taliban and associated individuals and entities, S/2005/83, 15 February 2005.

³¹³ David Cortright, “A Critical Evaluation of the UN Counter-Terrorism Program: Accomplishments and Challenges,” Paper Presented at the Transnational Institute (TNI) Conference on Global Enforcement Regimes: Transnational Organized Crime, International Terrorism and Money Laundering, Amsterdam, 28-29 April 2005.

orchestrating and leading the joint effort. With a sense of urgency, the U.S. devised (with some contribution from other leading states) a joint response that shifted the international society from a state of declaratory commitment to fight international terrorism, accompanied by a few unsatisfactory measures, to a stage where a genuine attempt to confront the threat is taking place.

Second, the collective response is based on a set of agreed upon principles compatible with the fundamental principles upon which the international society operates. This response is multidimensional and cannot be reduced to any one policy, but it is guided by four general elements geared towards the reassertion of the state's primacy in the international system. These elements are bolstering the institution of the state, state sovereignty, state responsibility towards its fellow states, and interstate cooperation.

States' collective effort to combat the jihadi threat is based on the preservation of the organizing principles of the existing system as a state-based system, while adjusting some of its practices to meet operational needs. The goal is to improve the ability of the society of states to face the threat without deviating from the system's fundamental features and inadvertently creating a new type of system during the effort.

Thus, the members of the international society restated the importance of the state as the fundamental unit in world politics and as the foundation for any collective response. The UN Secretary General reaffirmed the role of sovereign states as the "basic and indispensable building blocks of the international system,"³¹⁴ and the High-Level Panel echoed this approach: "If there is to be a new security consensus, it must start with the understanding that the front-line actors in dealing with all the threats we face, new and old, continue to be individual sovereign states, whose role and

³¹⁴ Annan, *In Larger Freedom*, 6-7.

responsibilities, and right to be respected, are fully recognized in the Charter of the United Nations.”³¹⁵

The preservation of the state’s prominence in international politics requires the preservation of the principle of state sovereignty as well. The legitimacy and independence of state action within its borders and the principle of non-intervention were confirmed, though moderated slightly to set guidelines for state action in the framework of the war on terrorism and to guarantee that no state intentionally acts against the society of states. Intentional subversion against the international society would turn a state into pariah and justify external intervention (not unlike the approach of states and societies toward citizens who collaborate with their enemies during wartime).

The international society sets certain requirements each state must follow in order to achieve the desired success against the jihadis; but states maintain a significant level of independence on the specific manner in which they fulfill their duties. For example, while all states must arrest members of the al Qaeda network, they maintain the right to determine the duration of detention before bringing official charges or the minimum and maximum jail terms suspects may serve. This approach recognizes that states vary in their legal systems, national traditions and cultural norms, allowing them significant freedom to cooperate while preserving each state’s unique identity. In order to mitigate states’ fears that international supervision over their anti-terrorism measures will undermine their domestic authority, the organizations invested with the responsibility for external oversight base their work on the principles of transparency and engagement with member states rather than coercion and threats to punish lack of compliance. Such an approach mitigates the

³¹⁵ Report of the High-Level Panel, *A More Secured World*, 15.

tension between the need to create mechanisms above the state level and the commitment to the principle of state sovereignty.

The other elements in the fight against the jihadis are based on an analysis of the threat and the corresponding requirements of an effective response. The global breadth of the jihadis' operations and the movement's transnational composition renders multilateral response a necessity. Indeed, in his plan to reform the UN, Secretary General Annan declared that the challenges states face necessitate joint action because "in today's world, no state, however powerful, can protect itself on its own."³¹⁶ The members of the High Panel concur: "in the twenty-first century, more than ever before, no state can stand wholly alone. Collective strategies, collective institutions and a sense of collective responsibility are indispensable."³¹⁷ In practice, such multilateralism is manifested in the formulation of overarching guidelines and international legal frameworks for state action alongside more specific interstate cooperation in thwarting attacks, disrupting the movement's operation, and arresting and prosecuting suspects.

States' mutual dependence gives rise to the concept of state responsibility as a prominent principle for the war on the jihadis. Membership in the society of states implies more than rights; states assume some obligations as well. The idea of state responsibility is not new: when the international society spread from Europe to the rest of the world its European members demanded that candidates demonstrate aptitude and willingness to subscribe to "standards of civilization."³¹⁸ The concept of responsibility was associated with stability and predictability, all aimed to facilitate order in the international society. States were expected to adhere to three complexes of

³¹⁶ Annan, *In Larger Freedom*, 6-7.

³¹⁷ Report of the High-Level Panel, *A More Secured World*, 15.

³¹⁸ Gerrit W. Gong, *Standards of Civilization in International Society* (Clarendon Press, Oxford, 1984); Bull and Watson (eds.), *The Expansion of the International Society*.

rules: constitutive normative principles, rules of coexistence and the rules that regulate interstate cooperation.³¹⁹ But with time, the standards for membership in the international society were lowered. When the Western powers could no longer sustain their colonial empires (due to resource constraints and normative changes) and demand for independence in the third world increased, the prerequisites for statehood and participation in the system became more normative than actual. Many new states received external recognition despite failing to demonstrate effective control over the territory under their authority, let alone show “good citizenship” in the society of states.³²⁰ As long as general peace within the international society was maintained, the members of the society of states tolerated minor violations of the society’s principles or handled them on an individual basis.

The moderated concept of responsibility after the demise of colonialism reflected the quest for restraint or inaction in international relations rather than the prescription of actual steps for advancing the goals of the international society. The international society accepted “quasi-states” that were unable to maintain these goals as long as they did not hinder its operation. But as the international society came under attack, avoiding harmful state action was no longer sufficient; states had to take positive action in defense of the system. The renewed focus on state responsibility asserts the obligations that states hold toward each other and the broad society of states. In the context of the war against the jihadis, these obligations include the following requirements: first, a state must not cooperate or give sanctuary to the enemies of the system. Second, a state needs to take effective action to prevent the use of its territory by terrorists even when it is not the intended target of the attack. The state is obligated also to prosecute terrorists or extradite them to other countries. Third,

³¹⁹ Bull, *The Anarchical Society*, 67-70.

³²⁰ Robert H. Jackson, *Quasi-States: Sovereignty, International Relations, and the Third World* (Cambridge University Press, Cambridge, 1990).

states are required to share information on planned schemes and to cooperate in investigations following terrorist attacks. States are also urged to share their experiences in order to allow other states to identify best practices and adopt them for the general good.

Yet, agreement on what constitutes responsible behavior does not guarantee that states will follow through. Intentions cannot be inferred only on the basis of behavior; states' compliance is not only a matter of will but also of capability. The lax requirements for gaining statehood subsequent to the end of colonialism produced numerous states that are unable to assume their responsibilities even if they so wish. The weakness of scores of states explains why an effective response to the threat is inevitably slow to emerge. Consequently, in order to reestablish mutual responsibility in the international society, weak states need a significant amount of external assistance. Only with extensive external support will they be able to reach a capacity sufficient for meeting their obligations.

States' weakness not only inhibits the whole system's response to a wide range of threats, including terrorism; it is a major facilitator of such threats. Transnational terrorist groups prey on weak states for sanctuary. Terrorism flourishes in chaotic environments where states fail to control their territory or where corruption is pervasive. Such states cannot prevent terrorists from turning their territory into a safe haven and a base of operations. This weakness only increases the threat of terrorism and concomitantly the scope of action required of these weak states.³²¹ Hence, bolstering the state and its institutions is one of the major building blocks of the

³²¹ Some states may even actively support terrorists. Such assistance may take two forms: first, a state may decide as a policy to back terrorist elements as in the case of the Taliban's support for the al Qaeda network. Alternatively, terrorists may penetrate state apparatus or gain access to sympathizers or corrupted functionaries in power positions. As a result, the state may fail to take effectual action against terrorist networks. Pakistan is an example of this type of state assistance.

international campaign to repel the jihadi threat and a prerequisite for rolling back transnational terrorism.

Not referring exclusively to the threat of terrorism, Secretary General Annan proclaimed: “if states are fragile, the people of the world will not enjoy the security, development and justice that are their right. Therefore, one of the great challenges of the new millennium is to ensure that all states are strong enough to meet the many challenges they face.”³²² Hence, strong states bound by common norms and interests are the only guarantee that the advantageous goals of the system and of the world’s citizens will be realized.

The bolstering of the state does not refer merely to its material capabilities; this effort is nested in a broader project to reinforce the legitimacy of states’ dominance. The primacy of the state was damaged through the years as governments failed to serve the societies they were supposedly representing and to readjust to the changing nature of international life. The crisis appears to be especially grave among newly decolonized states governed by oppressive and unfit governments. The decline of the state paralleled the ascendance of domestic and transnational NGOs that hurried to fill the vacuum. Nevertheless, the relation between reestablishing the legitimacy of the state and the reinvigoration of its capacity is inseparable; rehabilitating the normative stature of the state would support the capacity-building effort. However, normative changes take longer to consolidate than action on the ground. Therefore, whereas considerable change is essential in both aspects, concrete steps to reinvigorate states’ capabilities would more quickly become visible.

In sum, the multilateral confrontation with the global jihadi movement relies on the view that states remain the primary actors in international politics, with continued adherence to the principle of state sovereignty. But at the same time states

³²² Annan, *In Larger Freedom*, 6-7.

emphasize that they are part of the society of states. This affiliation, together with the nature of the threat, results in highlighting states' mutual responsibilities and the concomitant need to bolster the institution of the state and strengthen interstate cooperation. In the following section, I will present the efforts to strengthen states' control over their borders, and in particular over people and goods passing through these borders, as an example of measures taken within the parameters set for the war on the jihadi movement.

Border Control

Lacking central authority, states divide the global terrain among themselves. But al Qaeda's agenda is global -- states are viewed as arbitrary artifacts whose existence is attributed to politics and power factors but have little legitimacy -- and its theater of operations is worldwide. Thus when states meet jihadis, a tension is created. The division of the globe into states allows each state only a partial glimpse into the threat. It also diffuses the responsibility to counter the jihadis: instead of a unified body to design and carry out the fight, each state is assigned primary responsibility for confronting the threat within its own boundaries.

This geographical division within the international society makes borders an extremely important factor in the war on the jihadi camp. Borders represent a potential source of weakness for states: they represent a change of state authority and thus discontinue and disrupt anti-jihadi action -- while terrorists, unconstrained by considerations of state sovereignty, continue their plans seamlessly. Consequently, an effective state response must guarantee that borders do not become blind spots or black holes where state action stops and the flow of information is blocked.

But if states act in concert, borders are not necessarily a disadvantage. In fact, they could present states with opportunities by helping to rationalize the response of the international society. The delineation of geographical spheres of responsibility,

where each country holds primary responsibility to monitor and prevent the operation of terrorists, focuses states' attention and resources. Interstate borders also provide "roadblocks" where states could stop the movement of terrorists and the material they use. Effective border controls would prevent the enemies of the international society from transferring resources -- people and weapons -- to places where they are needed, restricting the activities of the threat's components to a smaller area and thus improving states' ability to trace and capture the enemy elements. Clearly, turning the artificial discontinuity of the global terrain into a means for disrupting transnational terrorist activities, rather than a source of systemic weakness, would assist in strengthening the response. For that reason, states' responsibility to effectively control their borders must be established. Where needed, this responsibility would be accompanied by the creation of state capacity to fulfill its obligations to the international society.

The importance of the task matches its complexity. Numerous technical and financial impediments could hamper the achievement of secured borders, and the disadvantageous position from which many states begin this endeavor is particularly detrimental to their efforts. From the inception of the state system, the ability of states to control their borders was uneven. Many, in particular the decolonized states of Africa, have had only nominal attributes of domestic sovereignty. The statehood of these countries generally resulted from external recognition rather than domestic legitimacy and control; their borders are often a fictitious creation of colonial powers, delineated according to political considerations and bargaining among those powers rather than geographic logic or a concentration of population from a cohesive group. As a result, many states have long, porous and often unmonitorable borders.³²³ Where

³²³ For example, Yemen, which is a significant transit state for weapons between the Arab peninsula and the Horn of Africa, needs to patrol over 1,200 miles of coastline. Its border with Saudi Arabia stretches over 900 miles of difficult desert terrain. Yemen does not have the resources to patrol these borders by

these borders divide local populations, their legitimacy is not based on popular consent; instead, it is mainly legalistic. In fact, in many places populations arbitrarily divided by such borders ignore those borders' existence. Many nomadic tribes, for example, continue their traditional way of life in defiance of the state's attempts to impose borders.

Border control is a problem even for states that are capable of exerting authority and control. Even the U.S., the strongest power in the world, demonstrates an embarrassing inability to control its land borders. Some of the problems developed states are facing emanate from a conception of the role of borders that did not take into account the threat of terrorism. Indeed, prior to 9/11 most developed states, seeing less risk for conventional interstate wars, had chosen to loosen their border controls in order to reap the benefits of a globalized economy. Reducing interstate barriers facilitated the smoother and faster movement of people and goods, thereby increasing states' economic benefits. But relaxing the barriers to movement also eased the movement of "negative" elements such as smugglers and terrorists, as well as harmful goods such as drugs and weapons. The higher states' aspirations to integrate their economies, the more exposed they became to terrorists' abuse of the relaxed controls. With the threat from porous borders looming, states are trying to strike a balance between security and economic considerations.³²⁴ They seek to improve their ability to restrict the jihadis' movement while sustaining and even broadening international economic activities. Indeed, the G8 Secure and Facilitated International Travel

itself. While relying on American assistance in building its coastal guard, Yemen is still far from capable of fulfilling the mission effectively. The recent demarcation of the border between Yemen and Saudi Arabia after many years of controversy is important and revealing; it shows willingness to overcome difficulties, but also how much work still needs to be done. Shaun Overton, "The Yemeni Arms Trade: Still a Concern for Terrorism and Regional Security," *Terrorism Monitor* 3:9 (May 6, 2005).

³²⁴ Peter Andreas, "Redrawing the Line: Borders and Security in the Twenty-first Century", *International Security* 28:2 (Fall 2003), 78-111.

Initiative (SAFTI), accepted at the Sea Island summit in 2004, emphasizes the importance of travel and trade while preserving security at the borders.³²⁵

The problem of permeable borders is particularly evident in the EU, which practically abolished its land borders. A terrorist could enter the EU zone through a weak link -- a country with deficient border controls or a lax asylum system -- and move around almost unhindered.³²⁶ Even where border barriers are in place and most traffic goes through official checkpoints -- land border posts, airports and seaports -- states are often unable to prevent terrorists and unauthorized material from crossing the border.

The reinforcement of border controls manifests all four characteristics of the response to the jihadi movement. By strengthening these controls, states attempt to bolster the institution of the state and reduce the gap between their authority and actual control, with the aim of bringing the institution a little closer to the ideal Westphalian model. Bolstering the capacity of the state goes hand in hand with the emphasis on the principles of state sovereignty and state responsibility. Rather than erasing borders to facilitate a centralized global approach, the state is maintained as the primary unit, with each state designated the representative of the society in the territory under its authority. The international community sets the principles and the rationale for state action on its borders but then holds only a supervisory capacity, whereas states preserve their freedom to design the means to secure their borders. States are not coerced to tighten their supervision over trans-border movement. Instead, they are

³²⁵ G8 Secure and Facilitated International Travel Initiative (SAFTI). Sea Island Summit 2004, available at www.g8usa.gov/d_060904f.htm, accessed 3.21.2005.

³²⁶ The Washington Post reported the illuminating case of a suspect in the Madrid bombing who entered Germany in 1999. After the German authorities failed to confirm his identity they put him in a loosely supervised camp for asylum seekers. The man left the camp and managed to travel freely throughout Europe. See Craig Whitlock, "A Radical Who Remained Just Out of Reach," *Washington Post*, November 14, 2004.

persuaded to take action in a process that underscores their responsibility to the society of states.

The global nature of the threat and the inability of many states to meet their responsibilities without external assistance have led to a significant concentration on interstate cooperation. This cooperation is designed to achieve two main goals: to initiate a learning process through which states can learn from each other's experiences with effective border control; and to allow some states to overcome their weakness and through external aid to reach a sufficient capacity to realize their responsibilities to the international society. The hegemon has a significant role in the task of improving weaker states' ability to control their borders. For example, the U.S. has initiated two programs, in East and in West Africa, encompassing fifteen countries and designed to reinforce African countries' military capabilities in controlling borders and capturing terrorists.³²⁷ Interstate cooperation is also evident in the work of the special naval task force that patrols the seas between Pakistan and the Horn of Africa. Ships from countries that objected to the Iraq war, such as Canada, Germany and France participate in the task force (and rotate leading the mission) together with vessels from the U.S., Britain and other countries.³²⁸

The bolstering of states' border controls involves regulating entry into a country through official and supervised entry points while blocking the passage of people and goods through unauthorized routes. Such measures include marking state borders, establishing barriers between states (e.g. border fences), and patrolling states' maritime boundaries. After people and goods are channeled to the official border passageways, border controls assure that "negative" elements are denied entry. States

³²⁷ Charlotte Cans, "Terrorism: Africa Under US Surveillance," *Jeune Afrique-L'Intelligent*, September 14, 2005.

³²⁸ Jim Krane, "Bigger French Role in U.S. Terror War Heralds Warming U.S.-French Ties," *Associated Press*, August 29, 2005.

utilize various means to exclude these unwanted elements. Among those means are tightening the criteria for entry without a visa and increasing the requirements for obtaining one (often involving a thorough investigation of the reasons for the visit, as well as the applicants' backgrounds and intentions).

While increased visa requirements represents a measure employed long before a person reaches a border crossing, more security measures are also used at the borders, representing a second layer of protection. Travel documents and identification details are monitored closely before passage is granted. In the aftermath of 9/11, many states have improved their ability to identify forged and stolen documents, developed means to verify travelers' alleged identity, and created more effective international information sharing systems, allowing states almost instantaneous access to information and increasing the odds that unwanted travelers will be stopped before admission is granted. Similarly, states are increasing their ability to track unlawful material (with special emphasis on explosives and radioactive material)³²⁹ by improving their screening systems. Note that while states take independent steps the strong powers, led by the U.S., are attempting to establish international standards for handling travel documents, including standardized practices for passport issuance and the accelerated development and spread of smart chip passports and other identity documents.³³⁰ These standards would increase the efficiency of the collective response and would mitigate the economic impact of the increased security measures.

The 1267 Committee of the Security Council and the Interpol play a significant supporting role in preventing known jihadis from crossing states' borders. As part of

³²⁹ The U.S. has been promoting the Energy's Megaport Initiative. In the framework of this program the U.S. installs radiation screening equipment at foreign seaports. Although the program suffered from a sluggish start American officials are expecting substantial progress to materialize soon. The program supplements the Container Security Initiative, in which U.S. inspectors are stationed at foreign ports to review the cargo manifests of cargo bound to the U.S. in an attempt to identify suspicious cargo. See Christopher Lee, "Progress 'Limited' On Seaport Security", *Washington Post*, May 4, 2005.

³³⁰ G8 Secure and Facilitated International Travel Initiative (SAFTI).

the sanctions' regime on al Qaeda and its associates, the UN has imposed a travel ban on a list of jihadis maintained by the 1267 Committee and discussed in greater detail in the following chapter. Briefly, at this stage the list has proven much more useful for reducing the funds available for terrorism than for stopping terrorists at the borders.³³¹ The use of the list for travel ban purposes encountered some technical problems that were expected to be solved or at least mitigated over time. For example, some states did not incorporate all of the names on the UN list into their "national stop lists" due to lack of technical capabilities, insufficient identifiers and legal problems. Among the other problems identified is manipulation of the official process for obtaining documents, for example through name changes.³³² However, even if the problems with the list were remedied, the travel ban would still be ineffective because designated individuals opt to travel with falsified documents that do not carry their names, or avoid the official border passageway.³³³ That does not mean that the travel ban is completely devoid of merits; the existence of the list makes the movement of suspects more difficult, raises the cost involved with traveling, and may also serve as a deterrent. While the list represents a potentially important instrument, it still needs to be improved. Clearly, the number of people on the list is no more than a small fraction of the members of the jihadi movement and, as such, its significance is reduced.

Against the background of the travel ban's limited scope, Interpol has become a crucial actor in promoting states' ability to stop jihadis at the borders and identify stolen and forged documents. In 2002, it created a database of stolen and lost travel

³³¹ In its second report, the Analytical Support and Sanctions Monitoring Team declared that in 2005 no state had reported preventing a person on the list from traveling. See Second Report of the Analytical Support and Sanctions Monitoring Team S/2005/83, 39.

³³² Third Report of the Analytical Support and Sanctions Monitoring Team appointed pursuant to resolution 1526 (2004) concerning al-Qaida and the Taliban and associated individuals and entities, S/2005/572, September 9, 2005, 37.

³³³ Ibid., 35; First Report of the Analytical Support and Sanctions Monitoring Team S/2004/679, August 25, 2004, 25.

documents to facilitate the global exchange of information, which it constantly updates.³³⁴ States, in turn, are showing a steady increase in their level of cooperation with Interpol, and their contribution to this database is on the rise. In just six months at the beginning of 2004, the number of states contributing information to Interpol's stolen and lost travel documents database increased from 54 to 75 countries. By 2005, the database held details of more than 7 million travel documents.³³⁵

Interpol also maintains a global database of names and photographs of suspected terrorists. As of January 2005, over 110 states became contributors to the database and together have provided over 8,000 names, as opposed to only 2,200 names in 2001. In addition, Interpol offers states the services of its I-24/7 Global Police Communication System. The system provides secure communication to all law enforcement agencies and already connects over 130 countries. The usefulness of the system has been demonstrated on several occasions; for example, it led to the arrest in Belgium of a Moroccan asylum seeker who was wanted by his home country (for his involvement in the Casablanca bombing in May 2003) and by Saudi Arabia.³³⁶

States also utilize advanced technological instruments to hinder the movement of jihadis and keep track of suspects' whereabouts. Indeed, biometric profiles are being used at an increasing rate. Some states still debate the efficacy of such means, struggle with the technological difficulties and high costs, and worry about the implications for civil rights. But there appears to be an increased acceptance that taking such steps is inevitable.³³⁷ The U.S. is already taking fingerprints and photos of foreigners arriving at its borders and is studying further technologies and means of

³³⁴ Second Report of the Analytical Support and Sanctions Monitoring Team S/2005/83, 41.

³³⁵ Third Report of the Analytical Support and Sanctions Monitoring Team S/2005/572, 37.

³³⁶ Report on the Counter-Terrorism International Conference held in Riyadh, 5-8 February 2005, Security Council document, S/2005/430 (1 July 2005), 63-65.

³³⁷ Third Report of the Analytical Support and Sanctions Monitoring Team S/2005/572, 36.

identification.³³⁸ The eventual goal is to create a globally interoperable system; but the enormous cost of such an endeavor renders the realization of this goal remote. In the first stage, advanced technological equipment will be deployed in developed countries and slowly spread elsewhere.

Improved intelligence is integral to many of the means to tighten states' control over their borders. States dedicate more resources to develop more sophisticated surveillance and information technologies, track unauthorized entry into a country, and gather information about suspects even before they start their journey to the border.

A significant aspect of border controls that came to the forefront following 9/11 is the abuse of states' asylum laws by terrorists. Throughout the 1990s, European countries gave asylum to large numbers of refugees from Middle Eastern countries. These immigrants needed little proof that their life and health would be at risk if returned to their home countries in order to receive asylum and generous social benefits. While most asylum seekers made genuine claims and sought refuge, some from the jihadi movement took advantage of the lax system in the EU countries to escape the wrath of the Middle Eastern regimes and establish new bases of operation within Europe. Britain was particularly hospitable to Islamists, to the extent that London became known among jihadi circles, as well as by critics of the British government, as Londonistan.

The operation of the Hamburg cell that carried out the 9/11 attack demonstrated the breakdown of the asylum system and made all states aware of the need to fix this system in order to avoid its abuse. In addition to the Hamburg team, other jihadis in Europe were identified as a potential threat; but most European countries found themselves unable to respond. Legal constraints impeded their ability

³³⁸ See Andreas, "Redrawing the Line," 96-97.

to prosecute jihadis in court, particularly regarding states' understandable inability to prove beyond a doubt the intentions of suspects before they carry out their plans. Even when information exists, fear of compromising sources and restrictions on the type of evidence the court accepts drastically reduced their usefulness for prosecution. The American renditions' program provided a limited answer but suffered from the need of the EU governments to keep their assistance secret in order to avoid legal challenges and public outrage. As a result, European cooperation on renditions was only partial. Another alternative has been deportation or extraditions of jihadis to countries where they could be more easily prosecuted. However, human rights considerations prevent suspects' extradition of to states where they could be exposed to torture. The citizenship some of the jihadis had acquired in their new European countries further hinders a more extensive use of deportations.

The Security Council has referred to the abuse of the asylum laws in a number of resolutions but has not specified a solution. States, particularly in the Western states, are still seeking a reform that would allow them to preserve their asylum systems while improving their ability to detect and deny entry to unwanted asylum seekers. This balance between values and security needs is difficult to strike, and states' laws and international commitments further reduce governments' freedom of maneuver.

The problem is especially acute in the EU countries, leading those states to discuss the creation of common legal migration standards to include guidelines for rejecting asylum seekers while appealing for skilled labor. The EU aims to have the new system in place by 2010.³³⁹ In the meantime, and despite impediments, most states are slowly altering their laws to improve the ability to consider asylum status

³³⁹ ISN Security Watch, "Britain Tightens Immigration Policy," February 9, 2005. www.isn.ethz.ch/news/sw/details.cfm?id=10738, accessed February 9, 2005.

before granting entry. One of the plans currently being negotiated is the creation of transit camps outside the territory of the EU countries (mainly in North Africa and Eastern Europe) where asylum seekers will reside until their status is decided.

States are also enacting legislation to strengthen their rights to deport asylum seekers and immigrants who have already crossed the border into the EU. Germany, for example, bruised by its failure to prosecute terrorism suspects, instituted at the beginning of 2005 a tough immigration act giving the government legal basis for preemptive deportation. The new act allows the deportation of terrorism suspects, returnees from Afghanistan, as well as imams who incite violence and hate. The legislation also limits the legal recourse for candidates for deportation to fight the deportation orders.³⁴⁰

Though obstacles abound, there is a noticeable effort by the members of the international society to clearly mark and supervise the parameters of states' territories. Because border control is only as strong as the weakest link, this mission is particularly difficult. Impediments stemming from economic, legal and human rights' considerations, together with the disadvantageous starting point of the system, suggest that progress will be particularly slow. Complete success may be altogether unattainable. But states recognize that the problem is common to all of them regardless of the disparities in level of preparedness, economic developments and normative commitments. Therefore they work together to improve the overall quality of the border controls system.

The Role of the UN

Because the response to the jihadi threat is global, its planning and coordination requires an international framework. Members of the international society under the

³⁴⁰ Markus Deggerich and Holger Stark, "Farewell Campaign: New Immigration Act Makes Deportation of Foreigners Easier; Interior Ministers Prepare to Deport Hundreds of Islamists," *Der Spiegel*, January 24, 2005.

leadership of the U.S. hegemony have been relying, to a large extent, on existing cooperative frameworks. These frameworks serve as the arena where states analyze the threat; deliberate and design a response while working to bridge differences between diverse state perspectives; coordinate concrete steps; and ensure the continuous contribution of society's members to the collective effort.

Note that this inevitable reliance on international institutions does not imply undermining states' authority. The international society relies on inter-governmental organizations where the dominance of the state is unchallenged and distance from NGOs can be preserved. In fact, NGOs play a very small role in the struggle with the jihadis. They maintain a high profile mainly in human rights issues, serving as gatekeepers that attempt to reduce the danger of human rights' abuses under the guise of the war on terrorism. Naturally, this focus often puts NGOs in direct opposition to states' actions.

In theory, the leading powers may choose from a number of existing platforms to organize collaboration; they can also create new ones if necessary. But in the current international system the UN stands out as the natural candidate to serve the U.S. hegemony as a focal point for the international component of the war on terrorism. This is because it is the only international organization that encompasses all states, contains a mechanism to authorize action in any sphere, and is consequently recognized as the principal source of legitimacy in the international arena.

From its inception, the UN was designed to provide a framework for collective security, aiming to facilitate and preserve peace throughout the international system. Thus, while collective action does not require the stamp of UN legitimacy, a true collective effort would, at minimum, seek its auspices. Even though the bulk of the concrete steps depend heavily on smaller institutions and frameworks for financial and technical resources, the UN offers important political clout. Consequently, if

consensus can be reached on the principles guiding cooperative action, there is no reason to avoid its cloak of legitimacy.

However, the institution cannot be completely divorced from its members, the states, and its level of preparedness to threats reflects the preparedness of the international society as a whole: when the hegemon and other members of the society of states are unready for the task, the UN is expected to exhibit similar weakness. Prior to 9/11, the UN was unprepared to tackle the threat of transnational terrorism. Built on the wreckage of two devastating world wars, the organization conceived of states as the main sources of instability and erosion of peace. The reality of the post-Cold War years, however, no longer corresponded to the challenges that occupied the founders of the UN; the 9/11 attack in particular demonstrated the potency of stateless networks and provided a vivid and terrifying example of the ability of non-state actors to disrupt peace and wreak havoc.

Despite the malaise of the UN, states have acknowledged the institution as an indispensable actor in the war on the jihadi terror and selected it to serve as the primary institution to legitimize and direct the project. To improve its ability to perform its role effectively, the primary responsibility for anti-terrorism was shifted from the UN General Assembly to its Security Council. In this way, the UN can promote rigorous action that it could not have taken earlier because of the assembly's size and its narrow mandate. The responsibility shift marks a real change in the approach of the American-led international community, signaling its intention to confront transnational terrorism with seriousness and determination.³⁴¹ The Security Council accepted the challenge and within its limitations has been trying to design a blueprint for a global assault on the jihadi movement. The Security Council does not

³⁴¹ Nicholas Rostow, "Before and After: The Changed UN Response to Terrorism since September 11th," *Cornell International Law Journal* 35 (2001-2002), 479-481.

shy away from relying on chapter VII of the UN charter to increase the pool of instruments in its possession and to signal its commitment and resolve. In addition, a multitude of other intergovernmental organizations -- such as NATO, the World Bank and many regional organizations -- were integrated into the general effort as a force multiplier.

Mines on the Road to Success

The efficacy of anti-terrorism steps, already limited by the definitional problem, is restricted further by the highly complicated and multifaceted nature of terrorism. States have yet to grasp the full scope of the phenomenon and its implications. The continuous evolution of terrorism adds a stream of new issues that require states' attention. Even if all aspects of terrorism were acknowledged, states could still disagree on their relative importance and fail to reach an agreement about the best way to confront them. Whether priority should be given to eliminating the terrorist networks or to addressing the root causes of terrorism in order to "dry the swamp" -- that is, their habitat -- is just one (although highly publicized) such dilemma.

The payment of ransom to terrorists in order to save the lives of citizens taken as hostages is an example of a subject that did not receive attention when the war on terrorism was launched but is slowly being acknowledged.³⁴² This question concerns the normative and legal aspects of the war on terrorism. When a state pays ransom, it provides the terrorists with resources that allow them to continue to attack civilians. It also signals that they can get away with taking hostages with impunity, thereby encouraging the repetition of this practice. Thus, by saving the lives of some, the blackmailed state may endanger the lives of others. From a legal standpoint, one may argue that by paying ransom states have violated the Security Council resolutions and

³⁴² For example, see Second Report of the Analytical Support and Sanctions Monitoring Team S/2005/83, 29-30.

the international treaty on terrorism financing. After all, the treaty and the resolutions do not lay out any circumstances that justify providing money to terrorists. The acknowledgement of the problem came late, and only after Germany paid an Algerian Islamist group six million dollars in order to release European tourists taken hostage.³⁴³ Claims that Italy, France and Germany as well as some other countries ransomed hostages in Iraq were unconvincingly denied and contributed to the growing awareness of the problem.³⁴⁴

The effectiveness of the war on terrorism is also a function of the enormity of the task. Strengthening the state system is an extremely complicated endeavor that cannot bring immediate results. The reassertion of the state's primacy and control over its territory and inhabitants is an intricate bureaucratic process. On the national level, a state must readjust its legal system and engage in partial restructuring of its homeland security and law enforcement organs. This task proves extremely daunting even in a country that is advanced, resourceful, and fully aware of the need for change, such as the U.S. Bureaucratic inertia and turf wars result in further impediments. Naturally, the task is even more strenuous in many developing countries, where even the legal and bureaucratic foundations necessary for taking non-violent steps against the state's enemies may be absent. This lack of capacity forces some of those countries to rely on external help to structure, in a process that takes years to complete, a basic functioning system. Compounding the difficulties are the high costs of such an endeavor and the need to overcome the corruption that is pervasive in many poor countries.

On the international level, effective response requires a significant level of uniformity and compatibility between the practices and laws of different states -- but

³⁴³ Sara Daly, "The Algerian Salafist Group for Call and Combat: A Dossier," *Terrorism Monitor* 5:3 (The Jamestown Foundation, 10 March 2005).

³⁴⁴ Daniel McGrory, "How \$45m Secretly Brought Freedom of Foreign Hostages," *Times*, May 22, 2006.

the creation of such compatibility is technically hard to achieve. Cultural and ideological differences may further slow the process. For example, developing nations may be unenthusiastic about replicating Western structures, practices, and norms; European countries may be reluctant to infringe on civil rights and suspend some of the legal defenses they traditionally grant suspects.

Underscoring the complexity of a coordinated global war on terrorism, the UN designed a “Global Program against Terrorism” (under the auspices of the UN Office on Drugs and Crime). The program outlines three stages rather than aiming for immediate, but unattainable, maximum results. The first emphasizes legislation in every country to cover all aspects of resolution 1373 (which among other things requires states to criminalize terrorism and terrorism financing and to prosecute and freeze assets of people and entities involved in terrorism); speedy promotion of a process for becoming party to the twelve (now thirteen) anti-terrorism international conventions; and introduction of effective executive machinery for preventing and suppressing terrorist financing.³⁴⁵

In the second phase, the program aims to enhance the executive machinery for implementing the resolution. This includes active attempts to prevent recruitment to terrorist groups, movement of terrorists, and the establishment of terrorist safe havens. To achieve this goal, states need effective police and intelligence structures, improved border controls and strengthened capability to prevent terrorists’ access to weapons. The third and last phase concerns interstate cooperation at bilateral, regional and international levels. Such cooperation should expand to the judicial sphere, aiming at improving state ability to bring terrorists to justice. The plan also sees the expansion of collaboration to tackle the links between terrorism and other security threats such as

³⁴⁵ United Nations Office on Drugs and Crime, “Global Programme Against Terrorism: Current Developments” (August 2003).

organized crime.³⁴⁶ It is impossible to determine with confidence when or even whether the second and third phases would be finalized; but there are clear indications that an overwhelming majority of states are making genuine efforts to achieve the desired goals.³⁴⁷

The big leap from the pre-9/11 measured approach to counter-terrorism to an accelerated, even hasty attempt to construct an effective, new and encompassing global regime forces the members of the international society to adopt an approach of “learning through practice.” For that purpose, they rely on a vast number of international forums in which states can exchange information about their experiences and best practices. Periodic Security Council meetings (attended also by interested parties not holding seats on the council) and behind the scenes meetings serve as the most important forums for consultations because the council leads and directs much of the global campaign.

The operation of several monitoring groups set up by the Security Council embodies the spirit of the self-critical approach. These teams evaluate the effectiveness of the measures taken, particularly the sanctions against individuals and entities linked with terrorism, and recommend ways to enhance their effectiveness. The comprehensive analysis focuses both on state actions and on improving the efficiency of the relevant UN mechanisms.

The constant re-evaluation of the sanctions regime also stems from the elusive nature of the enemy, which makes effective sanctions hard to design and update. For example, various reports have indicated that the weapons embargo is ineffective,

³⁴⁶ Ibid.

³⁴⁷ For a review of the UNODC work with member states during the year 2004 see, United Nations Office on Drugs and Crime, *Strengthening International Cooperation: the Technical Assistance in Preventing the Implementation of the Universal Conventions and Protocols Related to Terrorism*, E/CN.15/2005/13, 8 April 2005.

calling for a rethinking of its design.³⁴⁸ In addition, the dynamic nature of the enemy demands awareness of changing circumstances in order to make the proper adjustments. For example, after states' pressure crippled al Qaeda's ability to carry out attacks, it evolved from a relatively structured group to an overarching ideology, an ideological umbrella for groups and individual Muslim radicals with loose or sometimes no tangible connections.³⁴⁹ In a more concrete change, al Qaeda responded to the growing pressure on its finances by shifting its financial activities to the least regulated areas in Africa, the Middle East and South East Asia, where authorities are falling behind in regulating and tightening states' grip on their financial systems.³⁵⁰

Despite the rocky start, the multifaceted international structure to fight transnational terrorism is slowly increasing in its competence. In light of the tremendous obstacles, it is remarkable that the international community has managed to make such considerable progress in a few years' time. The progress has been uneven; in some aspects it is more tangible and easy to observe than in others. But progress has been real, nonetheless, and indicative of the international society's preservation-seeking quality. Two spheres of cooperative action to combat the al Qaeda-led jihadi movement will be the subject of the subsequent chapters.

Realism and the Fight against the Jihadis

Realists may argue that the cooperation exhibited so far is not costly to the security of the state and therefore states' behavior could be well explained within the boundaries of the Realist paradigm; but such claims would miss the nature of the collaboration. Realists do allow for cooperation, but it generally reflects states' short-term interests,

³⁴⁸ For example see Second Report of the Monitoring Group Established Pursuant to Resolution 1363 (2001) and Extended by Resolutions 1390 (2002) and 1455 (2003), on Sanctions against al Qaida, the Taliban and Individuals and entities Associated with them, United Nations Security Council, S/2003/1070, 2 December 2003, 32.

³⁴⁹ Second Report of the Analytical Support and Sanctions Monitoring Team, S/2005/83.

³⁵⁰ See Second Report of the Monitoring Group, S/2003/1070, 4

conditioned by changing balances of power, and very limited in scope. The war on the jihadis is different.

First, some actions that states have taken are costly in terms of security, increasing the likelihood that a cooperating state will be targeted by the jihadis. Furthermore, cooperation in other non-security spheres is not cost-free. Realism under-acknowledges the importance of domestic ramifications for compliance with imperatives imposed at the international level. Domestically unpopular policies may nullify international cooperation.

The level of reform the needs of the war on terrorism impose on states incurs substantial economic and social costs. For some regimes, reform could pose risks for their own survival. For example, charity-giving, one of the five pillars of Islam, had been practiced uninhibited and unregulated for hundreds of years. Thus, it is no wonder that Muslim countries are reluctant to regulate the collection and distribution of funds by charity organizations. Furthermore, the close association of charities with humanitarian relief has made governmental regulation and oversight very sensitive.³⁵¹ Similarly, attempts to bring traditional methods of money remittance, such as the *hawala* system, under state control are potentially very costly.

Western countries, on the other hand, are very sensitive to questions of human rights. Consequently, they are loath to employ policies that may reduce civil liberties or restrict their liberal asylum systems. Nevertheless, following 9/11, renditions, indefinite pre-trial detentions, and restrictions on detainees' rights to legal consultation, almost unthinkable for most EU countries before the attack, became more prevalent throughout the union. Special anti-terrorism legislation was introduced in many countries. Stricter asylum standards, greater willingness to deport aliens, readiness to extradite suspected terrorists, and less tolerance of radical imams

³⁵¹ Ibid.

preaching hatred and violence under the guise of “freedom of expression” all became part of the EU states’ reality.

Second, Realists ignore the qualitative significance of the increased quantity and density of international cooperation. The scope of interstate collaboration -- the variety of issue areas and the number of arenas and multilateral frameworks within which this effort occurs -- suggests that something bigger than states simply acting according to their own narrow and particularistic short term interests is taking place. An indication of a different spirit can be found in the willingness of capable states to extend help to weaker ones to help them achieve compliance with the UN counter-terrorism blueprint. Analysis of reports of the steps taken by 131 countries, conducted three years after 9/11, states that 64 of these countries declared they could provide assistance to others.³⁵²

Third, the war on terrorism is multifaceted. In sharp contrast to the familiar inter-state wars, the focus of Realist investigation, many of the major components in the war on terrorism do not involve the use of force. Thus, Realists, who tend to view power in material terms and wars as the exhibition and use of force, may underestimate the importance of non-military types of inter-state collaboration. In the following chapters I will provide examples of costly steps taken by states and demonstrate how, with little to no coercion or side payments, states participate in collective efforts to prevent the financing of terrorism (chapter 6), and deny non-state actors’ access to WMD (chapter 7).

The English School’s perspective is also superior to Realism in its ability to detail the guiding principles behind the collective response. While Realists would feel comfortable with the reassertion of sovereignty as an organizing principle, they would

³⁵² “Assessment of 131 Member States’ Reports under Resolution 1455 (2003),” Prepared by the Analytical Support and Sanctions Monitoring Team, October 2004, S/2004/1037, 31 December 2004, 17-18.

be hard pressed to explain why states choose strengthening the State over other strategies. Realists may revert to cost-benefit calculations; but even if such calculations could show the superiority of the method chosen, such an explanation would miss the connection between the reinforcement of the State and the fundamental principles of the international society. Realists would also have difficulty explaining states' willingness to build the capacity of other states, taking the risk that those states would be better able to confront those who assisted them in the future. Finally, the concept of state responsibility would also be foreign to Realist scholars.

Summary

Even though a consensus on the definition of terrorism has been elusive, the 9/11 attack shocked states into action against the global jihadi movement. This action is orchestrated by the U.S. in cooperation with secondary powers and relies on the UN for legitimacy, political clout and logistical services. States' action against the jihadi movement is guided by four principles: state primacy and sovereignty, state responsibility, the bolstering of the state, and lastly, interstate cooperation. All of these elements can be found in the efforts to strengthen states' border controls as well as in the spheres of action that will be explored in the next three chapters.

While significant measures have already been taken, important obstacles that are attributed mostly to the enormity of the task and the low starting point of countless states render progress slow. Yet, the overall trend is positive, and as will be discussed in detail later in this study, supports the English School's prediction that facing a systemic threat, the members of the international society defy the prescriptions of the Realist paradigm and exhibit unprecedented willingness to cooperate.

Chapter Six: **The Suppression of Terrorism Financing**

Introduction

Before 9/11, experts and statesmen already perceived the nearly unsupervised global financial system as one aspect of the telecommunication revolution that could be used by malevolent actors, particularly transnational criminals and terrorists. States that faced a terrorist threat started paying close attention to the financial aspect of terrorism during the 1990s and concluded that blocking terrorists' access to funding sources might be one way to reduce its threat. Moreover, following the money trail offered valuable assets to intelligence and law enforcement agencies, such as useful information about plots, perpetrators and modes of operation.

An effort to promote international action to curb the financing of terrorism followed; it even resulted in the creation of a universal instrument. But progress was extremely slow as few countries assigned the issue the required significance and even fewer had the will to take on expensive, bureaucratically complicated and politically sensitive obligations. Because the nature of the financial system makes success hinge on cooperation without high participation, the goal of curtailing terrorism financing was doomed to failure. But after 9/11, states' approach changed. Under the leadership of the U.S. and through the services of the UN and many intergovernmental organizations, a regime to prevent terrorism financing was developed. This chapter details the process by which this regime was created and the manner in which it evolved over time.

In the sphere of interrupting the financing of terrorism, the English School predicts that the elaborate cooperative endeavor will be manifested in:

a) a significant increase in the number of states that accede to relevant international treaties, join existing organizations that act to curb terrorism financing and establish new institutions;

b) the creation of a worldwide legal infrastructure to fight terrorism financing, including the criminalization of terrorism financing, legal procedures to freeze financial assets of terrorists and terrorist entities, regulation of alternative remittance systems, and supervision over the operation of charities and the use of charity money;

c) a broad appeal for technical assistance to establish counter-terrorism financing apparatuses, matched by broad willingness of better-prepared and endowed states to offer such assistance to weak states;

d) extensive reports to the designated UN committees, expected to be of a high or at least rapidly and significantly improving quality;

e) substantial reduction in funds available for al Qaeda and its various associates.

The chapter comprises three sections. In the first, I trace the evolution of the anti-terrorism financing regime from the 1990s and subsequent to the 9/11 attack. The achievements of the new regime are discussed in the second section. Compliance with the regime's rules and imperatives among Muslim countries is at the center of the third section. These countries' cooperation, despite the complex demands of the regime and the significant price they incur, reinforces my argument that facing a systemic threat, members of the international society show high inclination for interstate cooperation and willingness to collectively face the threat.

Targeting the Financing of Terrorism Before 9/11 and After

Prior to 9/11, there was no coordinated, multilateral effort on a global scale to suppress the financing of terrorism. Most states were not alarmed by the threat and assigned low priority to suppressing terrorists' financial sources. The sporadic

measures that had been taken were inadequate to deal with the multidimensional nature of the challenge³⁵³ and were not accompanied by a true commitment to move beyond words to robust action. Consequently, these measures did little to halt terrorists' abuse of the global (formal and informal) financial system. The members of the international society did agree on an international treaty for the suppression of terrorism financing, intended to serve as a building block for an anti-terrorist financing regime. But the convention -- adopted by the General Assembly on 9 December 1999 - - was slow to gain adherence: prior to 9/11 only forty-two countries had signed the treaty and only four had deposited instruments of ratification with the Secretary General.

In the aftermath of the embassy bombings in Africa (1998), the Security Council increased its involvement in the fight against transnational terrorism. Viewing al Qaeda as a security threat deserving of international action, the council adopted prior to 9/11 six resolutions in which it imposed sanctions on the Taliban regime that harbored al Qaeda, and on the network itself. Yet the sanctions, of which the financial aspect was the main component, were relatively modest. They targeted only some individuals with ties to terrorism and did not represent a comprehensive framework to eradicate the financing of terrorism as a phenomenon.

After demanding (in December 1998) that the Taliban stop harboring terrorists and warning that failure to comply would result in the imposition of sanctions,³⁵⁴ the Security Council scaled up its pressure and in October 1999 passed resolution 1267. The resolution obligated states to freeze all Taliban financial resources under their jurisdiction and to deny permission for any aircraft serving the Taliban to take off

³⁵³ Thomas J. Biersteker and Peter Romaniuk, "The Return of the State? Financial Regulation in the Pursuit of National Security After September 11," in John Tirman (ed.), *The Maze of Fear: Security and Migration After 9/11* (The New Press, New York, 2004), 60-61; Ward, "UN Security Council Resolution 1373."

³⁵⁴ Security Council Resolution 1214, S/RES/1214 (1998), 8 December 1998.

from or land in their territories until the Taliban stopped providing safe haven to terrorists and handed over Osama bin Laden.³⁵⁵

To oversee the effectiveness of the sanctions, the Security Council established the 1267 committee. The committee was tasked to seek and examine information from states about their implementation of the resolution and to report periodically on the impact of the sanctions. A year later, in resolution 1333 (December 2000), the Security Council expanded the scope of the sanctions to include, among other measures, freezing of assets belonging to bin Laden and his associates, an arms embargo on the Taliban, and reduction of the number and levels of staff at Taliban offices abroad. The 1267 committee was asked to maintain and regularly update a list of individuals and entities designated as targets of the sanctions.³⁵⁶

Though clearly demonstrating a growing commitment to countering the threat, the measures taken by the Security Council were still meager. The sanctions were narrow, attempting to target the specific threat posed by bin Laden without acknowledging the global scope of the al Qaeda phenomenon. Attached to the traditional paradigm that focused on state sponsorship of terrorism, the sanctions targeted the Taliban, thereby overlooking both the nature of the relations between the Taliban and the al Qaeda network and the emergence of violent NGOs as an independent threat.

The members of the Security Council were also slow to comprehend that the threat extended beyond bin Laden and his close associates and required a systemic approach that covered the whole jihadi movement and transnational terrorism as a phenomenon. At that point, the states serving on the Security Council still did not grasp that the remedy could not be restricted to ad hoc measures to suppress the

³⁵⁵ Security Council Resolution 1267, S/RES/1267 (1999), 15 October 1999.

³⁵⁶ Security Council Resolution 1333, S/RES/1333 (2000), 19 December 2000.

financing of specific designated terrorists but must address the vulnerability of the global financial system to abuse by violent actors.

Indeed, the work of the 1267 committee in the initial period reflects a lack of strategic thinking. It is evident that the members of the Security Council did not consider it a framework for combating transnational terrorism. As Eric Rosand argues, at that stage even the pursuit of the committee's main function, the creation of the list of people and entities to whom the sanctions would apply, was rudimentary. The committee did not even have specific standards to guide states in proposing names for designation. Its ad hoc approach was adopted from other sanctions committees, even though the focus of those committees was not comparable. Whereas other committees supervised sanctions that were applied to people with clear relations to a state apparatus and contained within a restricted geographical area, the targets of the sanctions in resolutions 1267 and 1333 concerned individuals who were often not connected to a state. Furthermore, the freeze on individuals' financial assets required completely different procedures.³⁵⁷

The consolidation of a regime to suppress the financing of terrorist acts was accelerated as a result of 9/11. Members of the international society acknowledged that cutting the money line of terrorists is crucial to curtailing terrorist activities generally, and to the prevention of terrorist acts specifically. A focus on the money trail provides important information that could help in thwarting ongoing terrorist plans and help capture terrorists; it could also advance investigations in the aftermath of attacks and provide valuable information about how the network and individual cells operate. The regime relies on the International Convention for the Suppression of

³⁵⁷ Eric Rosand, "The Security Council's Efforts to Monitor the Implementation of Al Qaeda/Taliban Sanctions," *The American Journal of International Law* 98:4 (October 2004), 748-749.

the Financing of Terrorism and a number of Security Council resolutions,³⁵⁸ but it is comprehensive in scope and more rigorously enforced. It requires states to assume responsibility and take, within their own jurisdictions, radical measures to curb terrorism financing. Multiple organizations (32 were counted in August 2004³⁵⁹), both on a global and a regional level, support states' actions, providing direct assistance and coordinating interstate collaboration.

The regime is based on the principle that states are obligated to refrain from providing any support to terrorists and must take steps to prevent terrorist acts. The means to assume this responsibility is criminalizing terrorist financing, prosecuting those engaged in such behavior, and freezing financial assets of terrorists and terrorist entities.³⁶⁰ Those principles had already been articulated in the international convention, but for most states prior to 9/11 they were no more than empty words. That changed in the wake of the attack. Exerting firm control over the direction of the counter-terrorism effort, the U.S. and Britain led the Security Council to address terrorism financing in a systemic and comprehensive manner,³⁶¹ bringing it in tandem with the treaty. The council went as far as incorporating the main principles of the treaty in binding Security Council resolutions (beginning with resolution 1373, adopted on November 28, 2001³⁶²), thereby forcing even states that were still disinclined to join the treaty to subscribe to its principles.³⁶³ The sanctions regime

³⁵⁸ The most important are resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1373 (2001), 1455 (2003), 1526 (2004), and 1617 (2005).

³⁵⁹ First Report of the Analytical Support and Sanctions Monitoring Team, S/2004/679.

³⁶⁰ Security Council Resolution 1373, S/RES/1373 (2001), 28 November 2001.

³⁶¹ David Cortright, "A Critical Evaluation of the UN Counter-Terrorism Program: Accomplishments and Challenges," Paper Presented at the Transnational Institute (TNI) Conference on Global Enforcement Regimes: Transnational Organized Crime, International Terrorism and Money Laundering, Amsterdam, 28-29 April 2005.

³⁶² The day after the attack, the Security Council accepted a declarative resolution strongly condemning it and calling on states to collaborate against the terrorist threat. See Security Council Resolution 1368, S/RES/1368 (2001), 12 September 2001.

³⁶³ Eric Rosand, "Security Council Resolution 1373, the Counter-Terrorism Committee, and the Fight Against Terrorism," *The American Journal of International Law* 97:2 (April 2003), 334.

authorized under resolution 1267 was preserved, but strengthened and expanded to better reflect the global nature of the jihadi movement. It complements the international treaty and the post-9/11 Security Resolutions.

Resolution 1373, and others that followed, impose on member states a strict and continuous reporting obligation. While no state is threatened with sanctions, the text of the resolution refers to chapter VII of the UN charter to emphasize the gravity of the matter and the importance of compliance. Reflecting a contrast with earlier resolutions, the Security Council established a new supervising committee, the Counter Terrorism Committee (CTC), rather than expanding or readjusting the mandate of the 1267 committee to meet this new and broader task.

The CTC was founded by the Security Council (as opposed to the 1267 Committee, which was formed by the Secretary General upon the request of the Security Council) to monitor the implementation of resolution 1373 and is composed of the council's fifteen members. In a departure from long established practices, representatives of the permanent members of the Security Council preside in their turn, like representatives of non-permanent members, over the CTC. The high-profile involvement of the permanent members boosts the reputation of the CTC and energizes the committee.³⁶⁴

Resolution 1373 did not outline guidelines and procedures for the operation of the committee. Those were shaped under the active leadership of the CTC's first chairman, British ambassador Sir Jeremy Greenstock.³⁶⁵ Greenstock encouraged an approach of consensus-building among the committee's members in order to reduce discord and politicization of the committee's work. He was also instrumental in

³⁶⁴ Jayantha Dhanapala, "The UN's Response to 9/11," *Terrorism and Political Violence* 17:1-2 (Winter, 2005), 18-19.

³⁶⁵ Rosand, "Security Council Resolution 1373," 335; Biersteker and Romaniuk, "The Return of the State?," 62

leading the CTC to emphasize transparency: states' reports are made public (even though the CTC specific questions to which states reply are not) and like most of its work, posted on the web.³⁶⁶

Along with its supervising role, the CTC seeks to facilitate building the capacity of states to implement resolution 1373, acting as a switchboard to facilitate the provision of technical assistance to countries in need. It sets up a directory of available help and matches states that need assistance with potential donors equipped with the needed expertise.³⁶⁷ Lacking sufficient financial and professional resources to take on the enormous mission of capacity-building, the CTC reaches out to international, regional and sub-regional organizations that maintain considerable technical knowledge and financial resources that could advance the implementation of the Security Council resolutions. The CTC also acknowledges that some of these organizations have a unique understanding of specific regional conditions that could be utilized for the good of the whole international society.

The CTC does not see itself either as a sanctions committee or as a "tribunal for judging states" and therefore would not prosecute or condemn states. The committee also wishes to shy away from becoming an arena for political debates.³⁶⁸ Its role is mainly to facilitate building the capacity of states to implement resolution 1373. Such an approach is non-threatening to states and eases the committee's contacts with UN member states. The CTC encourages dialogue with the states; before it sends

³⁶⁶ Biersteker and Romaniuk, "The Return of the State?," 62-63.

³⁶⁷ Presentation by Ambassador Greenstock, then Chairman of the Counter-Terrorism Committee (CTC) at the Symposium: "Combating International Terrorism: The Contribution of the United Nations," held in Vienna on 3-4 June 2002.

www.un.org/Docs/sc/committees/1373/ViennaNotes.htm, accessed June 16, 2005.

³⁶⁸ Sir Jeremy Greenstock, "Combating International Terrorism"; Rosand, "Security Council Resolution 1373," 335.

follow-up questions to their earlier reports, it offers them the opportunity to discuss the draft and seeks clarification.³⁶⁹

Overall, the CTC's non-threatening approach makes the price of non-compliance very low. Realism expects that only countries with direct immediate interest would cooperate and consequently envisions relatively modest compliance. The English School, on the other hand, highlights how shared norms of appropriate behavior in the society of states are translated into high levels of cooperation. Realists may revert to the hegemon's power to punish and provide incentives to explain a state's cooperation despite little immediate threat from the non-state actor. But such a reading, if correct, raises the question of why the U.S. would punish bilaterally when it is powerful enough to use the UN as a cover -- after all, it has already used the UN to design the regime -- and can legitimately argue for coercive measures against states that do not cooperate with a Security Council resolution that was accepted under chapter VII of the UN charter. In reality, such a Realist argument overstates the hegemon's influence. The U.S. also seems to understand that the types of steps required to suppress terrorism financing cannot rely on coercion. Instead, success requires an emphasis on persuasion and the provision of external assistance to mitigate the difficulties states face.

The Security Council was realistic in its expectations of the financing regime; it acknowledged the complexity of constructing such an encompassing regime and maintaining it in the face of a continuous yet very dynamic terrorist threat. The members of the Security Council understand that counter-terrorism is a long-term project that will remain a top priority on the council's agenda for many years to come. Echoing this sense, Greenstock stated early on that the CTC work is an ongoing and

³⁶⁹ Rosand, "Security Council Resolution 1373," 335.

open-ended process. Therefore, he clarified, states should not expect to receive a card of compliance signaling an end to their engagement with the Security Council.³⁷⁰

To some extent, the open-ended effort of the Security Council and its organs stems from the dynamic nature of the conflict, in particular the terrorists' ability to adapt and find innovative channels to fund their activities. Resembling past races between offensive and defensive weapons, states identify means by which terrorists fund their operation, and terrorists counter by circumventing the defensive measures and devising alternative means – to which state actors must then find a response. For example, after the international community reduced the jihadis' ability to use the formal financial system, the network increasingly switched its focus to alternative means of remittance. The members of the international society are responding to this challenge; indeed, the number of states who require the declaration of cash being transported across their borders in excess of a specified limit is on the rise.³⁷¹ Yet the response has not been quick and efficient enough, while the severity of the problem gradually increases. Consequently, the first time it revisited its special recommendations on terrorism financing, the Financial Action Task Force (FATF, a well-reputed inter-governmental organization that will be discussed in detail later) introduced in October 2004 a special recommendation that addresses cash couriers,³⁷² thereby signaling the topic's importance and taking a leading role in tackling it.

The establishment of monitoring teams to assess the value of the council's resolutions and recommend improvements where required is another illustration of the Security Council's awareness of the complex nature of the struggle. These teams examine both the functioning of the Security Council's mechanisms and ways to

³⁷⁰ Sir Jeremy Greenstock, "Combating International Terrorism."

³⁷¹ Second Report of the Analytical Support and Sanctions Monitoring Team, S/2005/83, 21-22.

³⁷² Financial Action Task Force, "FATF to Issue Additional Guidance on Terrorist Financing and Money Laundering," http://www1.oecd.org/fatf/pdf/PR-20041014_en.pdf, accessed 7 July 2005.

improve states' performance. In an example of how it translates awareness to concrete steps, the Security Council approved, in March 2004, Resolution 1535, which revitalized the CTC by establishing the Counter-Terrorism Committee Executive Directorate (CTED) and reinforced the committee's professional staffing.³⁷³

The Achievements of the Regime

In the few years since 9/11, the anti-terrorism financing regime has achieved substantial success. The progress made thus far represents the realization of the first stage of the "Global Program against Terrorism." Cautiously, each assessment of the regime (including by external bodies that one might expect to be more critical than UN organs) highlights slow, gradual and meaningful progress.³⁷⁴ In fact, by the end of 2004 the Analytical Support and Sanctions Monitoring Team declared that work on combating the financing of terrorism has "a momentum and seriousness that now may need less input from the Security Council beyond endorsement and encouragement."³⁷⁵

The clearest sign that the campaign to prevent terrorism financing is bearing significant fruit is the substantial decrease in al Qaeda's funding.³⁷⁶ While this success will not suffice to prevent the occurrence of terrorist attacks altogether, it is especially important for curtailing the network's ability to carry out a spectacular strike on the scale of 9/11. It is most likely to affect plans to use WMD. As states try to make the acquisition of WMD more complicated, these weapons also become more expensive, thus increasing the likelihood of detecting transactions. Even if the regime's impact is

³⁷³ Security Council Resolution 1535 (2004), S/RES/1535 (2004), 26 March 2004.

³⁷⁴ For example, compare the Council of Foreign Relations reports. Report of the Independent Task Force sponsored by the Council on Foreign Relations, *Terrorist Financing* (Council on Foreign Relations, New York, 2002); Second Report of the Independent Task Force Sponsored by the Council on Foreign Relations. *Update on the Global Campaign Against Terrorist Financing* (Council on Foreign Relations, New York, June 2004).

³⁷⁵ Second Report of the Analytical Support and Sanctions Monitoring Team, S/2005/83, 9.

³⁷⁶ First Report of the Analytical Support and Sanctions Monitoring Team, S/2004/679.

simply to prolong the process of WMD acquisition, its contribution would be invaluable in terms of giving states more time to uncover and thwart such attacks.

The wide acceptance of the International Convention for the Suppression of the Financing of Terrorism attests to the success of the new regime. At the beginning of September 2001, only hopeless optimists would have predicted that the convention, at that point ratified by only four states, would enter into force as early as April 2002. However, in the aftermath of the attack on New York and Washington, states heeded the repeated calls of the Security Council call to join the treaty. The response was remarkable: by January 2005, 132 states had signed the treaty and 117 had become full parties.³⁷⁷ By April 2006, the number of members to the treaty had increased to 153.³⁷⁸

But success went further than the mere expression of a verbal commitment; the creation on a global scale of a legal framework for freezing assets of terrorists and terrorist entities in compliance with the treaty and the Security Council resolutions is an outstanding achievement. In fact, by the summer of 2004, only three states had failed to take this step. In comparison, in a symposium on targeted sanctions held in December 1998, it was estimated that only twelve countries had laws enabling them to enforce financial sanctions.³⁷⁹ The significance of a worldwide uniform rejection of the lawfulness of terrorism financing cannot be overstated. Beyond the intrinsic value of creating a global infrastructure to confront terrorism financing, state measures signify and solidify the acceptance of a universal norm against the funding of terrorist acts.

³⁷⁷ Multilateral Treaties Deposited with the Secretary General – Status, International Convention for the Suppression of the Financing of Terrorism, http://untreaty.un.org/ENGLISH/Status/Chapter_xviii/treaty11.asp, accessed 14 June 2005.

³⁷⁸ Report of the General Secretary, *United against Terrorism: Recommendations for a Global Counter-Terrorism Strategy*, A/60/825, April 27, 2006, 8.

³⁷⁹ David Cortright and George A. Lopez, *The Sanctions Decade: Assessing UN strategies in the 1990s* (Lynne Rienner Publishers, Boulder, Colorado and London, 2000), 234.

Another indication of states' commitment to the directives of the anti-terrorists financing regime is the large number that have already appealed for some kind of technical assistance from the CTC. By the end of 2003, more than 160 states had requested or received capacity-building assistance. By June 2004, the CTC had facilitated drafting anti-terrorist financing legislation, supporting banking supervisory bodies, and establishing Financial Intelligence Units (FIUs) in almost sixty cases. Training in countering terrorists' financing has been provided to seventy-one countries.³⁸⁰ The support extended to the CTC by other international frameworks is evidence of the importance of the capacity-building project. The G8 established a Counter-Terrorism Action Group (CTAG) at the Evian summit in June 2003 to assist the CTC in coordinating its capacity-building assistance.³⁸¹ The IMF and the World Bank, too, carry out programs to assist the CTC in promoting capacity-building.

In numerous other initiatives, strong states help weaker ones to enhance their ability to suppress terrorist financing, in order to realize their responsibilities to the international society. In contrast to Realist predictions, a substantial amount of assistance to weak states comes from secondary states, not from the U.S. A Realist would expect states to free ride, and due to the American hegemony's interest in strengthening the capacity of weak states, leave that task to the U.S. In fact, most technical and financial assistance comes from those secondary states. The breadth of the war on terrorism, both in spheres of action and number of participants, makes the contribution of any one country in the sphere of capacity-building of low presentational value. Extending assistance to weak states would not strengthen the position of any one state in the American eyes, ruling out flattery as an explanation of state behavior. Instead, the above suggests that cooperation results from a sense of

³⁸⁰ Second Report of the Independent Task Force. *Update on the Global Campaign Against Terrorist Financing*, 11.

³⁸¹ *Ibid.*, 10

community rather than from the cooperating states' short-term direct interest. Indeed, in the spirit of mutual assistance, sixty-four states with diverse levels of strength (as reported by the 1267 committee in a report submitted in October 2004) declared that they could provide assistance to other countries for various elements of the counter-terrorism sanctions regime.³⁸²

Multilateral initiatives have also facilitated a considerable improvement in states' anti-laundering regimes. The international drive led some governments to put in place anti-laundering legislation for the first time. In this context, the Financial Action Task Force deserves special attention. FATF is a thirty-three member intergovernmental organization established by the G7 in 1989. It was mandated to set up international anti-money-laundering standards and to get states to apply those standards in practice. After 9/11, the task force broadened its agenda: on top of its forty recommendations on anti-money-laundering, it published Eight Special Recommendations on Terrorism Financing. A ninth recommendation was added in October 2004.³⁸³ Through "naming and shaming," FATF's blacklist of uncooperative countries pressures states to comply. FATF's success is impressive: by February 2005, only three of the twenty-three jurisdictions designated as non-cooperative in 2000 and 2001 remained on the list.³⁸⁴ The achievement of compliance through "naming and shaming" rather than through any of the Realist prescriptions for the exercise of influence in international politics is another indication of the superiority of the English School's explanation for states' cooperation.

³⁸² The Analytical Support and Sanctions Monitoring Team, "Assessment of 131 Member States' Reports," S/2004/1037, 17-18.

³⁸³ Financial Action Task Force, "FATF to Issue Additional Guidance on Terrorist Financing."

³⁸⁴ These states are Myanmar, Nauru and Nigeria. See Financial Action Task Force, "FATF Welcomes China as an Observer," Financial Action Task Force, 11 February 2005, www.fatf-gafi.org/LongAbstract/0,2546,en_32250379_32235720_34423128_33632055_1_1_1,00.html (accessed 24 February 2005).

FATF's importance and contribution has been acknowledged. In the past, the existence of the task force was in doubt;³⁸⁵ but its contribution to the war on terror led to the renewal (in May 2004) of its mandate for a period of eight years (as opposed to five previously). Its role in assessing states' compliance with its recommendations was also expanded.³⁸⁶ Furthermore, recently the IMF and the World Bank adopted FATF methodology for assessing compliance, and its forty-nine recommendations were recognized as the international standard for combating money laundering and terrorist financing.

FATF Style Regional Bodies (FSRBs) are also proliferating. Such organizations were created throughout the world, and additional ones are in the process of being established. The list of FSRBs includes the Caribbean Financial Action Task Force (CFATF), the Asia/Pacific Group on Money Laundering (APG), Moneyval (for the non-FATF members of the Council of Europe), the Eastern and Southern African Anti-Money-Laundering Group (ESAAMLG), South American Financial Action Task Force (GAFISUD), the Eurasian Group (EAG), Middle East and North Africa Financial Action Task Force (MENAFATF), the Intergovernmental Group of Action against Money Laundering in West Africa (GIABA), and an Action Group against Money Laundering in Africa (GABAC).³⁸⁷ Overall, more than 150 states have already become members of the various FATF style regional bodies.

As the number of FSRBs increases, the ability of any one actor, namely the U.S., to play a central and direct role in each is diminished. In fact, in a group such as

³⁸⁵ The first CFR report warned against the plan to terminate its work. See the Report of the Independent Task Force, *Terrorist Financing*.

³⁸⁶ Financial Action Task Force, "Financial Action Task Force on Money Laundering Annual Report 2003-04," 2 July 2004.

³⁸⁷ Financial Action Task Force, "Financial Action Task Force on Money Laundering Annual Report 2004-05," 10 June 2005, 10; Financial Action Task Force, "Financial Action Task Force on Money Laundering Annual Report 2003-04," 12-15; Financial Action Task Force, "FATF Welcomes China as an Observer," 11 February 2005.

the Eurasian one that includes, among others, Russia and China, a prominent position for the U.S. is unacceptable. As indicated by the dynamics in multilateral security organizations in that region -- which have led to the rejection of permanent American presence in bases in some of its countries -- Russia and China are determined to limit long-term U.S. influence in their backyard. Thus, the growing membership in FSRBs lends credence to the impact of U.S. leadership rather than its coercive power.

Financial Intelligence Units are a significant factor in the progress from establishing a legal infrastructure to combat terrorism financing to its actual prevention. FIUs are critical for developing intelligence capabilities in the sphere of terrorism financing and facilitating inter-state information sharing. A 1995 initiative by a number of states, known as the Egmont group, to combat financial crimes led to the establishment of FIUs. These units analyze suspicious transaction reports filed by financial institutions and other obligated non-financial entities, disseminating that intelligence to the appropriate authorities for investigation or prosecution.³⁸⁸ Shortly after 9/11, the FIUs were identified as a useful tool to combat terrorism; but in the first year after the attack they were still under-resourced and unable to realize their goals. However, by the end of 2004 there was a noticeable improvement. With the assistance of international institutions, FIUs have already been established in over ninety states.³⁸⁹ FIUs also take part with central banks and other relevant national authorities in the ad hoc counter-terrorism committees or task forces that have been established in over fifty states.³⁹⁰

In order to prevent the abuse of the financial system by terrorists, states also had to enhance their cooperation with the private sector. Examination of states'

³⁸⁸ The Analytical Support and Sanctions Monitoring Team, "Assessment of 131 Member States' Reports," S/2004/1037, 13.

³⁸⁹ First Report of the Analytical Support and Sanctions Monitoring Team, S/2004/679.

³⁹⁰ The Analytical Support and Sanctions Monitoring Team, "Assessment of 131 Member States' Reports," S/2004/1037, 13.

compliance (concluded in October 2004) shows that the Security Council's list was circulated at a very high rate to financial institutions; of 131 countries that submitted compliance reports, the list was circulated to banks in 125 countries and to non-bank financial institutions in 107. Most states also established "know your customer" rules in banks in 97 countries and in non-bank financial institutions in 89. Over 100 member states require banks to file suspicious transaction reports and 94 have extended that requirement to non-bank financial institutions. Implementation of those same rules in Designated Non-Financial Businesses and Professionals (DNFBPs) is much weaker.³⁹¹

The quality of the reports to the CTC has also improved over time. These reports are a valuable tool in assessing the implementation of the measures the Security Council imposes, as the UN does not have any independent means to verify states' actions. As the monitoring team notes: "the reports say more about how states were complying with the procedures laid down than about their effective enforcement of the sanctions."³⁹² The team also warns that some states may have been more concerned with positive self-presentation than with accurate reporting. However, the continuous reporting obligation makes self-presentation less tenable and forces states to provide genuine responses. On-site visits of members of the CTC, the 1267 committee, and their monitoring groups, including interviews with local officials (even low-level officials responsible for the implementation of some of the steps on the ground) provide the CTC with valuable tools to examine states' compliance and further reduce their incentive to cheat.

As expected, early reviews of the anti-terrorist financing regime were highly critical of states' performance. But a gradual improvement is noticeable. For example, observers note that whereas in the first round of reports submitted to the CTC many

³⁹¹ Ibid., 12-14.

³⁹² Ibid., 18.

states relied on their anti-money-laundering legislation to insist that they have sufficient legal instruments to criminalize the funding of terrorist activities, the dialogue with the CTC brought to states' attention the difference between the two. As a result, states took corrective measures. Indeed, in the following rounds of reports, more states declared having taken specific steps to target terrorism financing.³⁹³

Further evidence for states' cooperative approach is the number of reports submitted to the CTC. By September 30, 2004, the CTC had received a first report from all 191 member states; 160 states submitted second reports, 117 third reports, and 49 fourth reports.³⁹⁴ The incomplete compliance is usually attributed to technical difficulties, confusion over the many reporting duties on overlapping subjects, and reporting fatigue. Noting these problems, the Security Council is now trying to find a way to address them.³⁹⁵ The Security Council may soon be required to rethink its attitude toward non-compliance. UN organs have already suggested that the council consider imposing sanctions against states that, despite having the capacity to undertake their obligations under the Security Council resolutions, repeatedly fail to do so.³⁹⁶

The compliance with the reporting obligation to the 1267 committee is also high, but less encouraging: by October 2004, 131 states had submitted reports in accordance with resolution 1455 (2003). By June 2005, the number of reporting states was 140.³⁹⁷ While over two thirds of the states have reported to the 1267 committee, almost one third failed to do so. But the reason for the partial compliance does not

³⁹³ Biersteker and Romaniuk, "The Return of the State?," 65.

³⁹⁴ Letter dated 15 October 2004 from the Chairman of the Security Council Committee established pursuant to Resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council. S/2004/820.

³⁹⁵ Security Council Resolution 1526, S/RES/1526 (2004), 30 January 2004; Report of the Al-Qaida and Taliban Sanctions Committee to the Security Council pursuant to paragraph 23 of resolution 1526 (2004), S/2004/349, 3 May 2004.

³⁹⁶ Second Report of the Analytical Support and Sanctions Monitoring Team, S/2005/83, 10; High-Level Panel on Threats, Challenges and Change, *A More Secured World*, 47.

³⁹⁷ Third Report of the Analytical Support and Sanctions Monitoring Team, S/2005/572.

strengthen Realist claims: many of those countries failed to comply due to lack of necessary capability (which is likely to be the case for countries the size of Saint Lucia, Tuvalu, and Cape Verde), as well as the human resources to meet the reporting requirements. Often the problem is compounded by lack of national authority to supervise and coordinate among the relevant organizations to collect the necessary information.³⁹⁸ However, while failing to undermine the English School's assertion regarding the international society's inclination to collectively confront a systemic threat, the incomplete compliance may have practical adverse implications, as it could undermine the prospects of success of the anti-terrorism financing regime. No matter how legitimate the reasons, if states do not meet the reporting obligations, the international community's ability to assist them is severely curtailed.

What accounts for the discrepancy between states' compliance with their obligations to the CTC and to the 1267 committee? The reports submitted to the two committees are very different in nature. Reports to the CTC generally focus on states' progress in implementing a legal and administrative infrastructure to meet the demands of the Security Council. Those submitted to the 1267 committee, on the other hand, concern the implementation of the sanctions regime and regularly receive lower marks from UN organs. Even though states receive guidelines to assist them in preparing the reports (and thus assist the UN organs in evaluating them), the quality of the reports varies.³⁹⁹ Only a few of the reporting countries provide specific details about their actions against al Qaeda.⁴⁰⁰ Where details are given, they usually focus on the financial component of the sanctions. Even in this aspect, the response is limited; by 2004, only thirty-four member states had reported having frozen al Qaeda assets.⁴⁰¹

³⁹⁸ First Report of the Analytical Support and Sanctions Monitoring Team, S/2004/679, 18.

³⁹⁹ *Ibid.*, 9-10

⁴⁰⁰ *Ibid.*, 9.

⁴⁰¹ *Ibid.*

Though lack of such reports does not necessarily indicate absence of action or effort, it does limit the impact of the sanctions and reduces the ability to sharpen them and make them more useful.

Rosand suggests that the discrepancy between states' enthusiastic cooperation with the CTC and their far less impressive collaboration with the 1267 committee might be attributed to a difference in the way states perceive the two bodies. State perceptions, according to this hypothesis, are informed by the difference in the threat posed by the two committees: whereas the CTC is seen as an advisory body that assists in capacity-building through other institutions, and is therefore non-threatening, the 1267 committee has "teeth" and is mandated to report states that fail to comply.⁴⁰² This intriguing explanation requires additional investigation because in reality the 1267 committee has failed to show its "teeth." Furthermore, the claim that a less threatening approach is conducive to a higher level of cooperation is contested. One may also wonder whether avoiding reporting is a more rational response than submitting superficial and incomplete reports that at least register as partial compliance.

I argue that the partial compliance with the requirements of the 1267 committee should be attributed to the malaise of the committee, in particular the inadequacy of its mechanism in its early years. As already noted, the committee started operating before 9/11 in a completely different international environment. After the attack, it was mobilized to participate in the overall campaign against terrorism financing; but many of the problems that hindered its operation beforehand have remained. The UN list of individuals and entities linked to terrorism maintained by the committee attracts a considerable portion of the criticism. For the sanctions to

⁴⁰² Rosand, "The Security Council's Efforts to Monitor the Implementation of Al Qaeda/Taliban Sanctions," 758.

have the desired effect, states must submit names for inclusion and continuously update the list. Yet, the number of states that have proposed names for designation is relatively small, as is the number of names on the list. But this probably does not indicate lack of will to confront terrorism; after all, thousands of individuals have been detained throughout the world.⁴⁰³

The concern for intelligence sources partly accounts for the omission of so many names, but it cannot justify states' repeated failure to list (or their belated designation of) obvious candidates, such as al Qaeda's spokesman Suleiman Abu Gaith, or Khalid Shaikh Muhammad and Ramzi bin al-Shibh, two of the senior al Qaeda operatives who were behind the 9/11 attack and are currently in American custody.⁴⁰⁴ The absence of such obvious names from the list indicates that the difficulties are not due to states pursuing their narrow interests. After all, there is no cost in adding those names; it is clear that virtually all states would take measures against those heading the wanted list.⁴⁰⁵

The reasons then, must be found elsewhere. Part of the list's problem is technical. A variety of practical difficulties such as lack of sufficient information on individuals (some of whom are listed only by their first names),⁴⁰⁶ difficulties in translating characters from one language to another, and variation in the spelling of names across cultures reduce the efficacy of the list.⁴⁰⁷ They discourage states from

⁴⁰³ Ibid., 751.

⁴⁰⁴ Second Report of the Monitoring Group established pursuant to Security Council Resolution 1363 (2001) and extended by Resolution 1390 (2002), S/2002/1050, 20 September 2002, 9.

⁴⁰⁵ One may argue that Iran's refusal to clarify which al Qaeda leadership it has detained refutes this assertion. Reports suggest that Sayf al-Adl, Suleiman Abu Gaith and Sa'ad bin Laden are among the detainees and that they are given freedom to act from Iranian territory. Even if true, this is just one state out of over 190; Iran's efforts to remain ambiguous about who the operatives in its hands are, and its denials that any al Qaeda operative is allowed to operate from its territory, signal the normative strength of states' commitment not to harbor terrorists.

⁴⁰⁶ Second Report of the Analytical Support and Sanctions Monitoring Team, S/2005/83, 12; Third Report of the Analytical Support and Sanctions Monitoring Team, S/2005/572, 21-22.

⁴⁰⁷ First Report of the Analytical Support and Sanctions Monitoring Team, S/2004/679; Report of the Monitoring Group established pursuant to Security Council Resolution 1363 (2001) and extended by Resolutions 1390 (2002) and 1455 (2003), S/2003/669, 8 July 2003.

submitting names for designation and, similarly, reduce states' trust in the list's effectiveness.

The methods through which states implement the freezing of assets also account for some of the difficulties. Overall, states that rely on administrative authority are better positioned to implement the freezing orders.⁴⁰⁸ Some have incorporated the sanctions regime into their national legislation but may face legal difficulties in ensuring effective implementation on the ground. This is because even where legal authorization to freeze assets exists, in some countries the procedures and evidence needed to apply sanctions on individuals and entities hinder implementation. In December 2004, the Analytical Support and Sanctions Monitoring Team underscored that the many legal challenges to the sanctions “pose a serious impediment to the success of the sanctions regime.”⁴⁰⁹ Earlier reports to the Security Council warned that many states require judicial findings before freezing assets, thus prolonging the time needed to carry out seizure orders and crippling their effectiveness. In its June 2005 report, the monitoring team harshly criticized such practices as providing courts with potential veto power over the mandatory decisions of the Security Council acting under chapter VII of the charter.⁴¹⁰

The lack of adequate procedures for the committee's work has increased the magnitude of the judicial impediments. In the first couple of years after 9/11, states found that it was much easier to add people to the list than to de-list them when they were wrongly designated. Some legal challenges proved that a number of people were unjustifiably included; only after several states expressed their concerns did the Security Council create a mechanism to facilitate the de-listing of designated people

⁴⁰⁸ Rosand, “The Security Council's Efforts to Monitor the Implementation of Al Qaeda/Taliban Sanctions,” 755.

⁴⁰⁹ Second Report of the Analytical Support and Sanctions Monitoring Team, S/2005/83, 16.

⁴¹⁰ Third Report of the Analytical Support and Sanctions Monitoring Team, S/2005/572, 16-17.

and entities. Yet states' complaints indicate that the mechanism is still deficient,⁴¹¹ leading them to hesitate before submitting names.⁴¹²

Observers suggest that some states are reluctant to submit names of Islamic groups and individuals due to domestic sensitivities, such as the fear of being accused of being anti-Islamic.⁴¹³ Given the confidence deficit from which the 1267 committee suffers, states may be justified in being slow to take action unless provided with sufficient evidence. Constraints on states' ability to implement the sanctions, in particular where the legal infrastructure is still not accompanied by sufficient implementation capacity, may also account for states' unsatisfying focus on enhancing the list. Against this background, one of the experts involved in the work of the Security Council called for an expansion of the mandate of the 1267 committee that would grant it and the monitoring team the authority to recommend names for inclusion.⁴¹⁴

In response to its damaged reputation and the deficiencies pointed out by member states, the 1267 committee has been making a real effort to engage with states and to improve its work.⁴¹⁵ Indeed, these efforts have been matched by an increase in states' cooperation. Evidence shows that the number of states producing terrorist designations and the number of people listed as terrorists is increasing. As of June 30, 2005, the list includes 442 entries: 182 individuals and 116 entities associated with al Qaeda, and 143 individuals and one entity associated with the Taliban.⁴¹⁶ The quality

⁴¹¹ Second Report of the Analytical Support and Sanctions Monitoring Team, S/2005/83, 47.

⁴¹² Third Report of the Analytical Support and Sanctions Monitoring Team, S/2005/572, 18.

⁴¹³ Rosand, "The Security Council's Efforts to Monitor the Implementation of Al Qaeda/Taliban Sanctions," 752.

⁴¹⁴ "The United Nations and The Fight Against Terrorism," Hearing and Briefing Before the Subcommittee on International Relations, House of Representatives, March 17, 2005, http://commdocs.house.gov/committees/intlrel/hfa20061.000/hfa20061_0.htm, accessed 20 July 2005.

⁴¹⁵ As a part of these efforts, the monitoring team increased the number of visits to member states. It visited 16 states between December 2004 and June 2005. See Third Report of the Analytical Support and Sanctions Monitoring Team, S/2005/572.

⁴¹⁶ Third Report of the Analytical Support and Sanctions Monitoring Team, S/2005/572, 10.

of information on the designated parties has also markedly improved;⁴¹⁷ as a result, governments are more inclined to initiate blocking orders on the assets of designated individuals and entities.

It is interesting to examine the reports of states that the U.S. terms “rogue states.” U.S. hostility toward them is so strong that cooperation with the anti-terrorism financing regime would not provide them any benefits, even with the secondary powers. Furthermore, one should look at those rogue states that are not threatened by the jihadi movement and therefore have no intrinsic interest in protecting themselves from its menace. Cooperation by such countries, particularly when there is evidence that cooperation is not a one-time event, would reinforce the English School’s assertion that states’ cooperation should be attributed to an aspiration to protect the international society.

For example, by the beginning of 2005, Myanmar had submitted three reports pursuant to resolution 1373. Its third report details the legal provisions that put it in compliance with the resolutions of the Security Council. In the report, Myanmar also announced the formation of a Financial Intelligence Unit, the circulation of the list among state-owned and private banks, and the country’s intention to accede to additional anti-terrorism conventions.⁴¹⁸ By June of 2003, North Korea had also submitted three reports.⁴¹⁹ On May 13, 2004, Cuba submitted its fourth report to the CTC. In this long report (twenty-four pages), Cuba declared, among other things, that the FATF’s recommendations had been considered in its drafting of anti-money laundering and counter-terrorism financing regulations. In annexes attached to the

⁴¹⁷ First Report of the Analytical Support and Sanctions Monitoring Team, S/2004/679; Third Report of the Analytical Support and Sanctions Monitoring Team, S/2005/572, 10-13.

⁴¹⁸ Third Report from the Government of the Union of Myanmar, submitted on 6 April 2004, S/2004/295, 15 April 2004.

⁴¹⁹ For the third report, see Third Report from the Democratic People’s Republic of Korea, submitted on 28 May 2003, S/2003/634, 9 June 2003.

report, Cuba provided the CTC with the text of legislations and regulations it had adopted.⁴²⁰ Note that the reports of these three countries are largely technical and, surprisingly, almost devoid of political statements.

States' willingness to confront the operation of alternative remittance systems to finance terrorist activities is another indication of their commitment to battling terrorism financing. Alternative remittance systems are those based on trust, whereby money is sent from one location to another without instantaneous physical transfer. These systems are faster and cheaper than conventional banks and leave little paper trail. The amount of money transferred this way annually, mostly by honest migrant workers sending money back home, is estimated in tens of billions of American dollars. The World Bank estimated that in 2002, eighty billion U.S. dollars were transferred through alternative remittance systems, up from \$72 billion the year before.⁴²¹ Only a tiny fraction of the funds transferred through the system reach terrorists. The most popular alternative remittance system is the *hawala* system that is widespread in the Middle East and Central Asia.

The willingness of the main source states and principal receiving states of the alternative remittance systems to act to prevent the abuse of such systems and increase the control of states over money transfers is highly significant, even if effective measures are hindered by disagreement about the manner in which the problem should be addressed. States that are principal sources have been responsive to the need to take robust measures. They have been taking concrete and relatively effective steps to enforce the registration of every money transfer, implement "know your customer" rules, and file suspicious transaction reports. Principal remittance-receiving states,

⁴²⁰ Fourth Report from the Government of the Republic of Cuba, submitted on 13 May 2004, S/2004/404, 19 May 2004.

⁴²¹ Reported in the Second Report of the Analytical Support and Sanctions Monitoring Team, S/2005/83, 24.

however, prefer a soft, incentive-based approach that seeks to improve public access to the formal banking system. UN analysts have warned that such an approach does not provide a solution to the problem in the short-term and decried the limited cooperation between source states and receiving states.⁴²² Since attention has turned to alternative remittance systems only recently, and since most states on the receiving side suffer from low states-capacity -- probably the reason why they prefer the softer approach -- there is a good reason to expect that with external assistance the receiving states would end up adopting a stricter approach as well.

The abuse of charities and charity money represents another area where, despite the acknowledgement of the threat and the will to confront it, states still have not reached a consensus about the best and most appropriate way to deal with the problem. Charities are abused by terrorists in two main ways: first, they take control of legitimate and genuine charity money and divert it to their own causes. Second, terrorists establish or take control of charities, creating a vessel through which to channel money for terrorism purposes. Such abuse has been documented for over twenty years. During the war against the Soviets in Afghanistan, the system had become a considerable source of funding for the mujahideen. In successive years, it has been continuously extended and invigorated. It was also imitated by other Islamist groups, including nationally-based terror organizations such as the Palestinian Hamas.

Dealing with charities is a politically sensitive issue. States recognize the importance of charities in relieving the plight of poor people, in advancing commendable social goals and as a pillar in various religions, in particular Islam. While recognizing that the operation of charities must be allowed to continue, the designers of the anti-terrorism financing regime and interested observers are

⁴²² Ibid., 24-26.

concerned by their exploitation -- even if such exploitation takes place in only a small number of cases relative to the overall number of charities.

States report different types of action taken to address the problem. For example, some have created national authorities to monitor the activities of charities. A number of states have obligated charity trustees to notify authorities when their charities receive funds from or remit funds to foreign entities or individuals.⁴²³ But numerous states fail to even report which measures they have taken. Although some charities appear on the 1267 list of al Qaeda associates, some states do not report having frozen their assets. The lack of uniformity is evident in state actions against listed charities that operate internationally. For example, the al Haramain charity is registered in thirteen countries; but of the ten that submitted compliance reports, only two declared having implemented the freezing order. Similarly, of twenty-four states where the Global Relief Foundation is listed, nineteen states submitted reports; only three indicated having frozen its assets.⁴²⁴

Clearly, the lack of coordinated approach reduces the effectiveness of the response. The UN monitoring team has recommended that states impose registration and accountability obligations and other regulatory controls. For example, all states should obligate charities to register; licenses should restrict the specific activities and locations of the charities; charities should be obligated to periodically renew their licenses; charities should meet financial accountability standards; and charities should at least check the names of their trustees and employees against the UN list.⁴²⁵ Yet, the members of the international society still have not agreed on a comprehensive program to tackle the problem. Nevertheless, action taken in some Middle Eastern

⁴²³ "Assessment of 131 Member States' Reports," the Analytical Support and Sanctions Monitoring Team, S/2004/1037, 15.

⁴²⁴ Second Report of the Analytical Support and Sanctions Monitoring Team, S/2005/83, 27.

⁴²⁵ *Ibid.*, 27-29.

countries to confront the abuse of charity money, discussed below, suggests that the source of the problem is not states' lack of will to cooperate but the enormity of the task and the belated attention it has received.

Compliance Among Muslim Countries

The examination of compliance among Muslim countries is a useful way to evaluate the level of overall compliance with the anti-terrorism financing regime and to determine whether the reason for taking the prescribed steps is states' narrowly defined, short-termed self-interest (the Realist version) or their membership in the international society, manifested in the will to protect the system (the English School's explanation). Examining Muslim countries is a "hard case," because by and large they have not developed the legal, administrative, and governmental infrastructures to confront terrorism financing. Moreover, some of the actions these states are required to take are politically risky, touching upon Islamic values such as charity-giving and deep-rooted traditional institutions such as the *hawala* remittance system. At the same time, al Qaeda is likely to focus its financial activity in those countries, both because of the underdeveloped nature of their financial supervisory tools and because of their Muslim identity. Those countries are also relatively likely to be the home of a large number of al Qaeda sympathizers.

A research team from the "Targeting Terrorist Finances Project" at the Watson Institute for International Studies (Brown University) conducted a study (concluded in 2004) comparing the implementation of the international standards for financing among ten Muslim countries in the Middle East, North Africa and Asia.⁴²⁶ The countries surveyed are Saudi Arabia, Egypt, Indonesia, Jordan, Malaysia, Morocco, Pakistan, Tunisia, the United Arab Emirates (UAE) and Yemen. While the ten

⁴²⁶ Targeting Terrorist Finances Project, "A Comparative Assessment of Saudi Arabia with other Countries of the Islamic World," in the Second Report of the Independent Task Force, *Update on the Global Campaign Against Terrorist Financing*.

countries differed in their performance, they had all made noticeable progress since the establishment of the regime. The researchers gave Indonesia, Morocco, Saudi Arabia and Tunisia the highest marks possible for the legal framework category, signifying the criminalization of terrorist financing, creating the authority to freeze funds without prior judicial action, and joining the terrorist financing convention. The Saudi legal framework was reformed and now meets the highest world standards. For example, Saudi Arabia now possesses the legal authority to freeze suspected terrorists' assets expeditiously and without separate judicial authorization (as in the Egyptian case). The Saudis can now take immediate action to suppress terrorism financing. Saudi Arabia also signed the anti-terrorism financing convention.

None of the ten states fared well enough on the category of creating or enhancing administrative infrastructure, which signifies having in place a FIU, allocating additional resources for building institutional capacity and requesting/receiving external assistance. Yet, seven countries were given the second highest mark possible, and none received the lowest mark. Saudi Arabia established a FIU; but the extent to which it has committed additional resources to fighting terrorism financing is still unclear. It should be noted that seven of the ten states surveyed requested assistance in developing financial law and practices.⁴²⁷ For example, in September 2003, the FBI and the Internal Revenue Service Criminal Investigative Division launched a program for anti-terrorism training for Saudi officials.⁴²⁸

Yemen and the UAE got the highest marks in the category of regulatory measures, with Egypt, Malaysia and Saudi Arabia close behind. This category concerns implementing lists that go beyond those disseminated by the UN, introducing

⁴²⁷ Ibid.

⁴²⁸ Reported in the CRS Report for Congress, *Saudi Arabia: Terrorist Financing Issues*, updated December 8, 2004, 22.

measures that concern banks and other financial institutions, regulating alternative remittance systems, and regulating and supervising the operation of charities. Countries such as the UAE and Pakistan have made use of the extensive list of individuals and entities associated with bin Laden. Saudi Arabia has settled for the more limited UN Security Council list. Egypt, Malaysia and Saudi Arabia have taken steps to notify domestic banks of their obligations and to impose reporting requirements on banks and non-bank financial institutions. They have also extended assistance to those institutions in implementing the new legal and administrative measures.

The UAE requires that charitable assistance abroad be provided in goods and services rather than money, to reduce the risk that donations are diverted.⁴²⁹ Saudi Arabia started to regulate the *hawala* system. The UAE went even further in developing and implementing measures to improve the accountability of *hawala* institutions by imposing registration, reporting and record-keeping requirements upon *hawala* operators. Meanwhile, countries such as Morocco have continued to deny the existence of *hawala* operators within their borders; others such as Jordan have yet to impose basic transparency requirements on *hawaladars*. Saudi Arabia has also been active in the contentious task of regulating charities.

Jordan and Morocco's poor performance in the domain of regulatory measures is noteworthy. Among the ten countries in the survey, they are the closest to the U.S. As compared to Saudi Arabia and Egypt, two other staunch U.S. allies, Morocco and Jordan are less able to withstand U.S. pressure and are inclined to show the highest level of cooperation. Indeed, the U.S. has intimate relations with the security services of these countries and praises their contributions to the war on terrorism. Thus, their low performance is an indication of bureaucratic and financial difficulties and not

⁴²⁹ Third Report of the Analytical Support and Sanctions Monitoring Team, S/2005/572, 27.

evidence for lack of political will. Reading the evidence against this background, one should award bigger significance to the high marks received by other states.

None of the ten states got the highest mark possible in the category of enforcement (which focuses on the freezing of funds and on arrests related to financial violations); but Pakistan, Saudi Arabia and the UAE came very close. This progress is especially evident in the increased number of terrorism-related resources they froze, with Pakistan leading the group, followed by Saudi Arabia.⁴³⁰ Saudi Arabia also established with the U.S. a joint task force to investigate terrorist financing in the kingdom. The task force includes two components, one focused mainly on intelligence and the other on financing. On the financial side, the two countries share financial leads and handle requests for bank records, information on accounts and so on. Of significance is the center's location in Saudi Arabia; according to press reports, this is the first time that U.S. law enforcement officials have been stationed in the kingdom for anti-terrorism purposes⁴³¹ and gained direct access to Saudi accounts, witnesses and other evidence.⁴³²

Most countries fared much worse in the enforcement domain. Once again, Jordan's and Morocco's weak performance, this time joined by many of the other countries examined, indicates that when it comes to the financial aspect of the war on terrorism many states, including enthusiastic supporters of the U.S., are still unprepared to effectively implement the measures needed.⁴³³ Viewing the performance of Muslim states in the enforcement domain in light of their disadvantageous starting point and the designation of enforcement measures to the

⁴³⁰ Targeting Terrorist Finances Project, "A Comparative Assessment of Saudi Arabia with other Countries of the Islamic World."

⁴³¹ CRS Report for Congress, *Saudi Arabia: Terrorist Financing Issues*, updated December 8, 2004, 20.

⁴³² Second Report of the Independent Task Force, *Update on the Global Campaign Against Terrorist Financing*, 5.

⁴³³ Targeting Terrorist Finances Project, "A Comparative Assessment of Saudi Arabia with other Countries of the Islamic World."

third stage in the constitution of the regime, the results achieved so far should be evaluated more positively.

In a development that indicates the growing seriousness of Middle Eastern countries in confronting terrorism financing, fourteen states formed the Middle East/North Africa Financial Action Task Force. This multilateral body has held two plenary sessions since it was launched in November 2004 (in Bahrain in April 2004 and in Beirut in September 2005). While it is too early to determine the organization's level of effectiveness, an American official observed that "the indications so far demonstrate considerable enthusiasm and energy."⁴³⁴

The Saudi action to suppress terrorism financing deserves further elaboration. In a demonstration of its goodwill and self-confidence, the kingdom subjected its anti-money laundering and counterterrorism financing regime to international scrutiny. Saudi Arabia enacted a new anti-money laundering law in 2003 and issued rules for its implementation in early 2004. Among the specific measures are more comprehensive criminalization, improved reporting and record-keeping requirements for the formal financial sector, new mechanisms for inter-agency coordination and the establishment of an FIU. The kingdom also imposed mandatory licensing requirements for the *hawala* system, backed by additional legal, economic and supervisory measures.⁴³⁵ At the same time, Saudi Arabia is trying to make the formal banking system more attractive to discourage people from using the alternative systems. It has already designated certain bank branches for remittance at reduced fees.⁴³⁶ The government

⁴³⁴ Testimony of Daniel L. Glaser, Acting Assistant Secretary, Office of Terrorist Financing and Financial Crimes, U.S. Department of Treasury, Before the House Financial Services Subcommittee on Oversight and Investigations and the House Armed Services Subcommittee on Terrorism, 109th Congress, July 28, 2005.

⁴³⁵ Royal embassy of Saudi Arabia – Information Office, *Initiatives and Actions Taken by the Kingdom of Saudi Arabia to Combat Terrorism*, January 2005. <http://www.saudiembassy.net/ReportLink/WOT-January-2005.pdf>, accessed September 12, 2005.

⁴³⁶ Third Report of the Analytical Support and Sanctions Monitoring Team, S/2005/572, 29.

also launched a new training program for judges and law enforcement officials on anti-money laundering and counterterrorist financing.⁴³⁷

Its actions against the abuse of charities to finance terrorism are particularly noteworthy. Saudi Arabia crossed an important barrier, initiating comprehensive new restrictions on the financial activities of Saudi-based charities and the initiation of stronger government oversight over their operation. In fact, an FATF official involved in the assessment of Saudi performance was quoted as saying that the new regulations designed to crack down on abuses at Saudi-based charities “probably go further than any country in the world.”⁴³⁸ The measures Saudi Arabia has taken include limitations on overseas transfers from charities’ accounts in Saudi Arabia; a requirement that charitable accounts be opened in Saudi Riyals; consolidation of charitable banking activities into one principal account through which withdrawals and transfers must be serviced; announcement of the formation of a governmental High Commission of Oversight of Charities; announcement of the creation of the Saudi National Entity for Charitable Work Abroad; the announced completion of audits of all Saudi-based charities; prohibition of unregulated cash donations in local mosques; and the removal of cash collection boxes from shopping malls.⁴³⁹

The Saudi regime also launched a crackdown on the Saudi-based Al Haramain Foundation and designated eleven of its branches abroad as sources for terrorist funding. The designation was followed up by an even stronger move when the Saudis announced the dissolution of the foundation and other charitable entities and the

⁴³⁷ Second Report of the Independent Task Force, *Update on the Global Campaign Against Terrorist Financing*, 14.

⁴³⁸ Robin Allen, “Saudis Meet Anti-Terror Finance Benchmarks,” *Financial Times* (March 8, 2004).

⁴³⁹ Royal embassy of Saudi Arabia – Information Office, *Initiatives and Actions Taken by the Kingdom of Saudi Arabia to Combat Terrorism*, January 2005. <http://www.saudiembassy.net/ReportLink/WOT-January-2005.pdf>, accessed September 12, 2005; Second Report of the Independent Task Force, *Update on the Global Campaign Against Terrorist Financing*, 14-15; CRS Report for Congress, *Saudi Arabia: Terrorist Financing Issues*, updated December 8, 2004, 15-18.

creation of a nongovernmental organization to coordinate private Saudi charity-giving abroad.⁴⁴⁰

However, Saudi Arabia's negative record in its past treatment of radical Islamists, and in particular its willingness to play a double game allowing their operation in return for quiet at home, leads many experts to view the encouraging developments with caution. They warn that taking the required administrative steps does not constitute evidence for strong action. They point at Saudi Arabia's failure to hold elites accountable for financing terrorism, and the incomplete scrutiny of charities implicated in terror financing, as evidence that the kingdom is still far from meeting its obligations.⁴⁴¹ Indeed, these are all reasons for concern. However, in comparative perspective, it is evident that Saudi Arabia has changed its attitude toward the financing of terrorism and taken significant steps, many of them unimaginable before 9/11. Viewing the steps taken so far against the background of the kingdom's conservatism, known in the kingdom as a recipe for policy paralysis, highlights the difficulty of change and amplifies the meaning of what has already been accomplished.

Conclusions

The anti-terrorism financing regime is a building block in the war on terrorism. The regime can contribute to deterring terrorists and to thwarting terrorist plans that are underway, and it assists in investigating terrorist attacks that have taken place. Whereas it was in the making before the 9/11 attack, the regime was only developed, reinforced and consolidated in its aftermath. Vital to that process was states'

⁴⁴⁰ Second Report of the Independent Task Force, *Update on the Global Campaign Against Terrorist Financing*, 22-24.

⁴⁴¹ Ibid; Matthew Levitt, "Charitable Organizations and Terrorist Financing: A War on Terror Status-Check," The Washington Institute for Middle East Policy (19 March 2004).

recognition that the al Qaeda-led jihadi movement represents a systemic threat and must be confronted collectively.

The new regime is based on the four principles described in chapter five -- state primacy and sovereignty, state responsibility, the bolstering of the state, and inter-state cooperation. The construction and strengthening of the financing regime is slow and involves numerous difficulties and complications, but there is consistent and meaningful progress in the face of an enormous task. Indeed, the members of the international society, under the leadership of the American hegemony, have already succeeded in creating on a global scale a legal framework for freezing the assets of terrorists and terrorist entities. Every single member in the international society has taken steps to improve its ability to prevent the financing of terrorism. Indeed, numerous states have signed the anti-terrorism financing convention and taken steps to comply with the relevant resolutions of the Security Council. In numerous other initiatives, strong states help weaker ones to enhance their ability to suppress terrorism financing. Cooperation has been significant even among states with little to no institutional capacity in the field of finance regulation. Even more important, progress is evident among Muslim countries, which have taken measures that are sensitive both politically and culturally.

Chapter Seven:

Preventing Non-State Actors from Obtaining WMD

Introduction

Since 9/11, the use of nuclear, biological, and chemical weapons, also known as Weapons of Mass Destruction, has been portrayed as the most dangerous and devastating threat to the international society.⁴⁴² Practitioners and scholars alike have suggested that the conditions that produce deterrence among states and prevent them employing WMD may not apply to non-state actors. Consequently, there was no debate regarding the benefits of nuclear proliferation among non-state actors; instead, a consensus has emerged that states must not allow non-state actors to acquire WMD.

There is also little doubt that al Qaeda aspires to obtain WMD. The only disagreement involves the time frame in which the network could obtain such weapons. As a result, the debate concerns the urgency of the threat, the size of the window of vulnerability and the means to address it. The discovery in 2003 of the global black market in nuclear weapons and related technology, headed by A.Q. Khan, father of the Pakistani nuclear program, increased the sense of urgency and gave impetus to the efforts to curb the proliferation of WMD and related material and technology. The breadth of the operation and the realization that such rogue actors may assemble enough material and knowledge to construct a nuclear device even without direct state sponsorship was accepted with substantial apprehension.

This chapter discusses the construction of a regime to deny non-state actors access to WMD. It is an important test to demonstrate the superiority of the English School explanation over the Realist. WMD proliferation is a contentious issue riddled with strategic and political sensitivities. Since the U.S. appears to be the main target

⁴⁴² Radiological weapons (“dirty” bombs) are recognized more as a weapon of mass disruption and therefore will not be discussed in this chapter.

for a potential WMD attack,⁴⁴³ its preponderance of power coupled with significant stakes in consolidating a regime that reflects its preferences would lead Realists to predict that it would succeed in imposing its will. Realists expect other actors to try to avoid taking costly measures and instead free-ride on the hegemon. As I will show in this chapter, Realism fails on both accounts: the hegemon, despite its overwhelming power and strong interest, failed to promote its vision for the regime. Then, when it altered its strategy, other states did not try to free-ride. Instead, they chose to cooperate and even to take costly steps to support the regime. Clearly, material considerations do not suffice in explaining the construction of the regime.

The English School, on the other hand, argues that cooperation, even a deep and costly one, may take place. But it argues that for such cooperation to take place, the hegemon must persuade others that it acts in the benefit of the collective. Material power by itself would be insufficient in producing the desired collaboration. It must be joined by leadership and a strategy compatible with the principles on which the international society is based. Indeed, this chapter lends support to the English School explanation. It illuminates the difficulties the U.S. faced when it attempted to tailor a response to the threat, the reasons for its eventual success in structuring a non-proliferation regime and the specific shape that regime took.

I argue that the efforts to design a universal regime to prevent terrorists from obtaining WMD have inevitably been entangled in the broader inter-state arms control agenda. For decades, states have been debating the future of WMD and in particular nuclear weapons; while the nuclear powers have been promoting non-proliferation initiatives focused on ensuring that no other states would obtain nuclear weapons, non-nuclear states prefer a complete nuclear disarmament and suspect the nuclear powers

⁴⁴³ The jihadis have targeted Muslims, too, but at a substantial price in the support they receive from their target audience, Muslims. It is also highly unlikely that if they obtain WMD the jihadis will “waste” them on Muslims or risk polluting large areas in which their future empire is meant to thrive.

of trying to perpetuate their nuclear monopoly. These disagreements have affected states' preferences on the question of preventing such deadly weapons falling into the hands of terrorists. They have been detrimental to the American effort to impose an agenda that focuses mainly on the nexus between what it terms "rogue states" and terrorist entities. The clash between the hegemon's agenda and the preferences of other states reached its climax in the invasion of Iraq (based on flawed intelligence that Iraq was in possession of WMD and maintained substantial links to the al Qaeda network) and in the showdowns with North Korea and Iran, which made the limitations of the hegemon's ability to advance its agenda evident.

The American policies further damaged the leadership image it sought to project, increased distrust in its motives, and distracted attention from other means by which terrorist actors might obtain WMD. Nevertheless, despite the hegemon's failure, the political sensitivity of WMD-related policies and the consequent considerable inter-state disagreements, a regime to prevent proliferation to non-state actors was eventually created. In line with the English School predictions, once the hegemon promoted a strategy acceptable to other members of the international society, states collaborated and were even willing to take costly measures. Indeed, they have taken some significant steps towards eliminating terrorists' access to WMD indicative of the inclination of the members of the international society to preserve the system.

The chapter starts with an examination of non-proliferation before 9/11, with a particular focus on the elements relevant to the acquisition of WMD by terrorists. Before 9/11, the threat was not salient enough to push forward a strong multilateral effort. That changed in the aftermath of 9/11. The steps taken in the years after the attack are examined in the second section. The last two sections of the chapter explain the different turns in the establishment of the regime and argue that the English School

succeeds where Realism fails, providing a better account of the complicated evolution of the regime and its shape.

Non-Proliferation and Non-State Actors before 9/11

A number of universal anti-proliferation treaties existed before 9/11. While they do not focus on non-state actors, they include elements that partially address the threat posed by non-state actors as well. The Chemical Weapons Convention (CWC, signed 1993, entered into force 1997) for example, does not refer to the risk of terrorism directly; but by prohibiting states from possessing chemical weapons altogether, it reduces the risk that such weapons would end up in the hands of terrorists. The provisions requiring states to criminalize any involvement in the development, production, acquisition, stockpiling, transfer and use of chemical weapons and to ensure the security of chemical weapons in their possession while awaiting destruction, as well as the convention's intrusive oversight mechanism, serve this goal as well.⁴⁴⁴

With extensive membership -- 178 states are parties to the treaty and an additional eight have signed but not ratified it⁴⁴⁵ -- the CWC goes a long way toward eliminating the threat of chemical weapons falling into the hand of terrorists. Nevertheless, the CWC has not provided a foolproof response: elimination of all chemical weapons has yet to be completed due to the slow nature of the process and its high price. At the same time, knowledge about production of chemical weapons, as well as many chemicals that could be used for that purpose, is widely available, making the danger that non-state actors will produce chemical weapons by themselves real.

⁴⁴⁴ For the text of the treaty, see Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction. www.opcw.org, accessed July 5, 2006.

⁴⁴⁵ Numbers as of June 23, 2006.

Analogous prohibitions on the possession and use of biological weapons exist in the Biological Weapons Convention (BWC, signed 1972, entered into force 1975). Long before 9/11, the convention acquired nearly universal membership.⁴⁴⁶ On its face, the ban on biological weapons included in the convention should have eliminated the risk of such weapons ending up in the possession of terrorists; but the BWC suffers from substantial shortcomings that reduce its effectiveness. Article IV of the treaty requires states to pass domestic legislation that would prohibit and penalize offensive biological weapons activities. However, by 9/11 an embarrassingly low number of states had complied with this requirement.⁴⁴⁷ The convention's most notable deficiency is the absence of any enforcement mechanisms that could verify states' adherence with the treaty's provisions. The continued development of the Soviet biological program even after it signed the BWC attest to the convention's weakness.⁴⁴⁸

An ad hoc committee was established in 1994 to propose revisions to the treaty, in particular the addition of a legally binding monitoring protocol. In 2001, after seven years of negotiations, it completed a draft protocol that reflected many conflicting goals of different states' groupings.⁴⁴⁹ But in late July 2001, four months before the convention's fifth review conference at which the document was to be discussed, the U.S. announced its objection to the draft. In its explanation for this move, the U.S. argued that the protocol failed to strengthen the treaty, while jeopardizing U.S.'s national security and trade secrets.⁴⁵⁰

⁴⁴⁶ As of June 2006, 155 states have become members to the convention, 16 have signed the treaty but have yet to ratify it, and 23 have still not signed it. See *The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction*. www.opbw.org, accessed July 5, 2006.

⁴⁴⁷ Amy E. Smithson, "Biological Weapons: Can Fear Overwhelm Inaction?", *The Washington Quarterly* 28:1 (Winter 2005-05), 168.

⁴⁴⁸ *Ibid.*, 168-9.

⁴⁴⁹ Kenneth Ward, "The BWC Protocol: Mandate for Failure," *Nonproliferation Review* (Summer 2004), 1-17.

⁴⁵⁰ Smithson, "Biological Weapons," 168.

The treaty is evidence that states acknowledge the risk biological weapons represent; but the talks on bolstering the treaty were guided by the assumption that the threat is limited to states' use of such weapons. As a result, the fear of their use was relatively low. In fact, apprehension about the use of biological weapons by terrorists was hardly felt until the 1990s. The revelations that the Japanese cult Aum Shinrikyo had experimented with biological weapons could have been a turning point; but the cult's failure to utilize those agents for mass killing resulted in a diminished sense of urgency. Some states did increase their supervision over laboratories in possession of dangerous biological material. And yet, as the threat still seemed remote, any such oversight stemmed from states' independent decisions, implemented with uneven rigor and lacking sufficient safety measures (as the large quantities of unaccounted material attest).

In the nuclear arena, the main universal convention is the Non-Proliferation Treaty. The treaty (signed 1968, entered into force 1970) was designed to prevent any increase in the number of nuclear states. It is based on a grand bargain: the five powers who conducted nuclear tests and held nuclear weapons before the treaty was signed -- the five permanent members of the Security Council -- were permitted to keep their weapons, while all other signatories renounced their right to nuclear weapons. In return, the treaty declares the right of non-nuclear states to use nuclear technology for peaceful purposes. The treaty also includes a commitment to work towards the eventual total elimination of all nuclear weapons.⁴⁵¹

The NPT was designed at a time when the risk that a non-state actor might acquire nuclear weapons was unimaginable. It is no wonder, then, that the treaty that was ineffective even in preventing some non-nuclear signatories (i.e. Iraq, North

⁴⁵¹ For the text of the treaty, see Treaty on the Non-Proliferation of Nuclear Weapons. www.iaea.org/Publications/Documents/Infcircs/Others/infcirc140.pdf, accessed September 7, 2005.

Korea and Iran) from pursuing their nuclear ambitions left gaps that decades later could be abused by non-state actors: the treaty limited the number of nuclear states, but a large number of states continued to possess nuclear technology and material without guaranteeing the security of nuclear facilities, material and knowledge and safeguarding them from non-state actors. Furthermore, countries that refused to join the treaty and developed nuclear capabilities (e.g. Pakistan, Israel, South Africa and India) remained a largely unchecked proliferation risk.

The Convention on the Physical Protection of Nuclear Material (signed in 1980, entered into force in 1987) went some way to reduce the risk that nuclear material would fall into the wrong hands. But the treaty failed to cover activities that are essential for the protection of nuclear material and facilities from non-state actors. In 1997, some of the members of the convention suggested that it should be amended, reversing the conclusion reached in the convention's first review conference five years earlier (1992) that no changes were needed.⁴⁵² In response, Mohamed ElBaradei, Director General of the International Atomic Energy Agency (IAEA), convened an experts' group to discuss possible revisions to the treaty; but no negotiations between states took place before 9/11.

In a separate development, the UN General Assembly, reflecting growing interest in terrorism during the 1990s, asked the Secretary General in 1996 to prepare a report on additional instruments that may be needed to confront international terrorism. In his report, the Secretary General identified aspects of nuclear terrorism among the issues requiring an additional universal convention. In December 1996, the General Assembly heeded the call and established an ad hoc committee to prepare

⁴⁵² Monterey Institute of International Studies, "Convention of the Physical Protection of Nuclear Material (CPPNM)." cns.miis.edu/pubs/inven/pdfs/cppnm.pdf, accessed October 7, 2005.

drafts for the treaty on the Suppression of Terrorist Bombing and subsequently for a treaty on nuclear terrorism.⁴⁵³

The discussions about the convention on terrorist bombing were swift; they lasted less than a year and resulted in the adoption of the treaty (December 1997) and its opening to signing in January 1998. The treaty does not make direct reference to WMD; but by prohibiting the discharging or detonation of “an explosive or other lethal device,” it covers the use of such weapons as well.⁴⁵⁴ Following the adoption of the convention on terrorist bombing, the ad hoc committee began its discussions on the draft of the nuclear terrorism treaty.

The draft for the treaty on nuclear terrorism was proposed by Russia, which served throughout the process as an important force pushing states to reach an agreement. In its explanatory note, Russia urged states to understand the severity of the threat and consequently the urgency of concluding the convention as soon as possible. It stated that gaps in the Convention on the Physical Protection of Nuclear Material make the new draft a necessity. It further claimed that the draft convention would make it the first international legal instrument in the area of anti-terrorist activities that was especially designed as a preemptive instrument.⁴⁵⁵ However, the negotiations on the treaty did not go as smoothly as for the Convention on the Suppression of Terrorist Bombing. Soon after the talks were launched, negotiators ran into serious difficulties that impeded the conclusion of the treaty. When terrorism hit New York and Washington, little progress had been made and a conclusion of a draft appeared a distant goal. Clearly, prior to 9/11 normal politics prevailed.

⁴⁵³ Resolution Adopted by the General Assembly, “Measures to Eliminate International Terrorism” (17 December 1997), A/RES/51/210, 16 January, 1997.

⁴⁵⁴ For the text of the treaty, see International Convention for the Suppression of Terrorist Bombing, 15 December 1997. untreaty.un.org/English/Terrorism/Conv11.pdf, accessed September 25, 2005.

⁴⁵⁵ Monterey Institute on International Studies, “International Convention for the Suppression of Acts of Nuclear Terrorism” (Modified September 20, 2005), <http://cns.miis.edu/>, accessed September 25, 2005.

Action was also taken on a bilateral basis to address the threat from nuclear terrorism. The most important efforts to prevent the theft or sale of nuclear, chemical and biological weapons were taken by the U.S. and focused on those weapons left in Russia and other former republics of the Soviet Union. The 1991 Soviet Nuclear Threat Reduction Act (later renamed the Cooperative Threat Reduction Program) was initiated by Senators Nunn and Lugar, to secure loose weapons from the former Soviet Union. Within the framework of the program, large numbers of nuclear weapons and material were dismantled, and new security systems that included the locking of nuclear material and the establishment of security parameters around the storage sites were installed in over fifty facilities. But as critics pointed out, the insufficient and slowly shrinking funding as well as bureaucratic infighting limited the usefulness of the program. The program covered only a small part of the unsecured facilities throughout the former Soviet Union, and the pace of its implementation was sluggish. Overall, more than a decade after the inauguration of the program, only half of Russia's nuclear weapons have been adequately secured.⁴⁵⁶

This short review of non-proliferation politics before 9/11 suggests that states had begun acknowledging the threat posed by non-state actors equipped with WMD and the inability of the existing instruments to provide a sufficient response. But disagreements that reflect "normal politics" resulted in little progress.

Non-Proliferation and Non-State Actors after 9/11

Then came 9/11, demonstrating al Qaeda's lethality, ruthlessness, sophistication and global reach. Connecting the dots, observers throughout the world, most importantly states' officials, understood that if al Qaeda acquired WMD it would be most likely to use them to kill rather than as a deterrent weapon. As the threat became transparent,

⁴⁵⁶ Graham Allison, *Nuclear Terrorism: The Ultimate Preventable Catastrophe* (Owl Books, New York, 2004), 143-148.

there was an increasing sense that strong action was required. However, since the international atmosphere surrounding arms control and disarmament grew increasingly sour in the years preceding 9/11, the efforts to confront the unveiled threat from al Qaeda took place against the background of a high level of hostility and distrust between nuclear and non-nuclear states, as well as among the nuclear states themselves. This section will outline the steps that have been taken since the attack on New York and Washington.

Biological Weapons Convention

As discussed earlier, by the time the terrorists struck the U.S. the BWC was in deep trouble. The convention was recognized as a weak instrument, yet the prospects for strengthening it were bleak. After the U.S. declared its objection to the proposed protocol, it introduced eight substitute initiatives, only to quickly retract them and call for disbanding the negotiations altogether. As a result, the convention's fifth review conference (2001) and its revision process were thrown into disarray. The next review conference for the BWC is scheduled for 2006. The member states are expected to discuss steps to prevent the development and proliferation of biological weapons and deadly biological agents, but revisions to the convention are unlikely to be addressed.

On its face, the lack of progress during the years following the 9/11 attack is puzzling, particularly since the president of the U.S. affirmed on a number of occasions the U.S. commitment to strengthening the BWC. Some observers attribute the failure to complete a new protocol to the absence of U.S. action;⁴⁵⁷ others suggest that other states, including some of the loudest protestors against the U.S. rejection of the draft resolution, were equally pleased with the collapse of the proposed new protocol.⁴⁵⁸ And Kenneth Ward, who participated in the negotiations as part of the

⁴⁵⁷ Smithson, "Biological Weapons," 170-1.

⁴⁵⁸ John Borrie, "Thirty Years of the BTWC: Back to the Future?" (April 2005). www.unidir.org/pdf/BWPP-JBForWebApr05-E.pdf, accessed October 4, 2005.

American delegation, argues that the source of failure is in the ad hoc group's flawed mandate, which allowed inserting obstructionist elements into the discussions.⁴⁵⁹

Leaving the blame game aside, it is clear that one cannot separate the impasse on the BWC after 9/11 from the circumstances prior to the attack and the special characteristics of biological weapons. The attack gave impetus to initiating measures to curb the threat of biological terrorism; but prioritizing such a goal does not necessarily imply resorting to the same instruments that governed the efforts to prevent proliferation of biological weapons in the past. Breaking from the earlier focus on the BWC could be a logical step when the existing instruments are considered insufficient and the attempts to amend them appear only to further undermine the non-proliferation regime.

The technical characteristics of biological weapons make their monitoring and enforcement more difficult than for nuclear and chemical weapons, since biological pathogens and toxins have numerous peaceful applications and biological weapon agents can be produced using standard biotechnology equipment.⁴⁶⁰ Jonathan Tucker argues that it was clear from the outset of the negotiations on revising the BWC that the treaty could not be verified with a high level of confidence.⁴⁶¹ Whereas an improved treaty with modified expectations could have reinforced the norm of non-possession, it may well be that the U.S. found such an outcome to be insufficient, or at least not sufficient to justify its economic cost.

Instead of attempting to reinvigorate a defunct treaty, the U.S. decided to tackle the problem through other means tailored more specifically to preventing the fall of dangerous weapons and materials, including biological, into the hands of

⁴⁵⁹ Ward, "The BWC Protocol."

⁴⁶⁰ Jonathan B. Tucker, "Strengthening the BWC: A Way Forward," *Disarmament Diplomacy* 78 (July/August 2004). www.acronym.org.uk/dd/dd78/78jbt.htm, accessed October 4, 2005; Ward, "The BWC Protocol," 12.

⁴⁶¹ Tucker, "Strengthening the BWC."

terrorists. In fact, while the BWC front remains frozen, states do not abstain from attempting to reduce the risk of biological weapons and dangerous pathogens falling into the hands of terrorists. The U.S. has forced a new and limited agenda until the 2006 review conference. In this new agenda, bio-security measures appear to have an important role. Indeed, during the summer of 2003, delegations from almost 100 countries convened in Geneva to discuss and share their experience in implementing bio-security measures and national legislation to criminalize banned biological weapons activities.⁴⁶² Security Council resolution 1540, discussed below, now provides an overarching international framework through which states are obligated to protect their biological facilities, weapons and any dangerous pathogens in their possession. Critics of the retreat from the BWC argue that absent a strategy to harmonize bio-security measures, the efforts to curtail terrorists' access to biological weapons are destined to be insufficient and preserve loopholes in states' legislations which could be used by terrorists;⁴⁶³ time will tell whether the activities taken under resolution 1540 will provide an alternative mechanism to guarantee such harmonization.

The Convention on the Physical Protection of Nuclear Material

Before 9/11, only 68 countries were members of the Convention on the Physical Protection of Nuclear Material. Following the attack and the concomitant call of the Security Council on states to accede to the existing universal anti-terrorism instruments, there was a noticeable increase in the convention membership. By September 2005, 115 states became parties to the treaty, an increase of 47 states, representing nearly a 70 percent increase since the attack.⁴⁶⁴ The most significant of

⁴⁶² Jonathan B. Tucker, "The BWC Process: A Preliminary Assessment," *Nonproliferation Review* (Spring 2004), 32-33.

⁴⁶³ Smithson, "Biological Weapons," 172.

⁴⁶⁴ www.iaea.org/Publications/Documents/Conventions/cppnm_status.pdf, accessed September 27, 2005.

those new members are India and Israel. These two nuclear states, which had not signed the NPT and which for practical reasons are reluctant to participate in universal conventions in the nuclear sphere, preferred a costly measure over remaining with impunity outside the treaty framework. Another noteworthy addition is Kazakhstan, which inherited a large number of nuclear facilities whose condition has been a source of worry since the disintegration of the Soviet Union.

In another important development, the convention was amended in September 2005. Shortly after the 9/11 attack, with its impact still in the background, the IAEA Board of Governors endorsed starting negotiations on amending the treaty. Whereas the original treaty required states to protect nuclear material only in international transport, the working group that convened in December 2001 sought to expand the obligation to protect material in domestic use, storage and transport. It also recommended that states commit to criminalizing specific acts, both during international transport and while in domestic use, storage and transport.⁴⁶⁵

After nearly four years of negotiations, an agreement was finally achieved and the treaty was amended. In addition to broadening the scope of states' obligations to protect nuclear material, the adopted amendments also call on states to expand their collaboration regarding rapid measures to locate and recover stolen or smuggled nuclear material, mitigate any radiological consequences of sabotage and prevent and combat related offenses.⁴⁶⁶

The Nunn-Lugar Program and the G8 Global Partnership Program

The condition of the Nunn-Lugar program has improved in the aftermath of the 9/11 attacks. The program is still under-funded, especially when compared to the overall increase in the defense budget of the U.S.; but there has been a noticeable

⁴⁶⁵ L. Wedekind, "Israel, India Join Physical Protection Convention," January 28, 2002. www.iaea.org/NewsCenter/News/2002/24012002_news01.shtml, accessed September 25, 2005.

⁴⁶⁶ www.iaea.org/NewsCenter/PressReleases/2005/prn200503.html, accessed September 27, 2005.

improvement. For fiscal year 2006, the Bush administration proposed a budget of \$982 million to control nuclear warheads, materials and expertise around the world, an increase of over \$175 million from the previous financial year; overall, the administration requested that Congress authorize \$1.312 billion for all cooperative nuclear, chemical, biological and missile threat reduction activities, nearly 25 percent higher than its request the year before.⁴⁶⁷ Also encouraging is Congress' support for these multiple programs, leading it to allocate funding over and above the administration requests for fiscal year 2005.⁴⁶⁸ There is steady progress, as each year more facilities and material classified as under risk are secured.⁴⁶⁹

More important for the argument is the boost that the G8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction provided to the attempts to secure WMD material and weapons in Russia. The program, adopted at the 2002 Kananaskis summit, is one of a number of new counter-terrorism measures taken by the G8. The program is designed to support cooperation projects to address non-proliferation, disarmament and counter-terrorism and nuclear security issues in general, and helps divide the financial burden of financing such an enormous endeavor. Its most important clause was a commitment to invest \$20 billion (half of it from the U.S.) over ten years, to finance security measures and the destruction of nuclear and chemical weapons and material in Russia and other countries of the former Soviet Union.⁴⁷⁰

⁴⁶⁷ Matthew Bunn and Anthony Wier, *Securing the Bomb 2005: The New Global Imperatives* (Project on Managing the Atom, Harvard University and Nuclear Threat Initiative, Washington, DC, May 2005), 76-87.

⁴⁶⁸ *Ibid.*, 78-79.

⁴⁶⁹ For updated information on the U.S. projects in the former Soviet Union, particularly in Russia, see *ibid.*

⁴⁷⁰ Statement by G8 Leaders, "The G8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction," June 27, 2002.

www.g8.gc.ca/2002Kananaskis/kananaskis/globpart-en.asp, accessed February 14, 2005.

The members of the G8 invited other countries to join the initiative and received positive responses from many states. In the following year, Finland, the Netherlands, Norway, Poland, Sweden and Switzerland pledged about \$200 million to specific projects.⁴⁷¹ Among the countries that later joined the initiative are Australia, Belgium, the Czech Republic, Denmark, Ireland, South Korea and New Zealand.

Multiple cooperative programs are taking place under the global partnership initiative, among them nuclear submarine dismantlement and spent fuel management, nuclear security and physical protection, nuclear material safeguards, construction of fissile material disposition facilities, decontamination and reconversion of chemical weapons facilities, chemical weapons destruction, and construction of railway lines to chemical weapons' destruction sites.⁴⁷² In addition, the program supports former weapons scientists by redirecting and employing them in peaceful civilian projects, largely through transferring institutes and scientists to sustainable income-producing activities.⁴⁷³ As the progress reports clearly indicate, after a slow start due to difficulties in concluding the required legal agreements (on issues such as liability in case of accidents), the program is making tangible progress in turning political pledges into concrete projects.⁴⁷⁴

The program is also expanding to other countries in the former Soviet Union, in addition to Russia. The 2005 annual report details numerous such projects, among them the decommissioning of fissile material in Ukraine and Lithuania; spent fuel disposition projects in Kazakhstan; projects to improve the safety of nuclear

⁴⁷¹ G8 Senior Group, "G8 Global Partnership Annual Report," June 9, 2004.

www.g8.utoronto.ca/summit/2004seaisland/gpannualreport.html, accessed February 14, 2005.

⁴⁷² For a list of projects sponsored under the global partnership program, see GPWG Annual Report 2005: Consolidated Report Data, June 7, 2005.

www.fco.gov.uk/Files/kfile/PostG8_Glneagles_GPWGAnnualReportAnnex2005.pdf, accessed October 4, 2005.

⁴⁷³ G8 Senior Group, "G8 Global Partnership Annual Report," June 9, 2004.

⁴⁷⁴ G8 Senior Group, "G8 Global Partnership Annual Report," June 7, 2005.

www.pircenter.org/cgi-bin/pirnews/ctrdocan_e.cgi?Template=gp_docs_e&L=1, accessed October 5, 2005.

installations in Kazakhstan, Armenia, Uzbekistan, Belarus and Ukraine; export control projects in Kazakhstan; and the return of highly enriched uranium fuel from Uzbekistan. In addition, efforts have focused on a nuclear scientist redirection and employment program in Ukraine; biosafety and redirection of biological and chemical weapons scientists and facilities in Georgia, Armenia, Azerbaijan, Belarus, Kazakhstan, Tajikistan, Ukraine and Uzbekistan; and the elimination of delivery systems for strategic nuclear arms in Ukraine.⁴⁷⁵ The program may soon expand even beyond the states of the former Soviet Union. The U.S. and Britain have already reported to the G8 members on initial plans for redirection and employment programs for Iraqi and Libyan scientists.⁴⁷⁶

Despite the undeniable progress made thus far, the risk from unsecured highly enriched uranium and weapons-grade plutonium is far from over. Russia is challenging the Western assessments of the threat and denies the urgency of additional steps. Legal disagreements between Russia and the Western donors concerning liability in case of accidents further slow the international efforts. Moreover, the risk is not limited to facilities and material in the former Soviet Union; unsecured dangerous materials are located in other places as well (in particular in Eastern Europe). Moreover, even the U.S., which leads the overall endeavor, has failed to recover highly enriched uranium it provided to forty-three countries in the last four decades as part of the program to assist countries in building peaceful nuclear programs. This uranium could be enough to create about one thousand nuclear weapons.⁴⁷⁷

Although the global partnership program is the flagship of the G8 counter-terrorism initiatives, the G8 action extends further. A year after the initiative was

⁴⁷⁵ GPWG Annual Report 2005: Consolidated Report Data.

⁴⁷⁶ G8 Senior Group, "G8 Global Partnership Annual Report," June 7, 2005.

⁴⁷⁷ Joel Brinkley and William J. Broad, "U.S. Lags in Recovering Fuel Suitable for Nuclear Arms," *The New York Times*, March 7, 2004.

announced, at the Evian summit the G8 reinforced its engagement in preventing WMD proliferation, issuing an action plan that seeks to guarantee the protection of radioactive material. In its 2004 Sea Island summit, the G8 members later decided to develop additional measures to prevent export of sensitive nuclear technology, in particular uranium enrichment and plutonium reprocessing technology, to states that may use them to develop weapon programs or hand them over to terrorists. While working to develop criteria for the transfer of such technology, G8 members decided, and reasserted at the 2005 summit, that it would not inaugurate any new initiatives involving transfer of enrichment and reprocessing technologies to additional states. Members also reported progress towards an arrangement to provide nuclear fuel to states that would forgo nuclear fuel-cycle and meet all of their non-proliferation obligations.⁴⁷⁸

The Nuclear Terrorism Treaty

After seven years of negotiations, the members of the international society finally overcame the impasse and finalized the International Convention for the Suppression of Acts of Nuclear Terrorism. Subsequent to the UN General Assembly's approval of the convention (March 2005), it was opened for signing in September 2005. The treaty requires states to cooperate in preventing or prosecuting acts of nuclear terrorism, whether aimed at their territory or at another country. This includes, for example, adopting legislative and technical measures to protect nuclear material, facilities and devices, and to prevent unauthorized access to them by non-state actors. States are obligated to criminalize the possession of radioactive material, the creation or use of a radioactive device, or the damaging of a nuclear facility with the intent of causing harm, or of compelling states and other legal persons to do or refrain from an act. The

⁴⁷⁸ Gleneagles Statement on Nonproliferation, June 2005.
www.pircenter.org/cgi-bin/pirnews/ctrdocan_e.cgi?Template=gp_docs_e&L=1, accessed October 5, 2005.

convention applies exclusively to individuals and non-state actors. Its scope excludes proliferation and use of nuclear weapons by states. The convention will enter into force on the thirtieth day following the deposit of the twenty-second instrument of ratification with the Secretary General of the UN.⁴⁷⁹

A growing sense of urgency to conclude the treaty in the aftermath of 9/11 was translated into a more constructive and compromising approach by the negotiators. Despite this, it still took nearly four years after 9/11 before the treaty was concluded. Two thorny issues, the definition of terrorism and the use of nuclear weapons by military forces, hindered progress and prevented the rapid adoption of the treaty. Many non-nuclear states, in particular among members of the Non-Aligned Movement, insisted that the text of the convention must not legitimize the use of nuclear weapons by nuclear states and therefore demanded that the text not explicitly exclude the activities of armed forces under state authorization. Eventually, a compromise that did little to satisfy the goals of the non-nuclear states was achieved: the use of nuclear weapons by armed forces is excluded from the scope of the treaty, but the convention asserts that this exclusion does not legitimate any use of such weapons by states.⁴⁸⁰ The definitional problem was solved, as in many other cases, by avoiding any definition of terrorism.

Security Council Resolution 1540

After relatively short deliberations (particularly when compared to the sluggish pace of universal treaty construction), the Security Council unanimously adopted resolution 1540 on April 28, 2004. This resolution is a cornerstone of the regime to prevent terrorists' access to WMD. This was the first binding international decision to

⁴⁷⁹ The International Convention for the Suppression of Acts of Nuclear Terrorism. untreaty.un.org/English/notpubl/English_18_15.pdf, accessed September 25, 2005.

⁴⁸⁰ Monterey Institute on International Studies, "International Convention for the Suppression of Acts of Nuclear Terrorism." cns.miis.edu, accessed September 30, 2005.

explicitly address proliferation to non-state actors; all previous international treaties dealt exclusively with proliferation of WMD among states. By adopting this resolution, the Security Council assumed a critical role in the struggle to combat terrorism with non-conventional weapons.

The resolution focuses on preventing the proliferation of WMD and their delivery systems to non-state actors, defined as an “individual or entity, not acting under the lawful authority of any State in conducting activities that come within the scope of this resolution.”⁴⁸¹ The reference to non-state actors rather than terrorists is exceptional, yet particularly regarding WMD seems to be a logical choice. The myriad of international conventions have created a nearly universal prohibition on the possession of WMD. Since states are the building blocks of the international order, it is only natural that a ban on the possession of such deadly weapons will cover not only states but non-state actors as well. Whereas the right to use violence may be contested and leave some room for non-state actors to use force against occupation and for the sake of self-determination, none of that makes the possession and use of WMD lawful. Besides being logical, the reference to non-state actors instead of terrorists is instrumental in allowing states to circumvent the need to agree on a definition of terrorism. The term “non-state actor” also allows the inclusion of actors such as A.Q. Khan’s network, which may aid terrorists for money and not necessarily for political motives.

In the resolution, the Security Council expressed its concern that non-state actors may “acquire, develop, traffic in or use” WMD and their means of delivery. Therefore, the council decided that all states must refrain from “providing any form of support to non-state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use, nuclear, chemical or biological weapons and their means of

⁴⁸¹ Security Council Resolution 1540 (2004), Adopted on April 28, 2004, S/RES/1540 (2004).

delivery.” In order to meet this obligation, states are required to criminalize any such activity and prosecute those who violate these laws, to develop effective measures to secure any WMD or related facilities and material, and to develop border controls and law enforcement capabilities to allow them to detect, deter, prevent and combat the illicit trade and trafficking with such weapons and materials.⁴⁸²

To assist in implementation, the Security Council established the 1540 committee, consisting of all of its members. The committee was established for a two-year term. It is mandated to collect states’ reports and to report to the Security Council on the implementation of resolution 1540.⁴⁸³ The establishment of the 1540 committee is comparable to other committees established in support of the council’s anti-terrorism measures. However, this commissioning was accepted with many more reservations because of the political sensitivity of WMD, and because some states feared that the nuclear states might seek to reinforce the committee’s authority at the expense of existing international institutions (such as the IAEA) where non-nuclear states have a stronger voice and the influence of the leading powers is more constrained. Despite these fears, at the end of its two years the Security Council decided to extend the mandate of the committee.

In line with other anti-terrorism resolutions, particularly those concerning terrorism financing, the Security Council acknowledged that some states may need assistance in implementing the provisions of the resolution. It therefore called upon capable states to provide assistance to weaker states that lack the legal and regulatory infrastructure, the technical knowledge and the resources needed for compliance.⁴⁸⁴

Taken under the auspices of the Security Council, the resolution is compulsory for all states. Furthermore, to make it unequivocally legally binding and to send a

⁴⁸² Ibid.

⁴⁸³ Ibid.

⁴⁸⁴ Ibid.

powerful political signal that the council regards the subject matter and compliance with extreme seriousness, resolution 1540 was adopted under chapter VII of the UN charter.⁴⁸⁵ The resolution parallels the method employed in resolution 1373 (which focuses on the suppression of terrorism financing) by imposing practical obligations that are covered in part by existing universal instruments, even on states that have refused to join those treaties. Thus, resolution 1540 turned the implied prohibition on assisting non-state actors with any aspect related to biological and chemical weapons that was contained in the CWC and BWC into a universal obligation binding even on those countries that have not yet acceded to the treaty. The resolution is also an effective response to the slow procedure of treaty construction and acceptance. It was reached after only months, rather than years of deliberations as is common with universal treaties, and it imposes obligations that states could take on under the nuclear terrorism treaty without needing to wait until the treaty enters into force and gains universal adherence.

The resolution also represents an important reinforcement to existing export control regimes. All of the previous export control arrangements were informal, gathering together groups of states that agreed on principles for exports without legally obligating them to realize their commitments or setting in place any mechanism to oversee states' actions.⁴⁸⁶ Resolution 1540, on the other hand, is legally binding and universal in scope. The demand for states to protect WMD, and related facilities and material, irrespective of whether they took on similar obligations under the NPT or consented to the IAEA Code of Conduct on the Safety and Security of

⁴⁸⁵See The Security Council 4950th Meeting, 22 April 2004, S/PV.4950 and S/PV.4950 Resumption 1.

⁴⁸⁶ Among these export control groups are the Nuclear Supplier Group (NSG), the Wassenaar Arrangement (on dual-use material), the Australian Group (which deals with chemical and biological weapons and material), and the Missile Technology Control Regime (MTCR).

Radioactive Sources, is another strong step that represents a real departure from previous conceptions of non-proliferation regimes.⁴⁸⁷

Despite many similarities to earlier anti-terrorism resolutions, resolution 1540 caused much more contention among member states. The apprehension about the content of the resolution and its implications led a few states to request an open debate in the Security Council concerning the resolution. Fifty-one states participated in this meeting, a testimony to the importance states attributed to the materializing resolution. During the meeting member states, especially among the members of the Non-Aligned Movement, raised a number of concerns. Three subjects were prominent among those sources of contention: first, the fear that the Security Council was turning into a legislative body; second, apprehension that the reference to chapter VII could serve as a pretext to using coercive means against states that fail to follow the resolution's text; and third, that the resolution comes at the expense of aspiring to complete disarmament.

Many delegates argued that by obligating all states, the Security Council has assumed a legislative authority it does not have. Thus, the Algerian representative argued that the charter does not give the council a "mandate to legislate on behalf of the international community."⁴⁸⁸ The Indian ambassador expressed his country's concern that the balance of power between the General Assembly and the Security Council was thereby being eroded, leaving the council unmonitored.⁴⁸⁹

Furthermore, the resolution deviates from typical modes of creating multilateral obligations. Numerous member states reminded the council that the normal means to create universal commitments is through treaty writing. The process

⁴⁸⁷ Bruno Demeyere, "The Proliferation of International Nuclear Law's Actors: Resolution 1540 and the Security Council's Fight Against Weapons of Mass Destruction Falling Into Terrorists Hands," Institute for International Law, Working Paper No. 82 – August 2005.

⁴⁸⁸ The Security Council 4950th Meeting, 22 April 2004, S/PV.4950, 5.

⁴⁸⁹ *Ibid.*, 23.

by which a treaty is created provides all states opportunities to shape it and to raise their objections. Once a treaty is adopted, states have the right to judge whether it serves their interests and may choose not to join it. In comparison, a Security Council resolution gives to a non-representative body, dominated by five states, the power to create law and to obligate all states to comply, in a radical departure from the principle of sovereign equality. As the Cuban representative stated, international obligations “must not be imposed upon member states without their participation and their sovereign acceptance.”⁴⁹⁰

Some countries argued that the specific nature of resolution 1540 and the obligations it sets render the council’s role even less legitimate. The Pakistani ambassador noted that the council, “where five states, which retain nuclear weapons, also possess the right to veto any action, is not the most appropriate body to be entrusted with the authority for oversight over non-proliferation or nuclear disarmament.”⁴⁹¹ Therefore, some participants urged alternative means to combat the threat of terrorism with non-conventional weapons, specifically calling for the reinforcement of the existing instruments as a more competent response.⁴⁹² Summarizing the apprehension of many states, the Nepalese representative stated that the Security Council “should resist the temptation of acting as a world legislature, a world administration and a world court rolled into one.”⁴⁹³

On the other hand, most council members, backed by additional states outside the council, defended the Security Council’s intervention. Some states observed that the council is assuming legislative authority,⁴⁹⁴ but none argued that a precedent might

⁴⁹⁰ Ibid., 30.

⁴⁹¹ Ibid., 15.

⁴⁹² For example, see the Egyptian and Nepalese representatives, The Security Council 4950th Meeting, Resumption 1, 2 and 14.

⁴⁹³ Ibid., 14.

⁴⁹⁴ The Japanese Representative, The Security Council 4950th Meeting, 28.

be set. Instead, they argued that the Security Council is increasing its involvement because there is a gap in international law that must be addressed urgently. As the Swiss ambassador argued, “it is acceptable for the Security Council to assume such a legislative role only in exceptional circumstances and in response to an urgent need.”⁴⁹⁵ While a universal treaty would be a better course of action, it could take years to negotiate and “time is not on our side.”⁴⁹⁶ Therefore, the Security Council’s action should be viewed as provisional, taken until a multilateral alternative materializes, and perceived as in line with the council’s responsibility to confront threats to international peace.

States also challenged the invocation of chapter VII. Rather than viewing it as a sign of the international community’s resolve to confront the threat, they deemed it unnecessary and possibly even risky. Brazil, for example, argued that there was no need to invoke chapter VII, since the charter of the UN already rendered the Security Council resolutions binding.⁴⁹⁷ Indonesia argued that the use of chapter VII suggests a coercive course of action, whereas the preferred course should be cooperative, with the coercive option serving as a last resort.⁴⁹⁸ And Nepal suggested that by invoking chapter VII the council was trying to reserve the option of imposing the council’s will on member states, potentially compromising their sovereign rights.⁴⁹⁹

With the cloud of the Iraq ordeal still hanging over the council (in particular the American claim that resolution 1441 -- which called on Iraq to dismantle its prohibited capabilities and to fully cooperate with the UN inspectors -- provided legitimacy to use force against Iraq even without further authorization by the council), Switzerland warned that basing the resolution on chapter VII must not be understood

⁴⁹⁵ The Swiss Ambassador, The Security Council 4950th Meeting, 28.

⁴⁹⁶ *Ibid.*, 25.

⁴⁹⁷ *Ibid.*, 4

⁴⁹⁸ *Ibid.*, 31-2

⁴⁹⁹ The Security Council 4950th Meeting, Resumption 1, 14.

as pre-authorization for states to resort to unilateral sanctions.⁵⁰⁰ Cuba went even further, arguing that “it cannot be ruled out that some power might interpret the adoption of this text under chapter VII of the United Nations Charter to be a preauthorization or a justification for the unilateral use of force against given states because of alleged suspicions of proliferation of weapons of mass destruction or their components.”⁵⁰¹

In response, the sponsors of the resolution stressed that they only intended to send a signal of resolve, clarifying that the invocation of chapter VII is not aimed to facilitate the imposition of sanctions. They emphasized that the draft resolution is not about enforcement and instead highlighted the cooperative spirit of the endeavor.⁵⁰² Britain even explained that the reference to chapter VII would give states the increased authority they need to introduce robust domestic measures, without deciding for the member states what those steps should be.⁵⁰³

Several member states, mostly members of the Non-Aligned Movement, also expressed their concern that the new regime may replace existing universal non-proliferation instruments and institutions and that, in its focus on non-proliferation, the resolution would divert the international community away from the goal of disarmament. As a number of states argued, the goal of preventing non-state actors’ access to WMD could be best served by measures to rid the world of these weapons. The focus on non-proliferation appeared to some as another indication of the nuclear states’ attempts to avoid concrete measures to realize their commitment to eliminate all nuclear weapons.

⁵⁰⁰ The Security Council 4950th Meeting, 22 April 2004, S/PV.4950, 28.

⁵⁰¹ *Ibid.*, 30.

⁵⁰² *Ibid.*

⁵⁰³ *Ibid.*, 12.

The resolution's proponents took pains to emphasize that the resolution does not replace any existing international instrument but rather complements these frameworks and agreements. They included in the resolution an article in that spirit, even paying tribute to the goal of disarmament. The resolution's advocates also emphasized that the focus on non-proliferation in the draft resolution reflects a realistic reading of the international situation. The Spanish representative explained that a resolution focused on disarmament would not cause states possessing WMD "to comply more swiftly with their disarmament obligations under international treaties, or cause non-parties to such treaties to accede to them."⁵⁰⁴

Adopting a realistic perspective, the Security Council preferred to focus on steps that could be carried out and address the urgent threat of non-state actors equipped with WMD, rather than waste time trying to advance an agreement on disarmament knowing that such negotiations were bound to fail, potentially jeopardizing the international society's ability to confront terrorist threats in a timely manner. Thus, for the sake of addressing a pressing need, the sponsors of the resolution, some of which were not nuclear states, chose a measure that did not force nuclear states to disarm. The resolution does not even call on states to accede to non-proliferation treaties (although it does appeal to member states to comply with their international commitments), whereas all previous Security Council resolutions on anti-terrorism explicitly called for adherence to the universal anti-terrorism instruments. The Council also left states' past behavior behind, preferring instead a forward-looking approach in which the resolution "sets a standard for how nations should act in the future rather than judging past actions."⁵⁰⁵

⁵⁰⁴ Ibid., 7.

⁵⁰⁵ The American ambassador, *ibid.*, 17.

To dispel the fears of non-member states and in an attempt to gain broad support for the resolution's text, Security Council members engaged apprehensive states, revised several provisions, and added articles to address the concerns. Indeed, throughout the process many states, including some that expressed the loudest objections to the resolution, praised the willingness of the resolution's sponsors to listen to the reservations and to address them as much as possible. Clearly, all of these steps reflect the importance of persuasion rather than the unrestrained application of power by the Security Council's strongest powers. While they have assumed authorities unprecedented before 9/11, the aspiration to make the resolution not only authoritative by international law standards but also legitimate led them to try to bring on board as many member states as possible and to minimize the risk that long-lasting disagreements about the non-proliferation agenda would hamper the response to the threat of WMD terrorism.

The resolution creates a universal obligation for members of the international society; but its reliance on each individual state for implementation and reporting is consistent with the principles of state sovereignty and responsibilities to the society of states. The resolution sets standards and seeks to increase uniformity among states without determining the specific legislations they must enact, leaving states freedom to follow their own national mechanisms. It does not even determine which exact materials would be proscribed. What it does do is to transform states' interest in such a regime into a legal and normative obligation and give impetus to vigorous steps designed to curb the threat. Indeed, when one observes the discussions in the UN, it is evident that most disagreements were unrelated to the general goal of addressing the threat of terrorism by WMD. Most participants in the debate, including those that are not expected to feel this jihadi threat in the short run, lent support to the overall goal and conceded that the threat is real and requiring quick action. This shared

understanding led to the adoption of the resolution by consensus. Even Pakistan, which would incur high costs and had been the most vocal opponent of the resolution's components, joined the supporters, thus facilitating the resolution's unanimous acceptance.

While still in its early stages, the resolution has already helped to push through comprehensive legislation in many states aiming at preventing and outlawing proliferation of WMD and related materials.⁵⁰⁶ As of September 15, 2005, 121 states have submitted reports to the 1540 committee.⁵⁰⁷ Notable among those states are India, Pakistan and Israel, countries traditionally reluctant to discuss their nuclear programs or to join relevant international instruments.

The Proliferation Security Initiative

On May 31, 2003, during a visit to Poland, U.S. President George W. Bush announced the commencement of the Proliferation Security Initiative (PSI), a multilateral operation to combat the transportation of WMD. Under this operation, the U.S. and a number of its allies take on searches of planes and ships suspected of carrying illegal weapons and missile technologies. The main goals of the initiative are to prevent, deter or delay states and terrorist organizations from obtaining WMD by focusing on the shipment of prohibited weapons and material. The members of the initiative recognize that the complete denial of trade in such items is not feasible; nevertheless, they try at least to make such trade costly enough to dissuade actors from pursuing it.

At its initial stage, the plan comprised of eleven states, all Europeans with the exception of the U.S., Australia and Japan.⁵⁰⁸ Later, the core group expanded to fifteen states and increased its geographical reach with the addition of Russia, Singapore,

⁵⁰⁶ Andrew C. Winner, "The Proliferation Security Initiative: The New Face of Interdiction," *The Washington Quarterly* 28:2 (Spring 2005), 136.

⁵⁰⁷ <http://disarmament2.un.org/Committee1540/report.html>, accessed September 28, 2005.

⁵⁰⁸ The eleven states are Australia, France, Germany, Italy, Japan, Netherlands, Poland, Portugal, Spain, the United Kingdom and the U.S.

Norway and Canada. Politically, the PSI can already count four of the five permanent members of the Security Council.⁵⁰⁹ Only China remains outside the PSI, mainly due to concern that its protégé North Korea would become the initiative's main target.

As an activity rather than an organization, the PSI welcomes any state that subscribes to the initiative's principles. It allows different degrees of participation: some states commit themselves to assist, while others may cooperate on an ad hoc basis. The growing support for the PSI is evident in the large number of states -- over sixty, including states expressing general endorsement of the initiative -- who participated in a meeting hosted by Poland on the one-year anniversary of President Bush's declaration.⁵¹⁰ Observers note that the speed with which PSI members reached out to non-members to explain the initiative and seek their support is remarkable, particularly in comparison to the exclusive nature of most multilateral export control regimes that predate 9/11.⁵¹¹

The initiative is an important example of interstate cooperation. The partners to the initiative interdict shipments, exchange information and exercise together. In the period between September 2004 and June 2005, PSI partners cooperated on eleven successful efforts.⁵¹² The members are investing substantial effort in improving their ability to cooperatively undertake interdiction missions. By the end of 2004, close to twenty multilateral exercises had been conducted with the participation of the initiative's core states and new participants.⁵¹³ These exercises take place in various geographical regions and have various emphases in accordance with the initiative's

⁵⁰⁹ Winner, "The Proliferation Security Initiative," 136.

⁵¹⁰ *Ibid.*, 135.

⁵¹¹ Seema Gahlaut, "The PSI Will Parallel the Multilateral Export Control Regime," *The Monitor* 10:1 (Spring 2004), 14.

⁵¹² Stephen G. Rademaker, Assistant Secretary of State for Arms Control, "The Proliferation Security Initiative (PSI): A Record of Success," Testimony before the House International Relations Committee, Subcommittee on International Terrorism and Nonproliferation, 109th Congress, June 9, 2005. www.state.gov/t/ac/rls/rm/47715.htm, accessed September 27, 2005.

⁵¹³ Winner, "The Proliferation Security Initiative," 134.

diverse missions; for example, a land interdiction exercise, co-hosted (May 2005) by the Czech Republic and Poland and attended by twenty-eight states was followed a week later by an air interdiction exercise hosted by Spain.⁵¹⁴

The operation of the PSI is based on a statement of principles adopted by the initiative's founding members. In the statement, member states declare their commitment to deny attempts to make their ports, airfields, or other facilities into transshipment points for the transport of WMD, their delivery systems and related materials to and from states and non-state actors of proliferation concern. The members commit themselves to inspecting any mode of transport located in their territory that is reasonably suspected of carrying such illegal cargoes. Furthermore, they agree to board and search, at their own initiative, or at the request of another state, any such vessel flying their flag "in their internal waters or territorial seas, or areas beyond the territorial seas of any other state," and to seize any prohibited cargo. Each state also confirms its willingness to seriously consider approving the boarding and searching of its own flag vessels by other states, and the seizure of such WMD-related cargoes. States also pledge that when early information exists, they will deny in advance transit rights of suspicious vessels.⁵¹⁵

The interdiction of suspected cargoes, especially on the high seas, is legally complicated: international law allows a state to interdict vessels only in unusual cases. A state wields substantial power to stop and seize cargo within its own authority; but this power diminishes as one gets further from the state's shores and is virtually non-existent on the high seas.⁵¹⁶ Since a ship is considered an extension of the state in

⁵¹⁴ Rademaker, "The Proliferation Security Initiative."

⁵¹⁵ The White House, Office of the Press Secretary, "Proliferation Security Initiative: Statement of Interdiction Principles," September 4, 2003, www.state.gov/t/np/rls/fs/23764.htm, accessed September 27, 2005.

⁵¹⁶ Andrew Prosser, "The Proliferation Security Initiative in Perspective," Center for Defense Information, June 16, 2004. www.cdi.org/pdfs/psi.pdf, accessed September 25, 2005.

which it is registered, the principle of state sovereignty implies that a ship could be boarded on the high seas only by the authorities of the state in which it is registered.⁵¹⁷ The United Nations Convention on the Law of the Sea articulates additional exceptional circumstance under which a ship may be forcefully boarded on the high seas. These circumstances include a reasonable suspicion that the ship is engaging in piracy or slave trade, or when the ship is not registered in a single country, flies no flag, or is broadcasting in an unauthorized manner to the state wishing to board.⁵¹⁸

Respect for state sovereignty and the freedom of navigation could undercut non-proliferation efforts. But the PSI provides a solution that significantly improves states' ability to prevent proliferation by sea: it encourages states to compromise their sovereign rights when there is a threat that vessels using their flag are used for proliferating WMD and related material. This approach increases the number of ships that could be inspected; moreover, it goes some way towards pooling its members' sovereignty, establishing collective sovereignty on all of the contracting states' non-military vessels at sea, at least for the purpose of preventing WMD proliferation. It is further evidence that states are willing to absorb costs they would not have otherwise; they adopt an elastic conception of sovereignty in which a state may withdraw its sovereign rights to allow a contracting state to board a suspected ship flying its flag, thus temporarily extending the sovereignty of the contracting state.

Furthermore, the multilateral nature of the initiative serves as a force multiplier: rather than each country covering areas according to its individual capabilities and inspecting only ships flying its own flag, the initiative facilitates coverage of a far broader area by a much higher number of ships, and consequently

⁵¹⁷ Michael Byers, "Policing the High Seas: The Proliferation Security Initiative," *The American Journal of International Law* 98:3 (July 2004), 527.

⁵¹⁸United Nations Convention on the Law of the Sea (opened to signatures 1982, entered into force 1994). www.un.org/Depts/los/convention_agreements/convention_agreements.htm, accessed September 30, 2005.

the inspection of far more vessels. In addition, the PSI facilitates rationalizing the deployment of inspecting vessels to make the most efficient use of the pooled assets.

The PSI is structured to allow its members significant flexibility. For example, by avoiding specifying the targets of the PSI, participants enjoy the freedom to decide at the time of the interdiction whether the circumstances warrant considering the sender or the recipient of the cargo a proliferation concern. The wording also allows flexibility over time: a state deemed a proliferation risk at one point may later change its international behavior, allowing PSI members to cease targeting that state's vessels without having to go through the exhausting bureaucratic and political maneuvers for official "de-listing."⁵¹⁹

Another element of the PSI is bilateral ship-boarding agreements. By August 2005, the U.S. had signed six such agreements, with Liberia, Panama, the Marshall Islands, Croatia, Belize and Cyprus, and is reportedly negotiating the conclusion of agreements with dozens of other states.⁵²⁰ Such agreements regulate boarding the ships of non-members and substantially extend the reach of the program. In its bilateral efforts, the U.S. prioritizes agreements with the world's largest ship registries.⁵²¹ Those countries usually offer easy registration at low cost and with few regulations; this renders them susceptible to abuse by proliferators. By signing bilateral agreements with such countries, the U.S. increases the cost for using these countries' flags and boosts proliferators' risks. With these bilateral agreements adding to the boarding agreements inherent in the Proliferation Security Initiative, over 60

⁵¹⁹ Winner, "The Proliferation Security Initiative," 133.

⁵²⁰ CRS Report for Congress, "Proliferation Security Initiative," June 7, 2005. fpc.state.gov/documents/organization/48624.pdf, accessed September 27, 2005.

⁵²¹ Liberia is the second largest ship registry, Cyprus is the world's sixth. See, respectively, Sean D. Murphy, "'Proliferation Security Initiative' for Searching Potential WMD Vessels," *The American Journal of International Law* 98:2 (April 2004), 357; U.S. Department of State, "The United States and the Republic of Cyprus Proliferation Security Initiative Ship Boarding Agreement," July 25, 2005, <http://www.state.gov/r/pa/prs/ps/2005/50035.htm>, accessed September 27, 2005.

percent of the global commercial shipping fleet dead weight tonnage is subject to possible boarding, search and seizure.⁵²²

The PSI has an added value in its contribution to the development of a norm against proliferation of WMD: if the practice of active steps to prevent such proliferation continues to spread, it could over the long run gain the status of customary law. The PSI has already gained further legal legitimacy through its call, included in Security Council resolution 1540, for states to cooperate, in keeping with international law, to prevent the proliferation of WMD and related materials. The text of the resolution triggered declarations of support for the PSI from additional states.⁵²³ In addition, at this stage the shipment of WMD related equipment and materials is not universally condemned as a violation of the right for “innocent passage” included in the Law of the Sea Treaty. Consequently, interdiction is yet to be recognized as derivative from the treaty. But if support for the initiative increases, such a development cannot be ruled out. Evidently, a considerable number of states, including those that are apprehensive that the scope of sovereign rights is diminishing, view the benefits of the initiative as justifying the price.

Not all observers praise the PSI. In addition to the unsubstantiated accusations that the initiative could contradict international law, some observers dismiss the claims of its success. They note that in comparison to the number of illicit trafficking incidents of nuclear related material between 1991 and 2001, the number of interdictions under the auspices of the PSI, which claims a scope far broader than just this type of material, is extremely low. This could be the result of ineffective

⁵²² U.S. Department of State, “The United States and the Republic of Cyprus Proliferation Security Initiative Ship Boarding Agreement.”

⁵²³ Demeyere, “The Proliferation of International Nuclear Law’s Actors.”

coordination, the monitoring of the wrong shipping routes and methods, or insufficient intelligence or information sharing.⁵²⁴

One must be careful in assessing the meaning of the low number of interdictions reported. Members of the PSI are reluctant to make information about the particularities of specific interdictions public, fearing that it would reveal methods of operation that could be then used by proliferators to circumvent the allies' efforts.⁵²⁵ An additional explanation for the low number of interdictions could be that the increased costs of proliferation and the deterrent effects of the initiative are bearing fruit -- but this explanation appears dubious, as it is unlikely that the PSI succeeded in reducing the average number of incidents from nearly sixty-five incidents a year to less than fifteen. Furthermore, one could rightly doubt whether in its current membership the initiative is truly capable of interdicting the many clandestine shipments carried out between the territories and under the flags of non-member states.⁵²⁶

Yet, one needs to remember that the PSI provides only one layer of protection against the acquisition of WMD by terrorists. Furthermore, the initiative is still only in its first steps. Given its short existence, the results should be evaluated realistically. As states learn to improve their channels of information sharing and operational cooperation, the PSI is expected to bring a higher payoff. Lastly, the targeting of both states of concern and non-state actors may account for the moderate achievements so far. If states can reach a consensus on what countries constitute "states of concern"

⁵²⁴ Alexander Pojedinec, "Proliferation Security Initiative: Two Years and Counting," Center for Defense Information (July 28, 2005), <http://www.cdi.org/pdfs/psi-2yrs.pdf>, accessed September 27, 2005.

⁵²⁵ Gahlaut, "The PSI Will Parallel the Multilateral Export Control Regime," 13.

⁵²⁶ Joseph Cirincione and Joshua Williams, "Putting PSI into Perspective," Carnegie Endowment for International Peace (2005), carnegieendowment.org/npp/publications/index.cfm?fa=view&id=16827, accessed September 28, 2005.

that would justify interdiction, or if members abandon the focus on states in favor of increased emphasis on non-state actors, the PSI may achieve better results.

Explaining States Policies after 9/11

During the years following the 9/11 attack, states have taken significant steps to curb the risk that WMD would fall into the hands of terrorists. Yet the regime has evolved slowly and in an uneven manner. In the following pages, I explain the emergence of the regime, putting it in the context of the overall non-proliferation agenda and the foreign policy of the U.S.

The construction of a regime to prevent terrorists from obtaining WMD has been clouded by the ongoing, decades-old controversy about its future in interstate relations and has inevitably been entangled in states' divergent positions on this topic. The threat from non-state actors may have been perceived as serious and as requiring urgent action; but other security concerns, mainly regarding inter-state wars, have not disappeared. Consequently, each step taken to confront the terrorist threat has been deliberated with states' comprehensive security vision in the background.

A prerequisite for collective response is that states perceive the severity of the threat to the international society in a similar way. But a consensus on strategy and its compatibility with the fundamental principles of the international society is necessary as well. Normally, the strategy is articulated by the hegemon but must be perceived as serving the general good in order to gain legitimacy and concomitantly induce states' adherence and cooperation.

The obstacles for a collective effort were high to begin with, as the universal non-proliferation regime was continuously weakened during the 1990s. The revelations that Iraq and North Korea had military nuclear programs in violation of the NPT demonstrated the weakness of the treaty. At the same time, the five nuclear powers proved reluctant to accelerate the pace of disarmament, or to guarantee that

they would relinquish the manufacturing of nuclear weapons and the development of new designs of weapons.

Many non-nuclear countries were increasingly discontented with the lack of progress towards disarmament, particularly after the evaporation of the rivalry between the superpowers, the main justification for the nuclear build-up. Under these circumstances, non-nuclear states came to view the early disarmament commitment of the nuclear states in the NPT as no more than lip service. The discontent climaxed in 1995 at the NPT review conference, where an indefinite extension of the treaty was discussed. The pressure on the nuclear states to commit themselves to concrete steps towards disarmament and to provide assurances that they would not attack a non-nuclear state with nuclear weapons and would come to the aid of a non-nuclear state attacked by nuclear weapons bore little fruit. These states provided conditional negative assurances that they would not attack non-nuclear states with nuclear weapons,⁵²⁷ but this move was not enough to stem the resentment of the non-nuclear states. Eventually, the treaty was extended indefinitely but only after a dubious process that did not help in mitigating the anger toward the nuclear states, particularly the U.S.

The NPT review conference was only one episode. Overall, non-nuclear states, especially among the Non-Aligned Movement, have come to view the U.S. as obstructionist and as a bullying force that tries to reinforce its dominance while paying little attention to the interests of other actors. The U.S. is perceived as a serious impediment to the promotion of additional treaties beyond the NPT, specifically the Comprehensive Test Ban Treaty (CTBT), the Fissile Material Cut-off Treaty (FMCT) and the additional protocol to the BWC discussed earlier. Even before 9/11, but particularly afterwards, the U.S. has taken stands that not only did not advance the

⁵²⁷ Security Council Resolution 984 (1995), S/RES/984, adopted on April 11, 1995.

conclusion or entry into force of these treaties but also diminished the prospects of progress in the near future. As of May 2005, the CTBT had 175 signatories, of which 120 had ratified the treaty, including 33 of the 44 states that required before it could enter into force. However, the U.S. (as well as China) has failed to ratify the treaty and shows no sign that it intends to change its approach anytime soon. While the U.S. currently abides by the moratorium on nuclear tests, it refuses to close the option of resuming certain types of testing in the future.⁵²⁸

Similarly, the U.S. is blamed for undercutting the efforts to make progress on the FMCT, whose main target is a cap on the nuclear arsenal of the three nuclear states that are not members of the NPT (Pakistan, Israel and India). The Conference on Disarmament (CD) has so far failed to get negotiations on the treaty underway. The main source of contention surrounds its verification clause. While Britain, Russia, France and the U.S. already abide by the substance of the proposed treaty through unilateral moratoriums on the production of fissile material, negotiations still fail to materialize. The U.S. gave a near deathblow to the treaty in July 2004 when it announced that it would only support negotiations on a treaty without verification clauses."⁵²⁹ Naturally, there is enough blame to go around: the U.S. does not bear sole responsibility for the failure to promote international instruments and the erosion of non-proliferation regimes. However, because no progress is possible without its consent and because it is the easiest target, the U.S. is perceived by many states as the main obstacle.

Not only did the U.S. fail to demonstrate willingness to take accelerated steps towards disarmament; but when George Bush entered office, his administration took steps suggesting a desire to reinforce U.S. reliance on WMD, with apparent disregard

⁵²⁸ Rebecca Johnson, "Politics and Protection: Why the 2005 NPT Review Conference Failed," *Disarmament Diplomacy* 80 (Autumn 2005). www.acronym.org.uk, accessed October 4, 2005.

⁵²⁹ *Ibid.*

for previous agreements. Soon after taking office, the Bush administration abrogated the 1972 Anti-Ballistic Missile (ABM) agreement -- one of the building blocks supporting stability between the two superpowers during the Cold War. Instead, the U.S. declared its intentions to create a shield against ballistic missiles. The U.S. image was also damaged when at the end of 2001 it called for research into new types of nuclear weapons and outlined new uses for them, followed a year later by the publication of a new national strategy in which it declared for the first time that it may preemptively attack foes thought to possess WMD.⁵³⁰

Thus, when al Qaeda hit the U.S., the American stance on WMD was unpopular internationally. Its strategy to prevent terrorists from acquiring WMD following the attack only aggravated the situation and hindered consensus, and consequently effective action. Numerous states around the world agreed with the U.S. following 9/11, when it declared terrorist actors armed with weapons of mass destruction the most serious threat to world peace. But instead of proposing an agenda that would deal with the terrorist threat without further undermining the interstate non-proliferation regimes, the U.S. pursued a strategy that differed significantly from many states' understanding of the threat. In considering the various means by which terrorists may acquire WMD, the Bush administration focused on the risk that states would provide direct assistance to non-state actors. Conveniently, in his 2002 State of the Union address, President Bush emphasized the "axis of evil" (composed of Iraq, Iran and North Korea), arguing for an action to prevent these "rogue states" from providing al Qaeda with weapons of mass destruction.

The emphasis on rogue states, particularly states with which the U.S. had long histories of hostile relations, appeared disingenuous considering the lack of evidence to substantiate the allegations. The confrontation with the "axis of evil" states received

⁵³⁰ "National Strategy to combat Weapons of Mass Destruction," The White House, December 2002.

priority over alternative routes to WMD such as the theft of loose WMD or material from states that lack effective control, the purchase of such weapons and material on the black market, or the independent development of these weapons. Furthermore, despite public statements warning that non-state actors may use unconventional weapons, in the first couple of years after 9/11 there was little noticeable progress in preventing the acquisition of WMD by these alternative means and the programs created for that purpose were quite under-funded⁵³¹ -- all while the U.S. defense budget skyrocketed.

Under these circumstances, the direction in which the U.S. pushed appeared self-serving. Furthermore, the its negative attitude toward universal treaties made it difficult for it to project leadership and to signal willingness to take the considerations and concerns of other states seriously. It is no wonder, then, that the U.S. failed to induce the required international support. Its focus on targeting states came at the expense of measures directed more specifically at preventing non-state actors from obtaining WMD, hindering its ability to elicit cooperation. Not only did the hegemon fail to convince peer states that the strategy it proposed served the collective interest, it also generated fears that it sought to increase its own primacy. As a result, its ability to secure states' cooperation was severely curtailed.

Nowhere was the disagreement over the strategy to contain the danger of WMD proliferation to non-state actors clearer than in the showdown over the war in Iraq. Whereas the U.S. pushed for Security Council authorization to attack Iraq due to its failure to fully comply with the Security Council resolutions demanding complete disclosure and total elimination of its WMD programs, a large coalition of states led

⁵³¹ Mary H. Cooper, "Nuclear Proliferation and Terrorism," *CQ Researcher* 14:13 (April 2, 2004), 300-301.

by France, Germany and Russia advocated giving the UN inspectors more time and allowing Iraq to comply or prove its claims of innocence before rushing to war.

The strong opposition to the war did not prevent the U.S., backed by a “coalition of the willing,” from invading Iraq. But while American hegemony was able to project its power, it could not legitimize its action to the extent it wished. Instead of reflecting a consensus of the international society to curb the threat of WMD falling into the hands of al Qaeda and its operatives, the invasion was perceived by many states as a manifestation of American independent interests that not only fail to advance order in the international system but also undermine order and violate fundamental principles such as non-intervention, respect for international law and the rejection of wars of aggression.

The failure to locate the alleged weapons of mass destruction in Iraq seriously damaged the U.S.’ reputation and the credibility of its intelligence services. Unable to pursue its goals without broad international support, it had to slowly backtrack from its focus on state actors as the main solution to the danger of WMD terrorism. With this policy direction basically blocked, the efforts to suppress the proliferation of WMD to non-state actors were directed at policies that were regarded as compatible with the international society’s fundamental principles and thus could gain broad support.

The U.S. did not abandon its conviction that Iran and North Korea should not be allowed to possess nuclear weapons; it continues to bracket together the proliferation of WMD to states and non-state actors. The mixed approach is evident in President Bush’s seven points plan to strengthen the world’s efforts to stop the spread of deadly weapons. In this plan Bush called for 1) expanding the Proliferation Security Initiative to directly act against proliferation networks; 2) strengthening laws and international controls that govern proliferation; 3) keeping weapons and dangerous

materials out of the wrong hands by increasing programs such as the Nunn-Lugar program; 4) providing states with reliable access at reasonable cost to fuel for civilian reactors, while preventing new states from obtaining enrichment and reprocessing capabilities; 5) requiring states that would like to import equipment for civilian nuclear programs to sign the IAEA additional protocol; 6) beefing up the IAEA's safeguards and verification powers; and 7) preventing countries being investigated for alleged violations of the NPT from holding influential positions in the IAEA.⁵³² But the connection between proliferating states and non-state actors is no longer the center of the U.S. program to prevent terrorists from obtaining WMD. The acknowledgement that its power has limitations is evident in its dealing with the Iranian and North Korean nuclear programs, particularly in its willingness to rely and cooperate with other states and its readiness to consider compromises with the two countries. As a result, it moderates international suspicion and has probably made progress on the non-state actor front easier.

The strategy that now guides the WMD non-proliferation regime follows the same parameters of the general counter-terrorism strategy. It focuses on the adoption of general guidelines for state action but emphasizes states' sovereignty and responsibility toward the international society. It also highlights and encourages inter-state cooperation as a prerequisite to successful confrontation with a transnational threat. Such a strategy is perceived to be in line with the basic principles of the international society and to serve the goal of denying terrorists access to WMD. As a result, it leads states to take costly steps and produces inter-state cooperation to the extent and of the type that the English School -- but not Realism -- predicts.

⁵³²“President Announces New Measures to Counter the Threat of WMD,” Remarks by the President on Weapons of Mass Destruction proliferation, National Defense University, Washington D.C., February 11, 2004. www.whitehouse.gov/news/releases/2004/02/20040211-4.html, accessed September 28, 2005.

The Superiority of the English School Explanation

Why is the English School explanation for states' responses to the threat in the WMD sphere superior to the Realist explanation? The superiority of the English School's perspective lies in three main aspects. First, the English School explains the motive for collective action by anchoring cooperation in a sense of community under attack, which leads the members of the international society to overcome divergent interests and the conflicts that characterize international life in order to protect the system. To protect the system, the members of the international society are willing to overcome "normal politics" and take costly measures even under circumstances when Realists would expect them to pass the buck.

Second, the English School explains the failure of the U.S. to advance a strategy that emphasizes proliferating states despite its hegemonial status. According to this explanation, in order to generate international support the hegemon needs to persuade the other members of the international society that the strategy it is pursuing is in line with the fundamental principles of the international society and serves the collective good, rather than only the intrinsic personal interest of the hegemon. When the hegemon is persuasive, its agenda is perceived as legitimate and its position perceived not merely as a position of primacy but as one of leadership. In the absence of legitimacy, even preponderance of power will not suffice and the hegemon will fail to achieve its goals.

And third, the English School explains why the chosen strategy did eventually gain international support and legitimacy. It argues that this strategy was accepted because it corresponds to the fundamental principles in which the operation of the international society is grounded. Moreover, it explains that because the members of the international society are cooperating to protect the system, their actions are expected to focus on: 1) reinforcing the State and its capabilities, manifested in

improving states' control over weapons and material in their territory, and building legal and bureaucratic infrastructure to trace, prosecute and punish entities that seek, trade, transfer or produce such prohibited items; 2) targeting the type of entity that represents the threat to the survival of the system, non-state actors; 3) preserving the primacy of states' sovereignty while emphasizing the responsibility of each state to the international society; and 4) encouraging interstate cooperation to improve states' ability to realize their responsibilities and because the borderless nature of the threat necessitates increased cooperation.

Some of these elements were presented by Linton Brooks, American ambassador to the IAEA, in the agency's conference on nuclear security (London, March 2005). Brooks stated that the foundation for preventing terrorists' access to nuclear weapons is for each state to realize its responsibilities as a sovereign state "whether that is trade and border or regulation of nuclear materials or nuclear facilities that are in conformance with international regimes." At the same time, Brooks argued that the weakness of the existing nonproliferation regimes and the lack of coherence among the different treaties and arrangements hinder progress towards a robust regime.⁵³³ The steps taken following 9/11 address this gap through multilateral channels that highlight both states' sovereignty and states' responsibilities.

A Realist may argue that this strategy was selected because it bears the lowest costs for states; but such an argument undercuts the Realist emphasis on the hegemon's ability to advance its preferences. As we have seen, to understand the changes in the hegemon's preferred strategies over time, one cannot rely solely on material explanations; the overwhelming preponderance of hegemonic power could not generate more than modest support for its initial agenda.

⁵³³ Ambassador Linton Brooks, "Preventing Nuclear Terrorism a Responsibility of Each Nation," Address in the International Conference on Nuclear Security: Global Directions for the Future, London, March 16-18, 2005, www.usembassy.it/file2005_03/alia/a5032107.htm, accessed September 25, 2005.

As I have demonstrated, the misguided direction in which the U.S. tried to lead following 9/11 explains the slow progress in the attempts to advance a regime to prevent non-state actors' access to WMD. For such a regime to succeed, strong encouragement and direction by the hegemon were needed. But the U.S. failed to convince the other members of the international society that it was not pursuing its own hegemonial interests, divorced from the interests of the collective. As a result, the international society was left without a clear strategy and without the necessary leadership to advance that strategy. Some steps had been taken, in particular those designed to secure WMD and related material in the former Soviet Union and Eastern Europe; but these actions were the exception rather than the rule, and progress made on that front during the first three years following 9/11 was meager. Most of the action was taken after the U.S. had already occupied Iraq, around the time that the U.S. was forced to acknowledge the limits of its power. Only when states' expectations converged on a policy perceived as serving the collective interest could the new regime move forward.

Note that even after the U.S. changed course, it still had the primary influence over the shaping of the emerging regime, as the English School expects. Indeed, the framework for action that was adopted reflects the U.S. inclination to work in multilateral framework but without compromising its freedom of action by handing too much authority to international organizations.

Close reading of the components of the new regime further indicate the superiority of the English School explanation. Security Council resolution 1540, for example, is a path-breaking step in the field of WMD non-proliferation. Numerous states expressed their apprehension about the procedures in which the resolution was adopted and the precedent it might create. Many states worried that the Security Council assumed legislative authority in this resolution, imposing treaty-like

obligations on states without allowing them the right to refuse. Such apprehension should have translated into loud denunciations of the resolution had Realism been right. However, in reality, most states put their fears aside and conceded that the international society faced a grave threat requiring quick action. They also acknowledged that the gaps in the existing universal instruments to prevent proliferation required immediate and unconventional remedy, which resolution 1540 could provide.

Consequently, the members of the Security Council adopted the resolution unanimously, even gaining the support of the resolution's critics. They also agreed to establish the 1540 committee despite the fears it evoked. The members of the Non-Aligned Movement were vocal in their call for the total elimination of WMD as the best way to confront the threat but eventually joined the consensus, gaining nothing beyond a vague reference to the importance of disarmament and non-committal statements that the resolution would not be abused. The consensus on the resolution must be seen against the background of a very divided council in which even small states were much less timid of the U.S. than Realism would expect, demonstrating their willingness to vote against resolutions with which they disagreed (as the events leading to the war in Iraq attest). The resolution enjoyed the support of the nuclear states outside the NPT framework (India, Israel and Pakistan). The position of these states is a good indicator for the motives behind the collective response. Due to their nuclear status and their reluctance to support multilateral efforts in the nuclear sphere, they have reason to be anxious about the expanding role of the Security Council, yet they found the subject worthy of their support. They have also already taken steps to comply with the resolution requirements: India and Israel even joined the Convention on the Physical Protection of Nuclear Material.

Aspects of the PSI also lend support to the English School explanation. The PSI is completely voluntary, and still states take steps that could suspend their sovereignty rights and may even put them in uncomfortable situations if prohibited cargo were found on a vessel carrying their flag. In comparison, Realists claim that unless forced, or at least significantly rewarded, states will sanctify their sovereignty rights. The composition of the states that participate in the initiative is also instructive; many of these states can easily withstand the hegemon's power if they wanted to, yet they choose to cooperate.

Support for the English School position can also be found in the U.S. decision not to seek the inclusion of an extended form of preemptive self-defense within the initiative as one of the legal justifications for interdictions on the high seas.⁵³⁴ The U.S. did not abandon its claims that preemption is derivative from the right to self-defense and is therefore permissible and legitimate. John Bolton, who was the architect of the PSI when he served as the U.S. under-secretary of state for arms control, was very explicit that the U.S. sees interdiction on the high seas in case of necessary self-defense as a real possibility.⁵³⁵ But his comments on this matter met strong objection among U.S. allies. Therefore, the American restraint should be attributed to the requirements of gaining international support for the initiative to which preemption would have been devastating. Thus, the U.S. hegemony, aware of its limitations, sought more limited goals within the consensus among the members of the international society, goals perceived as being in line with the core principles of the society of states.

The substantial increase in the membership in the treaty on physical protection of nuclear material, the amendment of that treaty, and in particular the conclusion of

⁵³⁴ Byers, "Policing the High Seas," 540-542.

⁵³⁵ Cited in Byers, "Policing the High Seas," 541.

the nuclear terrorism treaty do not sit comfortably with the Realist position. Realists expect the strong power to force its way if it can and the weaker states to oppose the treaty if it incurs significant costs. The process of treaty construction enabled the Non-Aligned Movement to derail the efforts to conclude the nuclear terrorism treaty, but they chose not to do so despite the lack of side payments. Evidently, systemic necessities proved stronger than the Non-Aligned Movement's aspiration to use the treaty as leverage in its campaign to force the nuclear states to commit themselves and take concrete steps towards disarmament. Instead, they chose to support a treaty that entails additional international obligations, requires high expenditures and provides little payoffs in the short term.

Likewise, Realism does not expect states to shoulder the burden of securing nuclear material in the former Soviet Union, particularly when the American hegemon's interest in the mission is conducive to free-riding. In reality, G8 members have been willing to share the burden of securing WMD, material and facilities, and additional states have volunteered to contribute. This evidence bolsters the English School claim that facing a systemic threat, the members of the international society will demonstrate high capacity to cooperate and collectively confront that threat.

Conclusions

The regime to prevent non-state actors from obtaining WMD and related material is evidence of the inclination of the members of the international society to preserve the system and their ability to cooperate as a result. The uniqueness of this case stems from the sensitivity and complexity of non-proliferation politics that go back many years, long before the emergence of the al Qaeda threat. To create this regime, members of the international society had to disentangle the risk of proliferation to non-state actors from that of proliferation among states. Further complicating the efforts was the rift between the American hegemon and numerous members of the

international society, which instead of unquestioningly accepting the hegemon's leadership and program feared that it was abusing its power.

The English School explanation provided in this chapter elucidates the dynamics that characterized the emergence of the new regime. It demonstrates the weakness of a Realist account that focuses on material capabilities, while showing the strength of an explanation that highlights elements such as persuasion, appropriate action, leadership and the good of the collective. Indeed, this chapter demonstrates how international cooperation against the threat of possession of non-conventional weapons by non-state actors would require the American hegemon to propose an agenda compatible with the fundamental principles of the international society and serving the common good before it could achieve the international society's support.

However, while states may have argued about strategy, they shared the perception of threat. Thus, once a proposal met the accepted parameters of how the society of states should address the threat posed by non-state actors -- universal uniformity about the general policy guidelines, accompanied by confirmation of states' sovereignty, emphasis on states' responsibilities towards their fellow states, and the promotion of interstate cooperation -- states started collaborating and demonstrated their aptitude to incur costs. Even states not exposed to acute and immediate threat are taking part in the collective effort. Thus, the newly emerging regime to deny non-state actors access to WMD provides further evidence that facing a systemic threat, the members of the international society are inclined to band together to fend off the threat.

Chapter Eight: **Non-Systemic Threats: The PLO**

Introduction

The salience of transnational terrorism reached an unprecedented magnitude subsequent to 9/11, but it was neither novel nor unacknowledged in earlier decades. During the late 1960s and throughout the following decade, numerous countries worldwide faced terrorism perpetrated by scores of groups of different nationalities. Yet, terrorism was most commonly associated with the operation of Palestinian organizations. Ariel Merari and Shlomi Elad counted 435 terrorist acts committed by Palestinian groups outside of Israel, beginning with the hijacking of an El Al plane in July 1968 by the Popular Front for the Liberation of Palestine, and ending in 1984.⁵³⁶ While roughly one-third of the attributable Palestinian attacks were directed at Israeli targets, a significant two-thirds targeted other actors.⁵³⁷

As Palestinian terrorist groups operated in over sixty countries stretching over five continents,⁵³⁸ one might have expected the members of the international society to join hands and combat Palestinian terrorism together. Even states that were not directly threatened, but served only as the playing field for terrorists, would have been expected to view Palestinian terrorism as a problem worth significant attention because it violated their sovereignty and challenged their monopoly over the legitimate use of force. One would also have expected the potential loss of reputation resulting from inaction or failure to deal with the terrorists, and the ramifications of such a loss on the activities of homegrown terrorists, to contribute to states' interests

⁵³⁶ Ariel Merari and Shlomi Elad, *The International Dimension of Palestinian Terrorism* (Westview Press, Boulder, Colorado, 1986), 5.

⁵³⁷ *Ibid.*, 47

⁵³⁸ *Ibid.*, 54-55.

in combating Palestinian terrorism. Furthermore, the repeated assaults on the aviation industry should have reinforced its perception as an international problem.⁵³⁹

Yet, despite the large number of states affected, the lethality of the attacks and the longevity of this campaign, states failed to tailor a unified approach to deal with the problem or to cooperate against Palestinian terrorism. This is especially striking considering that the main victims of this terrorism (excluding Israel), particularly of airplane hijackings,⁵⁴⁰ were rich and capable Western countries.

The variation in states' responses is best illustrated by the following case. In October 1985, a group affiliated with Fatah hijacked the Italian cruise ship *Achille Lauro* near the shores of Egypt. During the high-profile hijacking, the terrorists murdered a wheelchair-bound elderly American of Jewish ethnicity. After negotiations in Egypt, the hostages were released and the terrorists quickly left the country. As the story unfolded, four countries reacted to the attack: Egypt provided the terrorists safe passage out of Egypt, but lied to the U.S., first about the terrorists' location and then about its decision to allow them free passage. U.S. intelligence, however, traced the terrorists and intercepted the airplane that spirited them out of Egypt, forcing it to land on Italian soil. The Italians were less determined to face the terrorist group, refusing to hand them over to the U.S. and rushing to set them free.⁵⁴¹ Israel was the fourth actor: in retaliation for the murder of a Jewish man, it carried out an air strike against the PLO headquarters in Tunis.⁵⁴²

⁵³⁹ Between July 1968 and August 1978, the Palestinians and their allies carried out 35 hijackings or airport related attacks; the PFLP's simultaneous hijacking of four airplanes is considered the largest attack on the aviation industry to take place before 9/11. See Peter St. John, *Air Piracy, Airport Security, and International Terrorism: Winning the War Against the Hijackers* (Quorum Books, New York, London, 1991), 21-25. On the history of air piracy before Palestinian terrorist groups adopted this tactic, see *ibid.*, 1-10.

⁵⁴⁰ *Ibid.*, 138.

⁵⁴¹ *Ibid.*, 156-158.

⁵⁴² Anat N. Kurz, *Fatah and the Politics of Violence: The Institutionalization of a Popular Struggle* (Sussex Academic Press, Brighton, 2005), 191.

Attempting to account for states' failure to cooperate against terrorism, Paul Wilkinson lists a number of explanatory factors: 1. States lacked a framework for coordinating and directing cooperation in the issues of internal security, law and order. Not even NATO had been accepted as an appropriate organizational framework. 2. States were too attached to their sovereignty, jealously fighting to retain sovereign control. 3. Some states, not accustomed to terrorism, failed to perceive the magnitude of the threat and lost any enthusiasm for action after the outrage following the attack dissipated. 4. Western states were reluctant to endanger commercial outlets and sources of oil and raw materials by taking tough action; some states feared other forms of revenge. 5. Most states demonstrated double standards by accepting some acts of terrorism as the operation of "freedom fighters."⁵⁴³

This chapter examines states' responses to the terrorist threat posed by Palestinian terrorist groups. It focuses on the terrorist activities of the PLO, in particular on the activities of the Fatah movement that led the PLO after 1969, and on the PFLP, which was a dominant force in transnational terrorism. These two groups did have to take the interests of Arab states into account, yet insisted on preserving their independence and were not subordinate to any state.⁵⁴⁴ The period surveyed starts in 1968, the year in which the PFLP shifted some of the Palestinian operations to the international arena. It ends in the 1980s, with the marginalization of transnational terrorism in the activities of these organizations.

⁵⁴³ Paul Wilkinson, "Trends in International Terrorism and the American Response," in Lawrence Freedman, Christopher Hill, Adam Roberts, R.J. Vincent, Paul Wilkinson and Philip Windsor, *Terrorism and International Order* (Royal Institute of International Affairs, Routledge, London, 1986), 48-49.

⁵⁴⁴ During most of the period examined in this chapter, the PFLP was a member of the PLO. However, the structure of the PLO did not provide its leadership effective control mechanisms over the various Palestinian factions. As a result, the PFLP was able to promote its independent agenda even though it often conflicted with the policies the Fatah-led leadership of the PLO tried to dictate.

The expectations of the English School and the Realist paradigm converge in the Palestinian case. Realism expects states to act according to their short term interests and predicts that they would prefer not to confront the threat directly and pass the buck when they believe that the price of doing so would be low. The English School expects to see similar behavior, but for a different reason. In its perspective, it is not states' inability to cooperate under anarchy that determines their response to transnational terrorism, but rather the nature of the threat: because the threat presented by Fatah and the PFLP was not systemic and the Palestinian groups aspired to eventually be incorporated within the existing international society, states were left to tackle the threat independently.

The chapter comprises three sections. The first provides a brief overview of the evolution and actions of the PLO, Fatah and the PFLP at the peak of Palestinian transnational terrorism. A discussion of the non-systemic nature of the threat these actors represented follows. Lastly, in the third section, I detail the variety of states' responses, examining in particular those states that were directly exposed to the threat.

History

The actors

In January 1964, the Arab League called for the establishment of a Palestinian organization that would enable Palestinians to contribute to the liberation of their homeland. Responding to the call, four months later the Palestinian representative in the Arab League, Ahmed Shukairy, convened the first meeting of the Palestinian National Council (PNC), where the PLO was officially established.⁵⁴⁵

Observing the proliferation of independent Palestinian organizations, the Arab states opted to create one central Palestinian organization that would serve as a device

⁵⁴⁵ Mohamed E. Selim, "The Survival of a Nonstate Actor: The Foreign Policy of the Palestinian Liberation Organization," in Bahgat Korany and Ali E. Hillal Dessouki (eds.), *The Foreign Policies of Arab States* (Westview Press, Boulder, Colorado, 1984), 199.

to both control the inclination toward activism among Palestinians and address inter-Arab pressures pertaining to the Arab-Israeli conflict.⁵⁴⁶ Shukairy was nominated president of the PLO's executive committee. This choice reflected the aspiration of the Arab states to deny the newly born organization political, military and financial independence. Indeed, the Arab governments exerted tight control over the PLO in its first years.⁵⁴⁷

Not all Palestinian organizations agreed to join the PLO. Some were not even invited. As a result, when it was created, the groups that later led the violent struggle were not represented. They joined the PLO only later, and, carried on the wave of enthusiasm for their violent struggle, took control of the PLO.

The Fatah movement became the PLO's main faction. Fatah -- the reverse acronym of the Arabic Harakat al-Tahrir al-Watani al-Filastini (Palestinian National Liberation Organization) -- was formally founded in Kuwait in October 10, 1959, by a small core of Palestinian refugees.⁵⁴⁸ The organization issued a political program centered on the liberation of the whole of Palestine and the complete destruction of what it termed "a colonialist, Zionist occupation state and society." Fatah also agreed on two fundamental principles that would guide the movement in its pursuit of these goals: complete independence of the organization and its decision making from Arab governments, and the primacy of the armed struggle as the sole means of liberating Palestine.⁵⁴⁹

In 1965, in reaction -- to the establishment of the PLO, Fatah hastened to launch its violent struggle.⁵⁵⁰ Some initial discussions about a merger with the PLO ensued,

⁵⁴⁶ Aaron David Miller, *The PLO and the Politics of Survival* (Praeger Publishers, New York, 1983), 21-23; Kurz, *Fatah and the Politics of Violence*, 35-36.

⁵⁴⁷ Kurz, *Fatah and the Politics of Violence*, 37.

⁵⁴⁸ Yezid Sayigh, *Armed Struggle and the Search for State: The Palestinian National Movement 1949-1993* (Clarendon Press, Oxford, 1997), 81-87.

⁵⁴⁹ *Ibid.*, 87-89.

⁵⁵⁰ Kurz, *Fatah and the Politics of Violence*, 37-38.

but ended without results.⁵⁵¹ Subsequent to the colossal defeat of Syria, Egypt and Jordan in the 1967 war, the appeal of Fatah's strategy of violent Palestinian struggle independent from the control of the Arab states increased. Its perceived success in facing Israeli forces in Karameh (1968) paved the way for its participation in and eventual takeover of the PLO in the PNC's fifth meeting in 1969. One of the prominent figures in Fatah's collective leadership, Yasser Arafat, was declared chairman of the PLO. This leadership position, although significant, did not imply exerting effective control over the organization. Instead, its power was reduced mainly to brokerage among the various PLO factions.⁵⁵²

The PFLP was Fatah's staunchest rival in the Palestinian arena. Created in 1968 as a result of the merger of three small Palestinian groups, the PFLP became the main instigator and perpetrator of international terrorism among the Palestinian groups.⁵⁵³ Its erratic relationship with the Fatah-led PLO led it to temporarily sever its ties with the PLO on a number of occasions. For example, in 1974 the PFLP withdrew from the executive committee of the PLO and headed an anti-Fatah coalition after the PNC had adopted the phases plan and approved the use of diplomacy to support the armed struggle.⁵⁵⁴

The turn to international terrorism

The PFLP was the first Palestinian group to take the Palestinian violent struggle outside the Middle East, with the 1968 hijacking of an El Al flight on its way from Rome to Tel Aviv. The captors forced the pilot to fly to Algiers, where they demanded the release of Palestinians jailed in Israeli prisons in return for the release of the passengers. Similar operations and attacks on El Al offices throughout the world

⁵⁵¹ Ibid., 39.

⁵⁵² Selim, "The survival of a Nonstate Actor," 200-201.

⁵⁵³ Miller, *The PLO and the Politics of Survival*, 26.

⁵⁵⁴ Ibid., 34.

ensued.⁵⁵⁵ Gradually, other Palestinian groups that competed with the PFLP followed the direction it set and shifted the bulk of their operations to the international arena as well.⁵⁵⁶

While internal competition played a significant role, the attractiveness of international terrorism should be seen against the background of the constraints imposed on the operation of the Palestinian factions in the Middle East, particularly the loss of Jordan as a staging ground. Shortly after the 1967 war, the main Palestinian groups attempted to organize guerrilla-based revolt in the territories Israel had just conquered. But they were ill-prepared, and Israel's harsh counter-insurgency tactics hastened the collapse of this move.⁵⁵⁷ The Palestinians then shifted their focus to cross-border operations, mostly from Jordanian territory.

The vicinity of the Hashemite Kingdom to the occupied West Bank and Jordan's vast Palestinian population made it a desirable logistical base and a convenient launching pad for attacks on Israel. Israel reacted to the Palestinian attacks by escalating the violence through repeated attacks deep in Jordanian territory. The escalation weakened the Kingdom, while the Palestinian factions only grew more self-confident and extended their hold within the Jordanian state. In fact, the armed Palestinian contingency created a "state within a state" on Jordanian territory. Their influence was so strong that the Jordanian king asked Yasser Arafat to form a government and to serve as Jordan's Prime Minister.⁵⁵⁸

The armed Palestinians gradually became an acute challenge to Jordan's sovereignty and to the stability of its regime. Discussions on the merits of replacing the regime in Amman were not uncommon; the PFLP even supported and hoped to

⁵⁵⁵ Simon Reeve, *One Day in September* (Arcade Publishing, New York, 2000), 30-31.

⁵⁵⁶ Sayigh, *Armed Struggle and the Search for State*, 215.

⁵⁵⁷ *Ibid.*, 156-173.

⁵⁵⁸ *Ibid.*, 252-253.

incite a coup.⁵⁵⁹ Attempts to establish rules of conduct that would allow the Palestinians to continue to use Jordan as their base while respecting the Kingdom's authority resulted in agreements that, at best, proved to have little effect in reality.⁵⁶⁰

Showdown became inevitable. The trigger was another incident of international terrorism: in September 1970, the PFLP carried out a simultaneous hijacking of Western airplanes. One airplane landed in Cairo, where the hostages were released and the plane bombed. Two others were flown to an old airstrip in Zarqa, Jordan, where they were joined a couple of days later by another hijacked airplane. After orchestrating a several days long media show, the PFLP released the hostages and bombed the empty airplanes.⁵⁶¹ The Jordanian reaction was swift: it perceived the hijacking and the PFLP refusal to comply with their commitment to respect Jordanian authority as a blatant demonstration of defiance towards the Jordanian hosts that ought to have been treated with the utmost seriousness. Consequently, King Hussein ordered a major offensive against the armed Palestinian factions and terminated their presence in the Kingdom, while inflicting enormous losses on them.

Thousands of fighters were redeployed to Lebanon, where the presence of armed Palestinians had already been on the rise for a few years. But Lebanon was still not considered an ideal staging ground for guerrilla fighting against Israel. While it worked rapidly to solidify its position, it would be some years before the PLO could fully regroup there. Under these circumstances, transferring the resistance outside the Middle East became increasingly appealing.

After the expulsion from Jordan, internal pressures within Fatah led to the establishment of the Black September Organization (BSO) as an offshoot of Fatah and

⁵⁵⁹ Ibid., 254.

⁵⁶⁰ Kurz, *Fatah and the Politics of Violence*, 51-63.

⁵⁶¹ The plot included also the hijacking of an El Al airplane; but this attempt was thwarted by Israeli security personnel.

its main arm to carry out terror operations. The establishment of the BSO, despite Fatah's earlier misgivings about the merits of international terrorism, marked the convergence of most Palestinian terror groups around international terrorism featuring spectacular attacks. The BSO carried out dozens of attacks throughout the Middle East, Western Europe and elsewhere. In these assaults, it attacked Israeli targets as well as American, Jordanian and others. Among its operations, the BSO was responsible for the assassination of the Jordanian Prime Minister in Cairo in November 1971,⁵⁶² the killing of Israeli athletes in the 1972 Olympic Games in Munich, and the attack on the Saudi embassy in Sudan. The organization even sent a letter bomb to President Nixon.⁵⁶³

Overall, Merari and Elad counted 435 terrorist acts committed by Palestinian groups outside of Israel between 1968 and the end of 1984. Of those, 343 could be attributed to specific groups. Fatah was responsible for at least 36 attacks, many (but not all) directed at Arab targets. In addition, the Black September Organization executed 66 acts of international terrorism between 1971 and 1974. The PFLP was responsible for 63 of the attributable attacks; the bulk of them, 51 attacks, were carried out before the end of 1974.⁵⁶⁴

Until 1970, only Israeli, Jewish and Western targets were hit. After the expulsion of the PLO from Jordan, Arab states, and especially Jordan, were targeted as well. While Israeli targets were prominent, accounting for roughly one-third of all accountable Palestinian attacks, two-thirds of the attacks were directed at non-Israeli targets, including one-third against Arab targets.⁵⁶⁵ In some of the attacks against Arab states, Palestinian terrorists were used as proxies of rival Arab states. This, however,

⁵⁶² Reeve, *One Day in September*, 21.

⁵⁶³ Merari and Elad, *The International Dimension of Palestinian Terrorism*, 58.

⁵⁶⁴ *Ibid.*, 43-45.

⁵⁶⁵ *Ibid.*, 47-48.

was not the case with Fatah and the PFLP, which acted independently, largely free from state control. Even when the state-sponsored attacks are excluded, the number of attacks initiated by Palestinian organizations against Arab targets is still significant.

Merari and Elad counted attacks against targets in twenty-eight different countries. When we add to the count countries from which terrorists departed to their missions, countries where attacks took place, and countries that served as takeoff or landing points (in airplane hijackings), we count over sixty nations exposed to international terrorism committed by Palestinian groups.⁵⁶⁶ No Eastern Bloc countries were targeted by Palestinian international terrorism. Among the Western countries targeted, the U.S. incurred over one-third of the attacks, at a rate of about two per year. Attacks directed at Western European targets were usually undertaken to secure the release of terrorists held in European prisons, or to hit Jewish targets.⁵⁶⁷

The decline of Palestinian international terrorism

Subsequent to the 1973 war, the PLO sensed that the Arab states were increasingly willing to consider a political settlement with Israel in order to retrieve the territories they had lost. The PLO feared that such rethinking might lead the Arab states to accept Israel's right to exist and compromise the interests of the Palestinians. A change of strategy was needed; it came in the form of the phases plan adopted in June 1974 during the twelfth conference of the PNC. The PLO still adhered to the goal of recovering the whole territory of Palestine and reaffirmed its commitment to the violent struggle; but for the first time it adopted the interim goal of establishing a Palestinian state on any liberated part of the territory and agreed to use diplomatic means to complement and support the violent struggle.⁵⁶⁸

⁵⁶⁶ Ibid., 114-118.

⁵⁶⁷ Ibid., 52-53.

⁵⁶⁸ Kurz, *Fatah and the Politics of Violence*, 80.

Another aspect of the new thinking within the ranks of the PLO was the suspension of international terrorism. Most of the Palestinian organizations agreed that at that stage the continuation of operations outside Israel, in particular airplane hijacking, would be counterproductive. Moreover, a retreat was necessary in order to solidify the PLO's diplomatic position in the international arena and gain recognition that would guarantee its participation in any planned negotiations on the future of the Palestinian people.⁵⁶⁹

The use of terrorism abroad did not stop completely; another surge of international terrorism followed the conclusion of a peace treaty between Israel and Egypt in 1979, but it was short-lived and led by state sponsored factions.⁵⁷⁰ The adherence to the decision not to act outside the Middle East stood an especially serious test after the retreat of the PLO from Lebanon subsequent to the Israeli invasion in 1982. It is instructive that even extreme factions such as the PFLF and the Fatah rebels who challenged Arafat's leadership in 1983 rejected a return to international terrorism as a strategy.⁵⁷¹ Nevertheless, PLO factions, including some affiliated with Fatah and splinters of the PFLP, did occasionally stage acts of international terrorism. In 1985, after the disclosure of PLO involvement in some terrorist attacks including lethal attacks against Israeli targets in Cyprus and Spain and the *Achille Lauro* affair, Egyptian President Mubarak convinced Arafat to pledge to abstain from terrorism outside Israel and the Palestinian territories occupied in the 1967 war.⁵⁷²

PLO as a Non-Systemic Threat

While the threat represented by the PLO's campaign of international terrorism was pervasive and affected numerous countries, it was not a systemic threat. Palestinian

⁵⁶⁹ Merari and Elad, *The International Dimension of Palestinian Terrorism*, 32-33.

⁵⁷⁰ *Ibid.*, 36.

⁵⁷¹ *Ibid.*, 37-41.

⁵⁷² Kurz, *Fatah and the Politics of Violence*, 109, 191.

terrorism challenged states' monopoly over the legitimate use of coercive means, but this challenge was no more than the inherent one embodied in the operation of any violent non-state actor. Such a challenge, as long as it is restricted, is often tolerated by the international society under the pretext of a struggle against foreign occupation and aggression. To be considered a systemic threat, a violent NGO must meet additional criteria, as discussed in the second chapter. In this section, I elaborate the argument that the PLO, and in particular its Fatah and PFLP factions, did not constitute a systemic threat.

The actors' names provide a first crude indication. The PLO, Fatah and the PFLP all emphasized Palestine -- a territorial unit -- in their names. As the names attest, the focus of these groups is narrow and concrete: it is the establishment of an independent Palestinian state. This aspiration locates the Palestinian terrorist groups within the statist camp of terrorist organizations, comprised of entities that seek to obtain statehood for their constituency and aspire to become equal actors within the international society rather than to overthrow the system.

Despite the tension between the actions of the Palestinian terrorist groups and the fundamental principles of the international society, these groups adopted the discourse of the society of states, in their declarations attempting to convey that the acts were consistent with the principles and norms guiding the society of states. For example, the violent struggle was portrayed as self-defense and, therefore, legitimate and consistent with international law.⁵⁷³ The Palestinian terrorist groups also argued that their actions were not a violation of the principle of sovereignty, arguing that since Israel does not have the right to become a state, it does not have sovereignty that

⁵⁷³ Yehoshafat Harkabi, *The Palestinian Covenant and Its Meaning* (Valentine, Mitchell, NJ, 1979), 75-76.

could be violated. This view of the legitimacy of Israel's statehood led PLO leaders to refer to Israel not as a state but as the "Zionist entity."⁵⁷⁴

The PLO tried also to assert that once the Palestinians achieved the sovereignty that was unjustly denied from them, they aspired to join the "peace-loving countries." In the same vein, they appealed for international support to allow them to take their place in the society of states. "The Palestinian people, desirous as they are of the friendship of all people, look to freedom-loving, justice-loving, and peace-loving states for support in order to restore their legitimate rights in Palestine, to re-establish peace and security in the country, and to enable its people to exercise national sovereignty and freedom."⁵⁷⁵

While the Palestinian groups made it clear that they did not reject the principle of state sovereignty, their attempts to argue that their acts were not inconsistent with the practices of sovereignty rang especially hollow when they carried out attacks outside Israel. Nevertheless, they were in a large company of actors -- many of them states -- who violated the practices of sovereignty even while consenting to its principles.⁵⁷⁶ The Palestinian terrorist groups tried to explain those violations as the result of necessity and of the constraints that prevented Palestinians from obtaining their rights in a manner more acceptable in the international society.

Examination of the goals and ideologies of Fatah and the PFLP emphasizes their statist-oriented nature. They sought to create a Palestinian state, not to destroy the whole system. The Palestinian covenant -- written in 1964, shortly before the establishment of the PLO, and amended in the fourth PNC in July 1968 to accommodate the Palestinian resistance groups -- provides a useful view into the

⁵⁷⁴ For example, see Address by H.E. Mr. Yasser Arafat, Chairman of the Palestinian Liberation Organization before the 29th Session of the United Nations General Assembly, November 13, 1974.

⁵⁷⁵ Harkabi, *The Palestinian Covenant and Its Meaning*, 75-76.

⁵⁷⁶ Krasner, *Sovereignty*.

ideology that bound the Palestinian factions together. The declared objectives of the PLO were the creation of one democratic state in the territory of mandatory Palestine,⁵⁷⁷ the termination of the Zionist entity and the return of the Palestinian people to their land. This democratic state would embrace secularism, political accountability, popular participation, protection of basic liberties and social justice.⁵⁷⁸

The covenant rejects the right of Israel to exist. Yet this is not a negation of the principled right of a sovereign state to exist, but rather a manifestation of a zero-sum game: Israel must disappear because Palestine is the homeland of Palestinians. Moreover, Palestine is an indivisible unit that belongs to the Palestinian people. Therefore, the whole of Palestine needs to be restored to them. At the same time, Israel does not have a right to exist because Jews do not meet the criteria for self-determination: the Jews are not a nation and they settled on a territory they occupied rather than rightly owned.⁵⁷⁹

The choice of Arabic word for the adjective “national” in the covenant also indicates the Palestinians’ limited aspirations. In its first version, the covenant used the word *qawmi*, which means “national” in the sense of pan-Arab, ethnic nationalism (reflecting Arab tutelage over the Palestinian movement at that point). However, in the 1968 version, the word used is *watani*, which means national in its limited sense, limited territorial framework and patriotism of a specific Arab country.⁵⁸⁰

Under the leadership of Fatah, the PLO viewed the global system as undergoing a transformation due to the breakdown of the older, imperialist, colonialist and racist order. According to this view, the Western countries, in particular the U.S. and Britain, were the main adversaries of all national liberation movements, including

⁵⁷⁷ In Harkabi’s view, the PLO’s notion of democracy is very remote from what Western audiences had in mind, but the reference to democracy was intended to serve the political goals of the PLO.

⁵⁷⁸ Selim, “The Survival of a Nonstate Actor,” 215-216.

⁵⁷⁹ Harkabi, *The Palestinian Covenant and Its Meaning*, 11-12, 78-80.

⁵⁸⁰ *Ibid.*, 27-33.

the PLO; whereas the Soviet Union, China and the other socialist states were major supporters of the national liberation movements and the non-aligned movement.⁵⁸¹

In the regional context, the PLO viewed itself as part of the Arab nation. It saw Arab unity as supportive of (and supported by) the creation of an independent Palestinian state rather than in opposition to it. The Palestinian covenant explicitly stated that each one paves the way for the other. The mutual commitment among Arab states requires them to support the Palestinian struggle and to serve as bases of operation from which to attack Israel. However, this brotherhood was not without limits: it did not give the Arab states the right to intervene in the decisions of the Palestinians.⁵⁸² Thus the emphasis on the Arab states' obligation to support the Palestinian cause was significantly utilitarian, resulting largely from the fear that without such support the Palestinians would be unable to achieve their goals.

The ideology of the PFLP also did not deviate from acceptability within the state system. It rested on three pillars: Palestinian nationalism, Arab unity and Marxism-Leninism.⁵⁸³ Like Fatah, the PFLP focused on the liberation of the whole territory of Palestine and the establishment of a Palestinian state. But the PFLP saw this state as a catalyst for change in the greater Middle East. The establishment of a Marxist-Leninist, Pan-Arab state should follow the establishment of a Palestinian state.⁵⁸⁴ Despite these plans, in reality the group focused on the Palestinian issue, paying only lip service to the "planned" next stage.

The PFLP argued that the Western countries felt deep animosity toward the Arab world, which led them to create the state of Israel as their beachhead and the protector of their interests in the region. But the alleged Western conspiracy also

⁵⁸¹ Selim, "The Survival of a Nonstate Actor," 211-212.

⁵⁸² Ibid., 212-213.

⁵⁸³ Yonah Alexander, *Palestinian Secular Terrorism* (Transnational Publishers, Ardsley, NY, 2003), 33.

⁵⁸⁴ Ibid., 33-34.

included an alliance with the rulers of the oil producing states. These rulers sold the West under-priced oil, thereby filling their own pockets at the expense of Arab countries and peoples. Moreover, the Arab bourgeois class cooperated with their Jewish counterpart, against the Arab interest, to establish the Israeli state.⁵⁸⁵ Thus, the Palestinian state could be established only with the overthrow of the bourgeois elite and the representatives of “world imperialism” among the imperialist Arab regimes.⁵⁸⁶ Consequently, in addition to its effort to liberate Palestine, the PFLP called for the overthrow of pro-Western Arab governments and the weakening of Western economies.

Despite its rhetoric, scholars dismissed the PFLP’s Marxist zeal as no more than cheap talk reflecting utilitarian considerations, for example, to carve a unique position within the Palestinian camp for the organization. Harold Cubart argues that the PFLP seemed to shift its priorities with every major international or regional realignment, keeping constant only the fundamental aim of eliminating Israel and replacing it with an independent Palestinian state.⁵⁸⁷ Furthermore, the international society already included a substantial number of states that claimed to cling to a Marxist ideology, while in practice accepting the constraints that membership in the international society imposed and consequently limiting the application of their ideology to the territory under their control.

The narrow scope of Palestinian ambitions can be illustrated by the debate about the phases plan and the willingness of the PLO to establish authority in parts of Palestine.⁵⁸⁸ This territory was to serve as a base from which the campaign to liberate

⁵⁸⁵ Selim, “The Survival of a Nonstate Actor,” 210.

⁵⁸⁶ Miller, *The PLO and the Politics of Survival*, 26-27.

⁵⁸⁷ Harold M. Cubart, *The PFLP’s Changing Role in the Middle East* (Frank Cass, London, 1997), IX.

⁵⁸⁸ Harkabi, *The Palestinian Covenant and Its Meaning*, 20. Some debates on such formulae started in the aftermath of the 1967 war, but they were quickly decided in favor of the advocates of the non-compromising approach. See Kurz, *Fatah and the Politics of Violence*, 74-75.

the whole territory would be waged. The PFLP strongly objected to this formula, viewing it as a harmful concession and a retreat from fundamental principles. The scope of the Fatah-PFLP controversy only emphasizes the statist nature of the Palestinian movement.

Despite their focus on a Palestinian state, the Palestinian groups presented an acute challenge to the sovereignty of both Jordan and Lebanon. But this expansion resulted from tactical circumstances, not a shift in their ideological agenda. The behavior of the PLO in Tunis during the 1980s demonstrated that the destabilizing role it played in Jordan and Lebanon did not reflect a pattern to be necessarily repeated elsewhere. The Palestinian excesses were especially severe in Jordan, but they were prompted by the significant size of the country's Palestinian population residing and the fear that the continuation of the armed struggle against Israel from Jordanian territory was at risk. Moreover, the ambiguous relationship between Jordan and the Palestinians, the result of Jordan's decision to hold onto the West Bank in the aftermath of the 1948 war, rendered Jordan a unique case.

The efforts of the PLO to portray itself as a legitimate candidate for membership in the international society are also evident from its attitude toward the UN. The Fatah-led PLO perceived the UN as a legitimate institution and one that could reflect and provide international legitimacy to action. This acceptance was accompanied by harsh criticism of the institution's decisions, which arguably were inconsistent with the UN charter. The PLO argued that when the UN adopted resolutions that denied the Palestinians their natural rights, it betrayed its own principles.

The PLO declared that the UN resolutions on the partition plan and the establishment of Israel were illegal because they were in contrast to the will of the Palestinian people and concomitantly inconsistent with the right to self-

determination.⁵⁸⁹ Similarly, it rejected Security Council resolutions 242 and 338 (adopted subsequent to the 1967 war) that called for a two-state solution. At the same time, the PLO reaffirmed its adamant adherence to the principles guiding the UN. During the 1970s, it also presented optimism that the UN was going through a transition and becoming more representative of the “real” will of the international society. As a result of this alleged transformation the UN gradually became capable of implementing what the PLO perceived as the UN’s own principles.⁵⁹⁰

The PLO’s struggle to be admitted to the UN and to leave its mark on the institution’s agenda and resolutions are another testimony that it accepted the organization’s legitimacy. Indeed, the PLO perceived as significant diplomatic victories the invitation of Chairman Arafat to speak in front of the General Assembly (13 November 1974) as the representative of the Palestinian people, the assembly’s resolution confirming the Palestinians’ right to self-determination, and the decision to grant the PLO a status of observer. The PLO was also successful in gaining formal status in numerous other international organizations, which resulted in an increase of international legitimacy and proliferation of diplomatic channels to advance the Palestinian cause.

The reasons behind moving the violent struggle beyond Israel to the international stage, as well as the retreat from this international campaign after 1974, were instrumental, not ideological, supporting the assertion that Palestinian terrorism did not represent a systemic threat. The PFLP was a pioneer in staging attacks outside the region. It presented its attacks on Israeli targets (in the Middle East and outside it) as a means to draw attention to the plight of the Palestinians and to demoralize Israel’s citizens and government.⁵⁹¹ The declared rationale for attacking non-Israeli targets

⁵⁸⁹ Harkabi, *The Palestinian Covenant and Its Meaning*, 76-78.

⁵⁹⁰ Address by Arafat before the United Nations General Assembly, 13 November 1974.

⁵⁹¹ Cubart, *The PFLP’s Changing Role in the Middle East*, 96-102.

outside the Middle East was the need to expose the links between Israel and the West and to rally public opinion in favor of cutting these ties. The attacks also aimed at bringing the plight of the Palestinians to the attention of the Western public. The attacks on Western targets within the Middle East reflected the PFLP's wish to expose the scope of the relations between the Arab regimes and the West.⁵⁹² These goals were clearly instrumental. Moreover, even within the PFLP there was no consensual support for the attacks, in particular after some of the organization's members evaluated operations like airplane hijacking as undermining the image of the Palestinian struggle.

The Fatah-led PLO objected to moving the struggle outside the Middle East, but it slowly warmed to the idea, particularly after its eviction from Jordan. Three factors affected the direction Fatah took: the assessment of the state of the armed struggle against Israel; the evaluation of the international standing of the PLO; and internal disputes regarding the prospects of achieving a political solution to the Palestinian problem.⁵⁹³

Following the events in Jordan, the Fatah leadership faced pressures from its young cadres to follow the PFLP's lead. Fatah, whose position in the Palestinian movement was significantly linked to its ability to continue the violent struggle, had been deprived of its old base of operations in Jordan. Its leadership feared that its membership would drop if it did not meet the wishes of the angry and frustrated members and find a new venue to continue the violent struggle. As it still had not sufficiently established itself in Lebanon, operating outside the Middle East emerged as the most appealing substitute. The sense of humiliation and loss of prestige subsequent to the events in Jordan were further motivating factors. The renewed

⁵⁹² Ibid., 133-137

⁵⁹³ Merari and Elad, *The International Dimension of Palestinian Terrorism*, 14-15.

attacks were designed to restore the honor and the fighting spirit the Palestinians had lost, and concomitantly to revive the revolutionary spirit.⁵⁹⁴

Within the ranks of Fatah, the decision to go global was not uncontroversial; but the arguments on both sides dealt with the utility of such a step. The advocates claimed that it would heighten public awareness of the Palestinian cause. The opponents, on the other hand, feared for the image of the Palestinian struggle and movement and worried that the new orientation might undermine the attainment of the PLO's political objectives. International terrorism, some argued, had already led some countries to adopt a hostile attitude toward the Palestinians and made it easier for Israel, Jordan and the "imperialist forces" to "harm the Palestinian revolution." Going global also carried the risk that the PLO would be perceived as a mere terrorist organization devoid of political direction rather than as revolutionaries seeking justice.⁵⁹⁵

Just as reverting to international terrorism resulted from instrumental considerations, so too did the retreat from it. International terrorism was one instrument in the Palestinians' toolkit; it was employed when it seemed to pay off and largely abandoned when it appeared to place at risk the political gains the Palestinians had achieved. To some extent, its abandonment served also as a bargaining chip that could be used for the right price. Indeed, the PLO gained politically by agreeing to avoid international terrorism in 1974: there was a proliferation of new political offices of the PLO throughout the world subsequent to this declaration. But this decrease in the use of terrorism internationally also corresponded to the organization's understanding that its political acceptance depended on attentiveness to world opinion. When the continuation of international terrorism was perceived as risking the PLO's

⁵⁹⁴ Ibid., 22-27.

⁵⁹⁵ Ibid., 30-31.

achievements, the organization chose to reduce its reliance on this tool. Especially with growing international recognition, the PLO felt obligated to demonstrate its ability to be a reasonable actor in the international society and accept some limitation on its operation in accordance with prevailing international norms.

States' Responses

That states did not perceive the PLO and its main factions, Fatah and the PFLP, as a systemic threat is clear from its success in gaining formal status in numerous international organizations. Even in the midst of its terrorist campaign, the PLO thrived in the international arena and even gained entry to the UN, one of the main symbols of the international society. The PLO's acceptance in other, less inclusive, yet still significant groupings was not even qualified: it attained full membership in the Non-Aligned Movement and the "Group of 77" (August 1975 and January 1976, respectively).⁵⁹⁶ At the same time, the PLO's link to international terrorism was not lost on states, although their responses varied. The variation among states that were affected by transnational terrorism reflected different levels of perceived interest in confronting the threat, as well as differences in ideas about strategies designed to socialize these terrorist groups to the norms of the international society.

The English School and Realism both predict that in facing a non-systemic threat, states would respond according to each one's particularistic interests. Consequently, neither perspective envisions a multilateral campaign to confront such violent non-state actors; cooperation, if it exists, would result from a short-term convergence of interests of no more than a small number of states. A review of the various responses of the members of the international society confirms these

⁵⁹⁶ Miller, *The PLO and the Politics of Survival*, 35.

predictions. In this section, I will briefly present the dissimilar responses of various actors directly affected by Palestinian terrorism.⁵⁹⁷

Arab states

Not only did the Arab states provide the Palestinian terrorist groups training, arms, operational intelligence and bases of operation; they also gave them strong political support that made anti-terrorism efforts in the international arena virtually impossible. In many instances, Arab governments even exerted direct pressure on governments to refrain from retaliating against Palestinian perpetrators of terror.⁵⁹⁸

Support had its limits: fearing the consequences of unqualified support, Egypt and Syria reined in the Palestinian groups and prevented the unauthorized use of their territories as staging ground for attacks on Israel.⁵⁹⁹ Jordan and Lebanon, however, were weaker, and thus less able to restrain the Palestinian groups that increasingly presented a serious challenge to their authority and ability to control. Moreover, Palestinian action exposed these countries to international criticism and to the Israeli wrath that was often manifested in Israeli operations within Jordanian and Lebanese territories.

Jordan's response to the terrorist challenge emerged slowly, its willingness to cooperate with the Palestinian groups gradually diminishing, it slowly shifted its focus to asserting its authority. By 1970, the regime had exhausted its tolerance for the Palestinian guests who violated every agreement and even threatened the survival of the regime. The regime decided to take the offensive and adhered to it even in the face

⁵⁹⁷ Actors who were not affected by the operations of Fatah and the PFLP, or were affected only rarely, will be excluded from this discussion. If the theory does not expect all affected actors to respond forcefully or cooperatively against the threat, clearly lack of action on behalf of those who were not affected will carry little analytical weight. Similarly, since even states that were directly targeted by these terrorist organizations preferred appeasement policies, a discussion of a lack of strong response in international forums becomes redundant.

⁵⁹⁸ Merari and Elad, *The International Dimension of Palestinian Terrorism*, 9.

⁵⁹⁹ Kurz, *Fatah and the Politics of Violence*, 72-73.

of mounting pressure by other Arab states.⁶⁰⁰ After the expulsion of the armed Palestinians from Jordan, the kingdom and the PLO achieved some level of reconciliation; but Jordan remained firm in protecting its own interests. Notably, while Jordan did not take principled steps against the PLO from 1971 on, it persistently acted to prevent the infiltration of armed Palestinians through its borders with Israel. It also demonstrated more resilience against extortion attempts, such as when it refused to surrender to the demands of the attackers of the Saudi embassy in Sudan to release prisoners from Jordanian jails.⁶⁰¹

The Lebanese response to the challenge was different. Lebanon was too weak, and the regime was on the verge of disintegration due to its fragmented society. Eventually, Palestinian activities within Lebanon contributed to the collapse of the state and the intervention of Syrian and Israeli forces. Thus, while Lebanon's positive attitude toward the PLO led it to accept the armed Palestinian presence, later when this presence increased instability in the country it was unable to act decisively in accordance with its particularistic interests and effectively confront the PLO.

Saudi Arabia was supportive of the Palestinian cause. At the same time, the regime's overall conservative worldview and fear for its economic interests led the kingdom to reject terrorism. The Saudis tried to insure their interests by making financial contributions to the PLO, in particular to Fatah. They hoped that by supporting Fatah they could guarantee that it would consider Saudi interests and use its influence to restrain more radical terrorist groups.⁶⁰² Yet the Saudis' influence was limited. They took action only on rare occasions when their direct interests suffered due to terrorism: after the sabotage of an oil pipeline in May 1969, the Saudis froze

⁶⁰⁰ In particular from Egypt and Syria, who went as far as sending troops to the Syrian-Jordanian border.

⁶⁰¹ Merari and Elad, *The International Dimension of Palestinian Terrorism*, 70-71.

⁶⁰² Miller, *The PLO and the Politics of Survival*, 73-74.

their financial assistance to the PLO and demanded that the organization control all its members. Arafat denied any involvement in the event and sent a delegation to Riyadh to try to appease the king. Four years later, members of the Black September Organization occupied the Saudi embassy in Khartoum and murdered American and Belgian diplomats. Saudi Arabia harshly condemned the act and threatened to end financial support to the PLO. Later, in 1977, Saudi Arabia convinced the government of Somalia to allow West German special forces to storm a plane that was hijacked to Mogadishu.⁶⁰³

Israel

As the main target of Palestinian terrorism, Israel exhibited the most forceful response. Because the PLO's declared goal was the elimination of Israel as an independent entity, any conciliatory stand was deemed irrelevant. Israeli attempts to mobilize the international community to action brought no results. All Israel was left with was to support the few international instruments that dealt with some aspect of terrorism.⁶⁰⁴

Thus, Israel focused on independent action. Occasional cooperation with other states, especially the U.S., took place, but it was normally restricted to the purpose of thwarting specific terrorist attacks. Most Israeli actions, therefore, were unilateral. After surrendering to terrorists' demands on a number of occasions at the beginning of the airplane hijacking campaign, Israel gradually developed a strategy of no surrender. Not only did Israel refuse to surrender to the demands of hostage-takers, it took a proactive approach that included active measures to end such episodes. Israel initiated strict security checks before the boarding of planes. It also positioned air marshals on board El Al airplanes as another security layer. These marshals indeed succeeded in thwarting hijacking attempts. Moreover, whenever possible, Israel carried out rescue

⁶⁰³ Merari and Elad, *The International Dimension of Palestinian Terrorism*, 72-73.

⁶⁰⁴ *Ibid.*, 80.

missions to release hostages. In the most famous mission, Israeli special forces raided Entebbe's airport, three thousand miles from Israel, and released Israeli hostages on an Air France jet hijacked by terrorists from the Baader-Meinhof gang and a PFLP splinter.

Israel continued to negotiate with terrorists, but with no intention to meet their demands. Negotiations were used as a means to make the terrorists surrender or to stall for time in order to facilitate rescue operations. On the strategic level, on the other hand, Israel refused to negotiate a solution to the Palestinian problem with terrorists; recognition of the state of Israel and renunciation of terrorism were set as preconditions to direct negotiations.

The Israeli response to Palestinian terrorism was forceful; but Israel also had to consider the international reaction to its response. Such considerations were particularly required because often the response took place outside Israel and entailed violating the sovereignty of another state. One of Israel's most significant dilemmas was how to deal with Arab states that sponsored and facilitated terrorist attacks against it. Israel insisted that these states be held accountable. Thus, in retaliation for the hijacking of an El Al airplane and the bombing of the airliner's office in Athens, Israeli commandos raided (December 1968) the Beirut airport and destroyed twelve Lebanese civilian airplanes on the ground.⁶⁰⁵ The severe international condemnation led Israel to avoid repeating such operations. While it no longer attacked non-terrorist targets, it still operated against Palestinian targets within the territories of these host states. Its attacks focused on artillery bombardment, land raids in the close vicinity of the Israeli border, and aerial bombing of concentrations and camps of Palestinian

⁶⁰⁵ Kurz, *Fatah and the Politics of Violence*, 65-66.

terrorist organizations. Israel justified these actions as self-defense and argued that by providing haven for terrorists, these countries had forsaken their sovereignty rights.⁶⁰⁶

In 1972, Israel added assassination of prominent terrorists to its anti-terrorism toolkit. Some assassinations even took place on European soil. Among these operations, most noteworthy are the killings of three leaders of Black September during a commando raid in Beirut (1973) and the hunt for the terrorists involved in the killing of the Israeli athletes during the Olympic Games in Munich.⁶⁰⁷

The U.S.

The willingness of the U.S. to confront Palestinian terrorism head-on was second only to Israel's. While there were few incidents of Palestinian terrorism on U.S. soil, American representatives and installations abroad were a preferred target for terrorists. During the period surveyed in this chapter, U.S. objectives were the targets of over 40 percent of all incidents of international terrorism throughout the world.⁶⁰⁸ Therefore, while the U.S. was a target of Palestinian terrorism and a close ally of Israel, its position can be seen as a principled stand on transnational terrorism. Guided by such a principled approach, the U.S. refused to distinguish among different perpetrators of terrorism. Merari and Elad argue that the American stand should also be attributed to the self-perception of the U.S. as the defender of the free world and concomitant beliefs about an appropriate behavior to match this position.⁶⁰⁹

The U.S. response to Palestinian terrorism featured three main components:

1. The promotion of universal instruments to combat international terrorism.

After Munich, the U.S. proposed an anti-terrorism treaty but failed to obtain sufficient

⁶⁰⁶ Merari and Elad, *The International Dimension of Palestinian Terrorism*, 78-80.

⁶⁰⁷ *Ibid.*, 80-83.

⁶⁰⁸ *Ibid.*, 85.

⁶⁰⁹ *Ibid.*

international support. It did manage to push through some minor international instruments concerning specific themes such as airplane hijacking and attacks on internationally protected persons; but these treaties had no oversight or enforcement mechanisms, gained little adherence, and consequently had minor effects on trends in international terrorism.

2. Refusal to engage the PLO until it abandoned terrorism, and acceptance of Israel's right to exist and UN Security Council resolutions 242 and 338.⁶¹⁰ While it largely kept its promise, the U.S. did provide some indications, particularly during the Carter presidency, that it saw the PLO as a possible future partner for a settlement of the Israeli-Palestinian conflict.⁶¹¹

3. A policy of no negotiations and no concessions to terrorists. U.S. officials explained that yielding to terrorists' demands would only encourage more attacks. By saving one life now, the U.S. would end up risking many more lives later. Secretary of State Henry Kissinger further explained that because there were so many Americans all around the world, it would be impossible to protect them unless kidnappers knew that they would gain no benefit from targeting them.⁶¹²

On March 1, 1973 the American stand was put to a significant test after a group of terrorists from BSO occupied the Saudi embassy in Khartoum and held hostage the American, Belgian and Jordanian *chargés d'affaires*, together with the Saudi ambassador. The kidnappers demanded the release of a number of prisoners (including the murderer of Robert Kennedy) from prisons in Jordan, Israel, the U.S. and West Germany. The American rejection was swift: President Nixon declared

⁶¹⁰ Barry Rubin, "Misperceptions and Perfect Understanding: The United States and the PLO," in Avraham Sela and Moshe Ma'oz (eds.), *The PLO and Israel: From Armed Conflict to Political Solution* (St. Martin's Press, New York, 1997), 143.

⁶¹¹ Merari and Elad, *The International Dimension of Palestinian Terrorism*, 85-86.

⁶¹² Robert A. Fearey, "Introduction to International Terrorism," in Marius H. Livingston with Lee Bruce Kress and Marie G. Wanek (eds.), *International Terrorism in the Contemporary World* (Greenwood Press, Westport, Connecticut and London, England, 1978), 28-29.

publicly, before television cameras, that the U.S. “cannot and will not pay blackmail.” The terrorists reacted by murdering the diplomats.⁶¹³

Western European states

The Western European countries were much less willing than the U.S. to confront Palestinian terrorism, although many of the acts of terrorism took place on their soil. Terrorists captured en route to missions were often released after brief interrogations. Those who were captured during or after executing their missions were sentenced to short prison terms. Rarely did convicted terrorists serve their full terms. Often they were released in compliance with the demands of terrorists in subsequent hijacking operations.

According to a survey conducted by the Israeli foreign ministry, of the 204 terrorists arrested outside the Middle East between 1968 and 1975, only three remained in prison at the end of 1975.⁶¹⁴ Bell presents unofficial estimates that in the five years subsequent to Munich, 141 of the 150 Arab terrorists arrested in Western Europe were released without trial.⁶¹⁵ The quick European submission to terrorists’ demands encouraged terrorists to repeat these practices.

As the following examples suggest, capitulation seemed to be the norm among Western European countries. The Greek government gave in to the demands of hijackers of an Olympic plane (July 1970), quickly releasing Palestinian prisoners.⁶¹⁶ Three years later, two members of the Black September Organization went on a shooting spree in the Athens airport. They were captured and convicted, but released shortly thereafter as a part of a deal to release passengers on a Greek ship hijacked in

⁶¹³ J. Bowyer Bell, *A Time of Terror: How Democratic Societies Respond to Revolutionary Violence* (Basic Books, Inc. Publishers, New York, 1978), 89-90.

⁶¹⁴ Merari and Elad, *The International Dimension of Palestinian Terrorism*, 88.

⁶¹⁵ Bell, *A Time of Terror*, 86.

⁶¹⁶ Merari and Elad, *The International Dimension of Palestinian Terrorism*, 7.

Karachi.⁶¹⁷ When the PFLP's attempt to hijack an El Al airplane was thwarted by Israeli air marshals, Britain ended up holding the one surviving hijacker, Leila Khaled, only to release her a few days later after the PFLP hijacked a British airplane.⁶¹⁸ In January of 1977, at the request of West Germany, France arrested Abu Daoud, one of the masterminds behind Munich. Strangely, the Germans then failed to provide sufficient information to the French, who quickly and gladly issued a deportation order and sent the terrorist on a plane to Algiers, ignoring in the process an Israeli extradition request.⁶¹⁹

Austria regularly conceded to the demands of Palestinian terrorists, even when concession implied changing government policy. In September 1973, Austria agreed to close down a transit camp for Soviet Jews on their way to Israel in order to save the lives of hostages. A couple of years later the notorious terrorist Carlos led a group of mixed nationalities, including PFLP members, to the OPEC building in Vienna. The terrorists took all OPEC oil ministers and additional people present in the building as hostages. They then flew with a large number of hostages (none of them Austrian) to Algiers and released them only after receiving a huge ransom paid by Austria, Iran and Saudi Arabia. The sum paid by Austria was estimated to be between 5 and 50 million U.S. dollars.⁶²⁰

On its face, it seems that the Netherlands, too, was inclined to surrender to hostage-taking situations by Palestinians. For example, in November 1974 it released two Palestinian terrorists sentenced a few months earlier to five years in prison for an earlier hijacking. A few days later, a Dutch airplane was hijacked and the Netherlands met additional demands. This time, submission came in the form of a promise not to

⁶¹⁷ Reeve, *One Day in September*, 200.

⁶¹⁸ Bell, *A Time of Terror*, 153.

⁶¹⁹ *Ibid.*, 158-159.

⁶²⁰ *Ibid.*, 194-196.

allow arms or emigrants on route to Israel to pass through Dutch territory. However, according to Bell, the Dutch approach was guided by the high premium it assigned to saving the lives of the hostages. She argues that the Dutch authorities surrendered only when they saw no other way to save the lives of the hostages. But when they had control over the situation, they tended to adhere to a non-compromising approach and even to launch rescue missions.⁶²¹

West Germany was an especially notorious buck-passer. In February 1972, West Germany paid the PLO a ransom of at least 5 million U.S. dollars to release a Lufthansa jet that was hijacked to Yemen,⁶²² thus helping to fund additional acts of international terrorism. A few months later, Germany was the arena for a Black September spectacular in which eleven Israeli athletes were murdered during the Olympic Games in Munich. Following the attack, the government of West Germany used harsh rhetoric, threatening to act forcefully against all those involved in terror and even that Arab states supporting terrorism would no longer be eligible to receive German aid.⁶²³ But the gap between rhetoric and reality could not have been bigger. West Germany held three terrorists that survived the attack. The Palestinians warned that they would launch a wave of attacks against Lufthansa unless West Germany released these terrorists and, indeed, shortly after Munich they put the German resolve to the test by hijacking a Lufthansa airplane. The government of West Germany decided once again to submit to the demands of the terrorists in order to save innocent lives and quickly released the Palestinian prisoners.⁶²⁴

⁶²¹ Ibid., 174-178.

⁶²² Reeve, *One Day in September*, 158.

⁶²³ Merari and Elad, *The International Dimension of Palestinian Terrorism*, 87-88.

⁶²⁴ Reeve argues that not only did West Germany submit to the terrorist demands; it in fact invited this hijacking in order to provide a pretext to release the terrorists it had previously captured. See Reeve, *One Day in September*.

Overall, the European response can be characterized as buck-passing. Western European countries preferred to take steps to neutralize the threat they were exposed to rather than confronting it head on. West Germany, for example, reportedly reached an agreement with the PLO that allowed the organization to operate on German soil as long as they ceased their attacks and severed their links with German terrorist groups. France and Italy also reached agreements with the PLO, although in their cases the agreements did not seem to have any effect.⁶²⁵ As I have shown, other European states also adopted a conciliatory approach toward Palestinian international terrorism.

Behind the inclination to deflect the threat was the belief that Palestinian terrorism was not genuinely a European problem: Europe was just a bystander caught in the line of fire. Consequently, most Western European states sought to reduce the likelihood of becoming the arena for foreign conflict. They preferred policies that would guarantee that they would not change from victims of “collateral damage” in the Israeli-Palestinian conflict to a direct target of Palestinian terrorism. Indeed, when European states were directly targeted, it was to compel specific governments to release terrorists they had imprisoned.

This approach was shaped in part by the apprehension that a tough stand might damage relations with Arab states. The feared repercussions centered on oil and trade: over the years, the countries of Western Europe developed a dependency on Arab petroleum. At the same time, Arab states had become big markets for sophisticated European merchandise. Under such circumstances, the prospect of conflict with the Arab states over the Palestinian issue was considered highly undesirable.⁶²⁶

But a principled stance accounted for the policies of Western European states as well. While the U.S. viewed international terrorism as a general problem, Europe

⁶²⁵ Merari and Elad, *The International Dimension of Palestinian Terrorism*, 53.

⁶²⁶ *Ibid.*, 86.

had a more nuanced approach. It firmly rejected terrorism, but refused to adopt a context-blind strategy to combat terrorist actors. It condemned Palestinian terrorism, but at the same time viewed the PLO as the representative of the Palestinian people and believed it would be a major actor in any settlement of the Israeli-Palestinian conflict.⁶²⁷ This view translated into a willingness to distinguish between the PLO as a terrorist organization and the PLO as a national movement. The first acted in a manner the Europeans could not condone; but the latter represented a legitimate cause that gained significant sympathy in Western Europe, especially after the 1973 war.

Christopher Hill argues that the approach of the Western European countries during the 1970s also reflected an attempt to play down its strategic significance. To raise terrorism to the level of a serious strategic crisis was understood as playing into the hands of the terrorists. The European governments wanted instead to make terrorism seem marginal and bizarre, not a major challenge to deeply engrained values.⁶²⁸ The response of the states in Western Europe toward Fatah and the PFLP exhibited accommodation, even appeasement attempts, and differed significantly from the Israeli or even the American response.

Conclusions

In 1968, the PFLP launched its campaign of international terrorism. In the ensuing years, Fatah and other Palestinian groups followed its example. Palestinian terrorism struck numerous states and directly targeted dozens. States' sovereignty was routinely violated, civilians hurt and property damaged. Yet an international response was nowhere to be seen; in comparison to the post 9/11 period, interstate cooperation had been remarkably low. The lack of cooperation was not merely the result of states'

⁶²⁷ Ibid.

⁶²⁸ Christopher Hill, "The Political Dilemmas for Western Governments," in Lawrence Freedman, Christopher Hill, Adam Roberts, R.J. Vincent, Paul Wilkinson and Philip Windsor, *Terrorism and International Order* (Royal Institute of International Affairs, Routledge, London, 1986), 81.

inability to overcome problems of collective action; they simply adopted various ways to deal with the threat, ranging from head-on aggressive confrontation to a policy of appeasement that, on occasion, even included attempts to buy protection from the terrorist menace.

Israel, the main target of Fatah and PFLP operations, reacted in the most aggressive manner. Not only did it adopt a policy of no surrender, it took a proactive approach that included assassination of terrorists and routine bombings of their shelters in Arab states. The U.S. did not take such a proactive approach to diminish the terrorist threat, but still stood against it, refusing to give in to the demands of terrorists or to award them any political concessions. Most states in Western Europe exhibited a much more conciliatory approach and attempted to avoid entanglement in a conflict that was not theirs. Consequently, they tended to comply quickly with the demands of the terrorists, even allowing them to operate on their soil, in return for immunity and a promise that the Palestinian terrorist groups would sever their ties with local terrorist groups. The Arab states, on the other hand, actively supported Fatah and PFLP. The weakest, Jordan and Lebanon, paid a significant price for their cooperation. The costs were inflicted by both Israel and the Palestinian groups themselves; only Jordan was strong enough to protect itself and to expel the Palestinian armed presence.

Realism and the English School provide similar explanations for the variation in states' responses to these acts of transnational terrorism and their perpetrators. They view states' policies as the reflection and result of each state's short-term interests. But the English School also views states' decisions as the consequence of the nature of the threat that Fatah and PFLP represented. It argues that since these perpetrators of transnational terrorism did not represent a systemic threat, there was no systemic imperative to direct states to leave their short-term interests aside and cooperate. In the absence of a systemic threat, normal conflictual politics prevailed.

The logic behind states' behavior towards the PLO and the coalescence of the predictions of Realism and the English School can be observed in the case of the Peruvian Shining Path (SP) as well. Like the PLO, the SP did not represent a systemic threat. Unlike the PLO, for the overwhelming majority of the states in the international society the SP did not even register as a policy question or a problem worth considering.⁶²⁹

The Communist Party of Peru in the Shining Path of Jose Carlos Mariategui was established by Abimael Guzman in 1970. A weak state and society allowed the SP to rampage Peru's countryside before shifting its emphasis to its cities. Overall, the SP's operations claimed over thirty thousand lives and cost tens of billions of dollars. At the peak of its power in the early 1990s, the SP had more than twenty-five thousand committed members, the support of approximately 15 percent of the Peruvian public, control over about 40 percent of the territory and about 25 percent of the country's municipalities. In September 1993, as the SP got close to toppling the regime, Guzman

⁶²⁹ The following paragraphs rely on these works: Carlos Basombrio, "Peace in Peru: An Unfinished Task," in Cynthia J. Arnson (ed.), *Comparative Peace Processes in Latin America* (Stanford University Press, Stanford, California, 1999), 205-222; Jo-Marie Burt, "Political Violence and the Grassroots in Lima, Peru," in Douglas A. Chalmers et al. (eds.), *The New Politics of Inequality in Latin America: Rethinking Participation and Representation* (Oxford University Press, Oxford and New York, 1997), 281-309; Carlos Ivan Degregori, "Reflections," in Arnson (ed.), *Comparative Peace Processes in Latin America*, 251-256. Gustavo Gorriti, "Shining Path's Stalin and Trotsky," in David Scott Palmer (ed.), *The Shining Path of Peru* (St. Martin's Press, New York, 1994), 168-188; Gustavo Gorriti, *The Shining Path: A History of the Millenarian War in Peru* (The University of North Carolina Press, Chapel Hill & London, 1999); Daniel Masterson, "In the Shining Path of Mariategui, Mao Tse-tung, or Presidente Gonzalo? Peru's Sendero Luminoso in Historical Perspective," in Daniel Castro (ed.), *Revolution and Revolutionaries: Guerrilla Movements in Latin America* (Scholarly Resources Inc., Wilmington, DE, 1999), 171-189; Cynthia McClintock, "The Decimation of Peru's Sendero Luminoso," in Arnson (ed.), *Comparative Peace Processes in Latin America*, 223-249; David Scott Palmer, "Introduction: History, Politics, and Shining Path in Peru," in Palmer (ed.), *The Shining Path of Peru*, 1-32; James F. Rochlin, *Vanguard Revolutionaries in Latin America: Peru, Colombia, Mexico* (Lynne Rienner Publishers, Boulder & London, 2003); Orin Starn, "Maoism in the Andes: The communist Party of Peru – Shining Path and the Refusal of History," *Journal of Latin American Studies* 27:2 (May, 1995), 399-421; "The Shining Path After Guzman: The Threat and the International Responses," Hearing before the subcommittee on Western Hemisphere Affairs of the Committee on Foreign Affairs, House of Representatives, one hundred second congress (September 23, 1992); Ton de Wit and Vera Gianotten, "The Center's Multiple Failures," in Palmer (ed.), *The Shining Path of Peru*, 63-75; Cyrus Ernesto Zirakzadeh, "From Revolutionary Dreams to Organizational Fragmentation: Disputes Over Violence Within ETA and Sendero Luminoso," *Terrorism and Political Violence* 14:4 (winter 2002), 66-92.

was captured and the SP collapsed almost entirely. Remnants of the SP continue to fight the regime but have failed to replicate the group's heydays.

The SP never represented a systemic threat. It sought to implement a neo-Maoist framework in Peru but had few aspirations beyond Peru's borders. It practically lacked foreign relations. As opposed to most Marxist movements that allied with one communist country or another, the SP chose isolation. Moreover, the SP disparaged all other communist ideologies and demonstrated an unconditional hostility to the Chinese, Soviet, Cuban and North Korean governments that equaled its hatred of non-communist countries.

Consequently, the confrontation was limited to the Peruvian government and the SP. In the final phase of the confrontation, the government policies featured increased reliance on intelligence, successful peasant self-defense units in the countryside, increased authority of the armed forces and the undercutting of the authority of the timid and inefficient judiciary. No other state played a meaningful role in the conflict. Even the U.S., which sees the whole region as its backyard, appeared more like an uninterested observer than an actor with stakes in the manner in which events unfolded. Its role in fighting the SP was negligible. Clearly, the international society does not mobilize its power against every terrorist entity.

Chapter Nine:
Glocalized Terrorism:
The Case of the Jemaah Islamiyah

Introduction

The cases examined so far approximate ideal types: al Qaeda represents a systemic threat that generates a collective response, while the PLO represents a non-systemic threat that leads states to adhere to particularistic interests and consequently to limited, conditional and sporadic cooperation. But these examples do not cover the whole range of terrorist entities; mixed cases that link the universal international society level with the local level also exist. One such case -- that of the Southeast Asian Jemaah Islamiyah -- stands at the center of this chapter.

Non-systemic threats are by nature more territorialized than systemic threats. Actors representing systemic threats oppose the fundamental principles of the state-based order and consequently seek to overthrow the state system. Conversely, entities that pose non-systemic threats may oppose the state-based order but operate and actively seek change in a narrower geographical area. "Local" in this formulation can mean different things; it can be subnational, supranational, regional or supraregional. Some terrorist groups promote secessionist goals; others would like to capture power in one state. Certain terrorist entities may want to alter the situation in more than one state, while others may have higher aspirations to create a regional state.

The mixed cases are those where the global level interacts with the local. Variations in the forms such blends take and the threat they represent result from differences in the attitude of the terrorist entities toward the state-system, and the selection of their goals and targets. These differences also translate to variation in states' responses. For example, a terrorist entity may hold ideas that challenge the foundations of the international society but grudgingly accept their status and promote

geographically-confined goals. Thus, a Marxist group may claim that the current order is manipulated by capitalist elites to create false consciousness among the masses and concomitantly perpetuate their abuse; but the goals of such a group would usually focus on capturing power in one particular state to which the group is attached, rather than overthrowing the entire state-based order. Similarly, a radical Islamic group may denounce the division of the world into states but focus on establishing Islamic rule on a group of neighboring states in a particular geographic region. The broader the actual goals of the terrorist entity, the larger the number of states it targets, the more important the targeted states, and the more able the terrorist group, the stronger the threat -- and consequently the interest of the international society in facing it collectively.

A more complicated picture emerges when a local and independent terrorist actor links with an entity that represents a systemic threat. Such a relationship could feature ideological affinity as well as operational and financial links between two distinct actors; alternatively, it could take the shape of a subordinated relationship between a local franchise and the global entity. The nature of the relationship affects the (dynamic) goals and capabilities of the local actors. At the same time, it affects the manner in which international counter-terrorism efforts penetrate and define local ones. In the first case, local states may benefit indirectly from the acts of the international society, because a weakened systemic threat also implies that the local entity has fewer resources. But when the local terrorist entity is a franchise of the global one, the international society would target both, making the effects of the global campaign on the local theater direct. Moreover, in such a case, direct assistance from the global level would increase the ability of the local states to confront the local threat.

The stronger the connection between the local and the global terrorist entities, the more the efforts of the international society overshadow the local struggle and shape the manner in which local states deal with the threat they are facing. Note that the policies toward the local terrorist actor are not necessarily influenced by objective facts; generally, they depend on perceptions at the global level of the nature and scope of the relationship between the terrorist groups. As such, they can be exposed to manipulation, especially from local states that may talk globally in order to extract international resources and legitimize actions against local opponents with spurious or insignificant links to the systemic threat.

Glocalized (global + local) terrorist threats complicate predictions on interstate cooperation. A glocalized threat would not generate a universal collective response, nor would it lead states to consider only their particularistic interests. Instead, we would see a mixture of responses featuring both elements of mutual commitment between states and insistence on states' particularistic interests. The hybrid threat produces variation in the level of involvement presented by the region's states and countries outside the affected area: actors at the core of the region, particularly those more immediately affected by the terrorist entity, will show greater involvement in the confrontation than most other members of the international society.

Overall, in comparison to cases of pure systemic threats, a greater tendency toward self-interested, egoistic behavior should be expected. At the same time, the global component would provide the region's countries with a conceptual and practical framework to counter the threat of terrorism, thereby producing a considerable level of cooperation (interstate cooperation as well as compliance with the guidelines provided by the international society for states' independent measures). The global component also guarantees a flow of external support to the directly targeted states that would increase their ability to fight the glocalized threat. Normally,

the stronger the perceived link between the global and the local, the larger the contribution at the global level, resulting in more significant external involvement (especially by the hegemon) and higher levels of interstate cooperation among the states affected by the threat.

The case of the JI illustrates well the dynamics of a glocalized threat and concomitant state responses. Although part of the global jihadi movement and an affiliate of al Qaeda, the JI is a distinct organization with an independent ideology and agenda that emphasizes the states of the region rather than the termination of the state system. It is not global enough to elicit global cooperation at the level that the al Qaeda threat has been producing; but its identification by the members of the international society as part of the al Qaeda-led jihadi movement has made it an international concern that has been generating global inputs. Consequently, the English School theory I offer expects the states of Southeast Asia to demonstrate higher levels of cooperation than Realism would predict. This cooperation would stem from the universal framework provided for the war on terrorism and the regional scope of the JI threat. But the limited nature of the threat would lead to limited cooperation that would not meet the same high standards set for the fight against al Qaeda.

This chapter proceeds as follows: in the first section, I introduce the JI and detail its evolution. The discussion then turns to the nature of the threat it represents. I focus on the regional orientation of the JI and on its relationship with al Qaeda, which feature both close similarities and clear distinctions. In the third and last section, I explain how the global and local levels interact to produce a higher level of interstate cooperation than Southeast Asia's countries normally show -- and than Realism expects -- while highlighting the limitations of this cooperation.

History

The Jemaah Islamiyah was founded in Malaysia by the radical Indonesian clerics Abdullah Sungkar and Abu Bakar Ba'asyir. The two were members of Darul Islam (DI), an Indonesian movement that has been promoting, sometimes violently, the idea of an Islamic state in Indonesia since the late 1940s.⁶³⁰ In 1978 they were arrested by Suharto's regime and in 1982 sentenced to nine years in jail for violating Indonesia's subversion law. At the end of that year, a higher court upheld the conviction but reduced the sentence to four years, leading to the release of the two from prison. Three years later, after the Supreme Court reimposed the original nine year sentence, Sungkar and Ba'asyir fled to Malaysia, where they were permitted to continue to operate freely. They were joined there by a group of colleagues and graduates of the Pondok Ngruki boarding school, which the two had established and headed until their escape.⁶³¹

According to the International Crisis Group (ICG), during the 1980s Sungkar became one of DI's leaders and at some point was even considered for its top leadership position. He remained a leading figure in the movement even while in exile in Malaysia. But as had happened numerous times before, conflict among DI's leaders led to further fragmentation of the movement. In 1992, a conflict between Sungkar and Masduki, another exiled DI leader, led Sungkar to split from DI. Together with Ba'asyir, he founded the JI on January 1, 1993.⁶³²

Seven years passed between the establishment of the JI and its first terrorist attack. The interim period was dedicated to building the organization's infrastructure, as the JI recruited new members and provided military training and religious

⁶³⁰ ICG Asia Report No. 92, *Recycling Militants in Indonesia: Darul Islam and the Australian Embassy Bombing*, February 22, 2005, 11

⁶³¹ Greg Barton, *Indonesia's Struggle: Jemaah Islamiyah and the Soul of Islam* (UNSW Press, Sydney, 2004), 14.

⁶³² ICG, *Recycling Militants in Indonesia*, 20-22.

indoctrination. In reality, the military training of JI members had begun almost a decade before the organization was formally founded. As early as the 1980s, Sungkar began sending his followers to train in Abdul Rasul Sayyaf's camp in Afghanistan and participate in the jihad against the Soviets.⁶³³ The experience in Afghanistan exposed Sungkar and his followers to the ideology of Islamic movements from the Middle East. It also fomented the creation of concrete connections with al Qaeda and the network of Afghanistan alumni.

After the fall of Suharto's authoritarian regime in May 1998, the political circumstances in Indonesia changed radically. A weak democracy was established on the ruins of the old order, and the Islamist exiles were welcomed to return to Indonesia. Sungkar and Ba'asyir returned home and started a feverish campaign to reinforce the JI's infrastructure in Indonesia. But shortly after their return, Sungkar died and Ba'asyir was elected amir of the organization.

The 1999 outbreak of sectarian violence between Muslims and Christians in Ambon (in the Maluku) became a turning point for the JI's activity in Indonesia. Ambon and later Poso (on Sulawesi) became rallying causes and jihad arenas for radical Indonesians. The influx of jihadis to the conflict regions augmented the ranks of all jihadi groups in Indonesia, not only the JI. The conflicts served as a formative event for young Indonesians similar to the role Afghanistan had played before. The volunteers experienced fighting and improved their operational capabilities while reinforcing their commitment to the jihadi cause, cementing their beliefs in the importance of jihad and contributing to the formation of personal connections among mujahideen.

⁶³³ Sayyaf had robust connections with the Saudi government and consequently was a major recipient of financial resources, enabling him to host many Arab and Southeast Asian volunteers. The strongest symbol of the gratitude foreign volunteers felt toward Sayyaf is the naming of the Philippine terrorist group, Abu Sayyaf, which was established by a graduate of Sayyaf's camp.

The JI established Lashkar Mujahidin in 1999 as a paramilitary arm to fight in the Malukus. While the JI contingency in the islands consisted of only a few hundred warriors and was not the largest mujahideen group fighting, it was better trained and disciplined and for a significant period of time also better armed. An equivalent group, Laskar Jundullah, was established in 2000 to fight in Poso.⁶³⁴ Note that in both arenas, the JI concentrated less on sending mujahideen from outside the conflict area to fight than on training local mujahideen. This approach was in line with the greater enterprise of preparing as many Indonesians as possible for the future confrontation with the regime and the takeover of the whole country.⁶³⁵ The continuation of communal strife in Indonesia assisted in the rejuvenation of JI and other Islamic groups. Yet in the case of the JI, it also reinforced its Indonesian orientation; especially when operating outside of Indonesia becomes increasingly difficult, domestic conflicts increased the local component in the JI's agenda.

In parallel, the JI accelerated its preparations to start a terror campaign. Around 1999 or 2000, it increased its efforts to recruit and integrate members into operational cells. The JI's chief of operations, Riduan Isamuddin, also known as Hambali, instructed that all JI support cells be converted into operational cells and that as many members as possible be sent for training in Afghanistan or Mindanao, in the Southern islands of the Philippines.⁶³⁶

The campaign of terror started in 2000 with two attacks -- the bombing of a Jakarta mall (July) and an attempt on the life of the Philippine ambassador to Indonesia (August) -- carried out in collaboration with associate organizations. On Christmas Eve 2000, the JI carried out multiple simultaneous attacks on churches in

⁶³⁴ Abuza, *Militant Islam in Southeast Asia*, 146-147.

⁶³⁵ ICG Asia Report No. 74, *Indonesia Background: Jihad in Central Sulawesi*, February 3, 2004, 1-7.

⁶³⁶ Government of Singapore, White Paper, *The Jama'ah Islamiya Arrests and the Threat of Terrorism* (Singapore, January 7, 2003), 7.

Indonesia, its first independent attack. JI operatives planted thirty bombs in churches throughout the country, hoping to spark a religious civil war. While only eighteen bombs went off, killing a total of fifteen people, the attack showed the reach of JI within Indonesia. Less than a week after the Christmas Eve bombing, the JI was involved in the simultaneous explosions of five bombs in the Philippine capitol of Manila, killing another twenty-two people.

Several other plots were thwarted. In one of them, planned by Hambali, JI plotted to bomb the water pipelines that supply most of Singapore's water from Malaysia. The JI wished to present the attack as an act of aggression by Malaysia, hoping to provoke distrust and enmity between "Muslim Malaysia" and "Chinese Singapore" and to cause ethnic strife in both countries. Hambali believed that such developments would awaken the Muslim population, facilitate the overthrow of the Malaysian government and lead to the installation of an Islamic government in its stead.⁶³⁷ The Singaporean government counted six different plans to attack targets in the city-state; three were relatively well developed. One of the attacks, thwarted in December 2001, included the bombing of seven different Western targets -- American, British, Australian and Israeli -- with seven track bombs.⁶³⁸

Following the dismantling of JI's cells in Malaysia and Singapore and the arrest of prominent figures and foot soldiers in early January 2002, Hambali hosted a meeting in Bangkok to reevaluate the organization's situation and to discuss future directions. There, it was decided that due to the difficulties of hitting hard and well-protected targets, JI should shift its focus to the "soft targets" frequented by Westerners in Thailand, Singapore, Indonesia and the Philippines.⁶³⁹

⁶³⁷ Ibid., 11.

⁶³⁸ Ibid., 11-14, 27-31.

⁶³⁹ Abuza, *Militant Islam in Southeast Asia*, 164.

In October 2002, the JI hit tourist targets in Bali, killing 202 people. A year later, in August 2003, the JI struck again, bombing the Marriott hotel in Jakarta and killing twelve people. In September 2004 it attacked the Australian embassy in Jakarta with a car bomb but killed mostly bystanders. A year later, soft targets in Bali were struck again. The JI also continued to operate outside of Indonesia, mainly but not only in the Philippines.⁶⁴⁰

The JI's Glocalized Challenge

The threat posed by the JI can be viewed on three different levels: at the state level, the JI represents a threat mostly to Indonesia, where it seeks to replace the regime, gain control over the country and impose the shari'ah on all its inhabitants. At the regional level, it aspires to establish an Islamic Caliphate throughout Southeast Asia. And on the global level, the JI is part of the global jihadi movement, maintaining close links to al Qaeda.

Global level

With tangible connections to al Qaeda dating back twenty years, in addition to their ideological kinship, the JI has been scrutinized by scholars and practitioners as a member of the global jihadi movement. Partnership in the movement may take different forms; it is thus vital to gain an accurate understanding of the relationship between al Qaeda and the JI. Whereas some scholars and practitioners have been

⁶⁴⁰The attacks in Davao (Philippines) in March and April 2003 in which 40 people were killed were JI operations, reportedly with some MILF (More Islamic Liberation Front) material assistance and ASG (Abu Sayyaf Group) foot soldiers. See ICG Asia Report No. 80, *Southern Philippines Background: Terrorism and the Peace Process*, July 13, 2004, 23-24. In May 2003, Thai security services uncovered a plot to bomb Western embassies in Bangkok and sites frequented by Western tourists. See CRS Report for Congress, *Terrorism in Southeast Asia* (Congressional Research Service, Washington DC, updated February 7, 2005), 13. In the fall of 2003, Pakistani authorities arrested a large JI cell consisted mainly of siblings of JI members who were sent to Pakistan for advanced religious training in preparation for becoming the core of the next generation of JI leadership.

inclined to view the JI as one of al Qaeda's franchises, the following analysis views them as conditional affiliates only.⁶⁴¹

The strong connections between al Qaeda and the JI are undeniable. Until his capture in Thailand, in 2003 these connections were epitomized by the figure of Hambali, who served as the point man between the two groups and even held overlapping membership.⁶⁴² Al Qaeda funded some JI operations, including the bombing in Bali in October 2002, the most lethal jihadi terrorist attack after 9/11. Like other organizations and independent cells, the JI presented plans to the al Qaeda leadership and received assistance for those which al Qaeda approved.⁶⁴³ But al Qaeda also sent representatives to Southeast Asia to contact and collaborate with JI operatives on plots against Western targets in the region. While the planning and logistical work was carried out mainly by the special representatives and the JI, the suicide bombers were to be provided by al Qaeda. Fortunately, these plots were thwarted by law enforcement forces in Singapore and Malaysia. One of them, revealed in the CIA's interrogation of Omar al Farouq, al Qaeda's liaison to Southeast Asia, was a joint venture to conduct a simultaneous bombing against U.S. interests in Indonesia, Malaysia, Thailand, the Philippines, Thailand, Taiwan, Vietnam and Cambodia to mark the first anniversary to the 9/11 attack.⁶⁴⁴ There is also evidence

⁶⁴¹ Prominent among these scholars are Gunaratna, *Inside al Qaeda*, and Abuza, *Militant Islam in Southeast Asia*.

⁶⁴² Hambali's exact position in al Qaeda is still unclear. While some argue that he served on the network's media committee, Ken Conboy finds this claim implausible. Compare Simon Elegant, "Asia's Own Osama," *Time* (April 1, 2002) and Ken Conboy, *The Second Front: Inside Asia's Most Dangerous Terrorist Network* (Equinox Publishing, Jakarta, Singapore, 2006). Nevertheless, there is a consensus that Hambali was one of the few non-Arabs to hold a high position in al Qaeda. Hambali was also linked with a front company that provided logistical services for Ramzi Yousef's 1995 plan to bomb 12 American airplanes over the Pacific.

⁶⁴³ Government of Singapore, *The Jama'ah Islamiya Arrests and the Threat of Terrorism*, 9-11.

⁶⁴⁴ Romesh Rathesar, "Confessions of an Al-Qaeda Terrorist," *Time*, September 23, 2002.

that al Qaeda operated a training camp in cooperation with the JI in Poso, Indonesia. The camp also hosted some al Qaeda trainees.⁶⁴⁵

The international orientation of the JI was undoubtedly affected by the growing influence of the jihadi worldview of al Qaeda and its Egyptian allies. Contacts with propagators of global jihad were pervasive and affected both the operational echelons of the organization and its religious leadership. Sungkar and Ba'asyir met bin Laden during visits to Afghanistan, and they hosted al-Zawahiri in Malaysia in the mid-1990s. The graduates of the training camps in Afghanistan also absorbed the jihadi fervor through the daily indoctrination, fighting experience, and contact with jihadis from other countries, mainly from the Arab world.⁶⁴⁶ Because of these connections, the JI's capabilities increased and it became more radical in its ideology and methods. The blending of the global jihad agenda with the JI's previously localized agenda was therefore another natural outgrowth.⁶⁴⁷

However, despite the significant links and ideological influence, the JI and al Qaeda are distinct entities with differing -- although often overlapping -- agendas. The relationship between the two groups is not symbiotic but a reflection of ideological affinity, reciprocal relations for mutual advantage, and the respect of successful students for their former teachers.⁶⁴⁸ Virtually all of JI's decision making and much of its fundraising has been conducted locally. Its ideology also remains restricted to Southeast Asia.⁶⁴⁹ Even at the culmination of the relationship between the two groups (1997-2002), there were always parts of the JI that objected to bin Laden's expansive

⁶⁴⁵ Yael Shahaar, "Al Qaida's Asian Web," The Institute for Counter-Terrorism (ICT), October 15, 2002. Available at <http://www.ict.org.il/articles/articlelet.cfm?articleid=449>. Accessed March 27, 2006.

⁶⁴⁶ Rohan Gunaratna, "The Ideology of Al-Jama'ah Al-Islamiya," in Hillel Fradkin, Husain Haqqani and Eric Brown (eds.), *Current Trends in Islamic Ideology* (Hudson Institute, Washington, DC, January 2005), 75.

⁶⁴⁷ Government of Singapore, *The Jama'ah Islamiya Arrests and the Threat of Terrorism*, 3.

⁶⁴⁸ ICG Asia Report No. 63, *Jemaah Islamiyah in South East Asia: Damaged But Still Dangerous*, August 26, 2003, 30.

⁶⁴⁹ *Ibid.*, 1.

interpretation of jihad. Many members saw jihad as an individual duty of Muslims only in areas where Muslims are being attacked and against a clearly defined enemy.⁶⁵⁰ The distinctiveness of the two entities became clearer subsequent to al Qaeda's weakening due to the loss of its haven in Afghanistan. The links between al Qaeda and the JI declined significantly once most of al Qaeda's members were on the run and in particular after the capture of Hambali. Despite the severe conditions, JI was able to regenerate and continue its operation, further indicating its independence from al Qaeda.

Though the two entities are not identical, the links between the JI and al Qaeda do warrant international concern. Enumerating the motives behind the first Bali bombing, its mastermind Imam Samdura provided evidence of the ideological affinity between them. Among the reasons Samdura listed: 1. fighting against the "American Crusade Armed Forces" and their allies England, Australia, Germany, France, Russia, Japan and others. 2. Revenge for the killing of 200,000 innocent women, elderly, and children as a result of the American bombings in Afghanistan. 3. Response to the Australian intervention to separate East Timor from Indonesia. 4. Reaction to the Crusaders' campaign and the massacre of Muslims in Kashmir. 5. Answer to the Crusaders intervention against Muslims in Poso, Ambon and other places in Indonesia. 6. Defense of Bosnia's Muslims. 7. Carrying out the duty of every Muslim to engage in a global jihad directed at Jews and Christians all over the world. 8. Expression of solidarity with fellow Muslims regardless of geographical boundaries. 9. Retaliation against the oppression led by the Jews and Christians in the Arab peninsula.⁶⁵¹

⁶⁵⁰ Sidney Jones, "The Changing Nature of Jemaah Islamiyah," *Australian Journal of International Affairs* 59:2 (June 2005), 172-174.

⁶⁵¹ Abuza, *Militant Islam in Southeast Asia*, 166-167.

Samdura's accomplices in the attack also do not hide the scope of their grievances and targets of their hate. Among the countries they condemn and threaten are Germany, Canada, Netherlands, Italy, Japan, Russia, China, India, Sweden, Belgium and France. Mukhlas, another co-conspirator, declared that Westerners are "dirty animals and insects that need to be wiped out." His brother and associate, Amrozi, explained that the West tries to dominate Muslims around the world using six instruments: secularism, democracy, human rights, the free market, opposition to terrorism and drugs. Thus, the West needs to be fought relentlessly until the bitter end. "There will be more bombs until the Westerners are finished," he vowed; "we are going to destroy your countries all around the world."⁶⁵² The hatred takes on a racist dimension as well: one of the masterminds of the second Bali bombing (2005) acknowledged the inability of his designated suicide bombers to determine the native country of many tourists in order to target only those from the U.S. and its allies. Therefore, he decided that all white people would be considered the enemy.⁶⁵³

A JI statement following the bombing of the Australian embassy in Jakarta reveals once again the fingerprints of the ideology of the global jihadi movement. The statement states that "we (in the Jemaah Islamiyah) have sent many messages to the Christian government in Australia regarding its participation in the war against our brothers in Iraq. However it did not respond positively to our request; therefore we have decided to punish it as we consider it the fiercest enemy of Allah and the Islamic religion... This is only one in a series of many coming responses... The hands that

⁶⁵²John Dawson, "The Bali Bombers: What Motivates Death Worship?", *Capitalism Magazine*, October 19, 2003. Available at www.capmag.com/article.asp?ID=3000. Accessed March 16, 2006.

⁶⁵³Raymond Bonner, "A Terror Strike, Choreographed on a Computer," *New York Times*, July 3, 2006.

attacked them in Bali are the same hands that carried out the attack in Jakarta. Our attacks and our jihad will not stop until we liberate all the lands of the Muslims.”⁶⁵⁴

In addition, like its partners in the jihadi movement, the JI has been radicalized to the point of extreme devaluation of human lives, not only of non-Muslims but also of their co-religionists. The radical wing of the JI views Muslims who do not subscribe to militant jihad as infidels and consequently believes that shedding their blood is permissible.⁶⁵⁵ The main difference in this regard between extremists and moderates is that the latter may object to the spilling of Muslim blood because of the repercussions of killing Muslims, not for any ethical reason.

Regional level

Despite its Indonesian origins, at the turn of the century the ideology of the JI drifted further from its ideological ancestry and shifted beyond the narrow Indonesian vision to comprise the entire archipelago. The JI under Sungkar and Ba'asyir aspired to create an encompassing Islamic Caliphate that would include Malaysia, Indonesia, and Mindanao (the Philippines), in addition to Singapore and the sultanate of Brunei.⁶⁵⁶

The structure of the JI reflects the regional breadth of the threat. On its face, at least until the first Bali bombing the JI was a hierarchical and well-ordered organization. At the apex of its structure sits the amir. Beneath him there are four councils, a governing council, a religious council, a fatwa council, and a disciplinary council, all appointed by the amir and subject to his authority. The governing council is headed by a central command, which in turn exerts control over the heads of the four regional divisions, the *mantiki*.

⁶⁵⁴ Quoted in Kumar Ramakrishna, *Constructing the Jemaah Islamiyah Terrorist: A Preliminary Inquiry*, Institute of Defense and Strategic Studies, Working paper no. 71 (Singapore, October 2004), 19.

⁶⁵⁵ Government of Singapore, *The Jama'ah Islamiyah Arrests and the Threat of Terrorism*, 16.

⁶⁵⁶ *Ibid.*, 4.

These geographical divisions have evolved and expanded over time, adapting to the changing circumstances and shifting needs. When the JI was founded, it started with only two regional divisions. Mantiki I covers Singapore and Malaysia and Mantiki II covers most of Indonesia.⁶⁵⁷ Mantiki III was added in 1997 due to the increase in the significance of Southern Philippines; the establishment of a military academy in Mindanao produced new logistical needs that in turn required additional administrative support. This *mantiki* covers Mindanao and the two Indonesian provinces of Maluku and Sulawesi. Similarly, Mantiki IV, covering Papua and Australia, is a relatively late creation. While it is still unclear when exactly Mantiki IV was formed, presumably it came after the number of JI recruits in Australia had reached a critical mass.⁶⁵⁸

The *mantiki* vary in their functions. Mantiki I's main roles were to be the primary conduit between the JI and al Qaeda and to provide the economic backbone of the JI, especially through the establishment of front companies. While Suharto was still in power and operation in Indonesia was restricted, Mantiki I also had the main responsibility for education in the boarding schools it had established in Malaysia.⁶⁵⁹ Mantiki II, on the other hand, was considered the primary target of the jihad efforts. The main responsibility of Mantiki III is training JI cadres, while Mantiki IV is responsible for fundraising.⁶⁶⁰ Despite the functional differentiation, all regions covered by the four *mantiki* are possible and even likely targets for terrorist operations conducted by the JI's special operations unit, the Laskar Khos.

Increasing its effectiveness throughout the region, the JI created a web of alliances with other Islamic groups. Those alliances magnify the JI's ability to

⁶⁵⁷ Previously it was responsible for all of Indonesia.

⁶⁵⁸ Jones, "The Changing Nature of Jemaah Islamiyah," 170.

⁶⁵⁹ Zachary Abuza, "Al-Qaeda Comes to Southeast Asia," in Paul J. Smith (ed.), *Terrorism and Violence in Southeast Asia* (M.E. Sharpe, Armonk, NY and London, 2005), 45.

⁶⁶⁰ ICG, *Jemaah Islamiyah in South East Asia*, 11.

regenerate. Its operatives could lay low for periods of time, and yet the group could still carry out operations by tapping human and other resources of the JI's allies.⁶⁶¹ Normally, the JI managed routine relations with its allies through the various *mantiki*, each in its own area. Thus, the Malaysian *mantiki* was linked with the Kampulan Mujahidin Malaysia (KMM),⁶⁶² practically drawing the KMM into the JI's network and making it a key logistical hub.⁶⁶³ In Indonesia, the JI forged strong connections with groups and individuals that participated in the local jihad arenas and received training in the JI sponsored training camps. JI members also maintain close relationships with DI alumni.

The Philippine *mantiki* was in charge of the connections with the Moro Islamic Liberation Front (MILF) and the Abu Sayyaf Group (ASG). The collusion with these two groups is a result of their shared interests, but its foundation and the source of its strength is the personal relationship established among members of the three groups while fighting and training together.⁶⁶⁴ The significance of the alliance with the Philippine groups cannot be overstated: financial difficulties resulting from the reduction of external funding forced the JI to seek an alternative training ground to the camps in Afghanistan. The lawless southern provinces of the Philippines served as an appealing alternative, being both closer and cheaper than Afghanistan.

In late 1995, the JI dispatched a representative to the Philippines to serve as a liaison with the MILF. This man, Fathur Rohman al-Ghozi, established a solid base for the JI in the Philippines. He built a training camp within the MILF's base, prepared an elaborate training program that included a special military academy for JI

⁶⁶¹ Ibid., 31. On the use of alliances to continue conducting operations in Indonesia after JI suffered from mass arrests, see ICG, *Recycling Militants in Indonesia*.

⁶⁶² According to Abuza, there is considerable overlap in membership between the JI in Malaysia and the KMM. See Abuza, *Militant Islam in Southeast Asia*, 134.

⁶⁶³ Peter Chalk, "Militant Islamic Extremism in Southeast Asia," in Paul J. Smith (ed.), *Terrorism and Violence in Southeast Asia* (M.E. Sharpe, Armonk, NY and London, 2005), 24.

⁶⁶⁴ ICG, *Southern Philippines Backgrounder*.

operatives, and facilitated the arrival of dozens of JI members to train in Mindanao. The JI also sent trainers to instruct MILF and JI personnel in bomb-making.⁶⁶⁵ Training in the area continued even after the Philippine army raided the MILF in 2000;⁶⁶⁶ the JI set up a new but smaller training camp farther into the mountains.⁶⁶⁷ There are reports that the JI continues to train in Southern Philippines; however, while in the past the JI had cooperated with the MILF, the current political conditions in the Philippines have led the MILF to pledge, as part of the peace process with the Philippine government, not to allow the JI to operate in the area. Thus, JI's relations in the Philippines are mainly with the ASG and rogue elements in the MILF,⁶⁶⁸ although Zachary Abuza argues that it still maintains strong relations with the central command of the MILF. Some reports suggest that the JI has also attempted to establish links with militants in Thailand and Myanmar.⁶⁶⁹

In 1999, the JI attempted to formalize its relationship with the region's armed groups by establishing the Rabitatul Mujahideen (Legion of Mujahideen) as an umbrella organization for those groups. With this initiative, the JI attempted to implement on a regional level the project al Qaeda tries to take on the global level, serving as the vanguard group of Southeast Asia's jihad.⁶⁷⁰ More specifically, Rabitatul Mujahideen sought to pool the resources of similar-minded groups to maximize their effectiveness. The JI envisioned cooperation and sharing of resources in training, arms procurement, financing and terrorist operations. Reportedly, the new organization met three times between 1999 and late 2000. These meetings were held in great secrecy in Malaysia. According to a White Paper issued by the government of

⁶⁶⁵ Abuza, *Militant Islam in Southeast Asia*, 136-138.

⁶⁶⁶ ICG, *Jemaah Islamiyah in South East Asia*, 18.

⁶⁶⁷ ICG, *Southern Philippines Backgrounder*, 13.

⁶⁶⁸ *Ibid*, 13.

⁶⁶⁹ Abuza, "Al-Qaeda Comes to Southeast Asia," 51.

⁶⁷⁰ Gunaratna, "The Ideology of Al-Jama'ah Al-Islamiya," 77.

Singapore, in 2000 the Rabitatul Mujahideen took the decision to attack Philippines interests in Indonesia, apparently in retaliation for the Philippines government's clampdown on the MILF.⁶⁷¹

Though it caused considerable nervousness among governments in the region, Rabitatul Mujahideen never materialized into the threat it might have posed; in fact, it was moribund almost from the start.⁶⁷² Yet, as suggested above, significant cooperation among the region's Islamic groups has been taking place; the possibility of the formalization of this relationship cannot be dismissed out of hand.

The diverse composition of the JI, as manifested in the national origins of its members, is another testimony to its region-wide threat. Despite the national diversity, some clear membership patterns corresponding to changes in the group's center of gravity, ideological perspectives and operational constraints can be observed. Because the organization has Indonesian origins, Indonesian exiles have dominated it from its inception. But during the years its leadership lived in Malaysia, the JI made significant inroads and recruited heavily among local citizens. With the return of Sungkar and Ba'asyir to Indonesia in 1998, the JI was better positioned to increase the number of its Indonesian followers. The significance of Indonesians in the JI was especially evident after the organization suffered significant blows in Malaysia and Singapore. Members in those countries were arrested in large numbers and local membership declined significantly. At the same time, the traditional existence of Islamic radical groups, the strong roots of the JI in Indonesian society, the continuous strife between Muslims and Christians, and the relative weakness of authorities allowed for the continuation of the organization's operations in Indonesia and the replenishment of its ranks. Thus, while the JI appeals to Muslims of various nationalities, presently its

⁶⁷¹ Government of Singapore, *The Jama'ah Islamiya Arrests and the Threat of Terrorism*, 7.

⁶⁷² Jones, "The Changing Nature of Jemaah Islamiyah," 175; Conboy, *The Second Front*, 123.

ranks are dominated by Indonesians; however, changing circumstances could shift the national composition of the group once again.

State level

Similarly to the ambiguity between the JI's global and regional roles, the line between its regional and local Indonesian agenda is blurred. At the turn of the century the JI, dominated by its internationally-oriented elite, threatened the states of Southeast Asia. The years of exile outside Indonesia and the concomitant exposure to external influences, especially among veterans of the jihad against the Soviets and the training camps in Afghanistan, shaped the JI's regional agenda. However, elements within the JI, a splinter from DI, continued to harbor an ideology that concentrated on changing the Indonesian state. In some periods, the regional and local orientations of the JI coexisted and were perceived as mutually reinforcing. At other times the contestation took the shape of competing priorities, not the denial of legitimacy of one perspective. Changes in the strength of each perspective normally corresponded to the circumstances on the ground, the ability to pursue one agenda or the other, and the support each position had among the JI leaders that remained at large.

Most advocates of the Indonesia-first perspective and the opposition to the importation of al Qaeda's ideology and tactics came from members located in Mantiki II, in Indonesia; the rise of their outlook started with the collapse of Suharto's regime and the subsequent return of many exiles. Participation in localized conflicts in Sulawesi and the Maluku and the resulting reinforcement of ties with other radical Islamic groups whose ideology focused on the creation of an Islamic state in Indonesia enhanced the significance of the JI's local agenda. At the same time, the sweeps of the Malaysian and Singaporean security services and the later Indonesian arrests of numerous central operatives following the Bali bombing depleted the internationalists' ranks and reduced the strength of their agenda. As more members from Mantiki II

stepped in to fill vacant positions in the organization's central command, held previously by the dead or captured internationalists, the organization as a whole became less inclined to emphasize the international and anti-Western agenda.⁶⁷³ While the ranks of the internationalists have contracted, particularly in the leadership positions, their camp still exists and persistently plots against the region's countries and foreign targets.⁶⁷⁴ There are about twenty Afghanistan-trained first generation leaders (usually supportive of the expanded goals) still at large, and a new generation of leaders is slowly building.⁶⁷⁵ Thus, the JI has a cadre to maintain both internationalist and Indonesian agendas.

The mutually reinforcing connections between the internationalist and local agendas are evident in the participation of the JI in local conflicts in Indonesia. Obviously, such involvement indicates a commitment to a local enterprise; but the purpose of those local jihads extends beyond these conflicts' intrinsic importance and tends to support the internationalist agenda as well. Jihad arenas serve as a magnet for the recruitment for new volunteers, while assisting in consolidating the commitment of the more veteran members to the group's ideology. Fighting in Sulawesi and the Maluku also provides newcomers with a "rite of passage" equivalent to the role the Afghan jihad played for the JI's founding generation.⁶⁷⁶ Moreover, since communal conflicts are being used by Islamic groups all around the world to support the call for jihad, it would have been surprising had the JI avoided exploiting the situation in its own backyard.

⁶⁷³ Ibid., 170.

⁶⁷⁴ For example, in 2005 the JI planned to bomb a Japanese-owned power plant. See "JI Had Plant in Sights," *Herald Sun*, April 18, 2006

⁶⁷⁵ Zachary Abuza, "Beyond Bali: A New Trend for Terrorism in Southeast Asia?" *Terrorism Monitor* 3:19, October 7, 2005.

⁶⁷⁶ Angel M. Rabasa, "Radical Islamist Ideologies in Southeast Asia," in Fradkin, Haqqani and Brown (eds.), *Current Trends in Islamic Ideology*, vol. 1, 35.

While exploiting the internal communitarian strife inside Indonesia, the JI continues to carry out attacks against targets inside Indonesia identified with the West or with Western values, and to take advantage of the situation in the Philippines. If Malaysia and Singapore were to adopt a lax attitude towards the JI, we would probably see the organization's resurgence in these countries. It will come as no surprise if evidence emerges that JI is taking advantage of the chaotic situation in the Muslim populated provinces of Southern Thailand to regroup and regenerate.

The dual strategy pursued by the JI is partially a manifestation and outcome of weak leadership. While both Sungkar and Ba'asyir headed the JI since its establishment, the picture that emerges from numerous reports suggests that Sungkar was the real authority figure. He was admired by his followers, and his authority was not challenged. Sungkar's sudden death from a heart attack in 1999 left Ba'asyir at the head of the organization. Though he was nominated amir, this nomination appears to reflect the need to stabilize the organization and organizational inertia rather than the expression of confidence in his leadership.⁶⁷⁷ In fact, the JI's younger generation saw him as too weak, too accommodating and too easily influenced by others.⁶⁷⁸ Lacking the support and reverence that the late Sungkar enjoyed, Ba'asyir's authority was questioned. But because of the structure of the organization and the pledge of allegiance he received from the JI members, challenges to his authority were bound to be more implicit than explicit.

Reflecting Ba'asyir's weak standing, the JI's central command, which consisted mainly of young radicals, considered his positions as recommendations that could go unheeded.⁶⁷⁹ After Omar al Faruq's confession appeared in *Time* magazine in

⁶⁷⁷ Conboy, *The Second Front*, 84.

⁶⁷⁸ ICG Asia Report No. 43, *Indonesia Backgrounder: How the Jemaah Islamiyah Terrorist Network Operates*, December 11, 2002, 3-4.

⁶⁷⁹ ICG, *Jemaah Islamiyah in South East Asia*, 1.

September 2002, there were debates about whether the circumstances were conducive to the continuation of armed struggle. According to Sydney Jones from the ICG, Ba'asyir argued that the armed struggle be put on hold for the time being due to its negative repercussions on the movement. But his opinion was not accepted by the more radical faction.⁶⁸⁰ and a month later the JI bombed Bali.

Due to the lack of strong leadership and the disagreements about the JI's strategic direction, the JI exhibited political schizophrenia. The main subjects of contestation concerned the role of violent action, the selection of targets, and the preferred arena of operations. The result of the debates was not a clear decision one way or the other, but the pursuit of different strategies simultaneously. Although not an opponent of violent action, Ba'asyir directed most of his efforts to the local Indonesian arena. He focused on the propagation of radical Islam and on broadening the ranks of those supporting the establishment of the shari'ah as the law of the state.

In addition to the boarding schools, which remained a critical element in the JI's outreach activities, Ba'asyir also attempted to bring together the numerous Islamic groups. In August 2000, he established the Mujahidin Council of Indonesia (MMI). Ba'asyir declared the MMI an umbrella organization for advocates of the peaceful implementation of the shari'ah in Indonesia. While Ba'asyir navigated the JI in one direction, other members of the JI disapproved of the establishment of the MMI. The discontent it created among the younger JI generation widened the split within the ranks of the JI.⁶⁸¹

The debate about peaceful propagation versus violent jihad only intensified subsequent to the JI attack on the Marriott hotel in Jakarta in 2003. Some JI members based in the group's boarding schools doubted the wisdom of the attack, expressing

⁶⁸⁰ ICG, *Indonesia Background: How the Jemaah Islamiyah Terrorist Network Operates*, 4.

⁶⁸¹ Gunaratna, "The Ideology of Al-Jama'ah Al-Islamiya," 76.

concern that such attacks hinder the JI's ability to pursue its outreach activities to increase the ranks of the organization. Moreover, they complained that as the bombing led to the imprisonment of numerous JI leaders, the organization's leadership ranks are being depleted. Furthermore, the organization's control over its members declines as individuals take the initiative and start to operate independently without sufficient control from the center.⁶⁸²

The JI has also been conflicted about the selection of targets. Whereas the internationalists have been resolute in sticking with the broader anti-Western agenda, others are reported to view such tactics as self-defeating and as undermining the JI's more limited agenda.⁶⁸³ The debate has not been solved. While probably a minority at this stage, the internationalists continue to operate and so far have managed to carry out a big operation at least once a year. Lack of effective control allows JI members to take action with or without the authorization of the JI's central command. The personal relations formed with individuals outside the JI facilitate the use of other organizations' resources.⁶⁸⁴ Indeed, the two planners of the Australian embassy bombing were Malaysians JI members who had to go outside the organization to find foot soldiers.⁶⁸⁵

The JI reached the peak of its power between the years 2000-2002. Its administrative structure spanned Indonesia, Singapore, Malaysia, the Philippines and Australia. It had liaison offices in Pakistan and in Afghanistan, and it was able to move people and money through Thailand. The JI also set up a network of connections with other Islamic organizations in the Philippines, Malaysia and Indonesia, even carrying out bombings with some of them.⁶⁸⁶ But the JI was not able to make further

⁶⁸² ICG, *Jemaah Islamiyah in South East Asia*, 31.

⁶⁸³ ICG, *Indonesia Backgrounder: Jihad in Central Sulawesi*.

⁶⁸⁴ ICG Asia Report No. 114, *Terrorism in Indonesia: Noordin's Networks*, May 5, 2006

⁶⁸⁵ Jones, "The Changing Nature of Jemaah Islamiyah," 174.

⁶⁸⁶ *Ibid*, 174-175.

progress. Instead, its power started declining. Explanation of the decline of the JI is complicated. The internal factors just described enhanced the relative degeneration of the JI's international reach; but the role of such internal factors was secondary to effective counter-terrorism measures taken by the region's states, the subject of the following section.

Southeast Asia's Response to the JI Threat

Since the JI's operations were restricted to Southeast Asia, the bulk of the counter-terrorism efforts to combat the group were carried out by its states. Their response features cooperation that exceeds the expectations of Realists, although by itself the threat posed by the JI was not sufficient to produce regional cooperation equal to that produced by the members of the international society in response to the al Qaeda threat following 9/11. The contribution of the global war on the jihadi movement to counter-terrorism efforts at the regional level offsets to some extent the disinclination of the region's states to pursue their security interests collectively.

The threats of both the JI and al Qaeda have contributed to the interstate cooperation we have witnessed since the fall of 2001. Unfortunately, it is difficult to evaluate the separate contributions of each. Nevertheless, it is obvious that the regional war on terrorism benefited greatly from the penetration of the global level to the regional level. This penetration has two manifestations: first, the effects of measures designed by the international society for the global war on terrorism spill over to the regional confrontation with the JI, providing states with a conceptual framework to confront transnational terrorism and with specific tools to carry out this fight. Second, because the JI is regarded as an element of the larger systemic challenge embodied in al Qaeda, it was designated a direct target of the global effort, leading additional external actors to join the fight.

The Southeast Asian security complex includes two possible clusters of states. One comprises the founding members of ASEAN (The Association of Southeast Asian Nations) -- Indonesia, Malaysia, Singapore, Philippines and Thailand -- in addition to Brunei (which joined the organization in 1984); the second comprises all current ASEAN members, the aforementioned six countries plus Myanmar, Cambodia, Laos and Vietnam. In this section I observe the responses of the countries in the first cluster, because the core states of ASEAN have demonstrated security interdependence and some features of a regional international society. Conflict has not been eliminated from their relations; but as Yuen Foong Khong argues, ASEAN founding countries have developed a common identity and a sense of “we-ness.”⁶⁸⁷ Furthermore, the agenda of the JI focuses on ASEAN’s founding members because they all contain a not insignificant Muslim population.

And yet, on occasion I rely on the broader grouping for supportive evidence. The new members of ASEAN -- some having joined the association less than ten years ago -- are still not fully integrated and are regarded as outsiders; their commitment to the institution and to the ASEAN spirit is still doubted, with some observers suggesting that these countries joined ASEAN mainly to neutralize possible external pressures. Evidence for cooperation within the framework of ASEAN, taking place despite its composition, would strengthen my argument. After all, if the new members are not significantly threatened by the JI and are usually reluctant to support cooperation, particularly on security related issues, then progress in the framework of ASEAN is less expected and if it does take place, more meaningful. The relative immunity of these four countries -- particularly Myanmar -- to American pressures has been demonstrated repeatedly since the Vietnam War, thus the weight of hegemony’s

⁶⁸⁷ Yuen Foong Khong, “ASEAN and the Southeast Asian Regional Security Complex,” in David A. Lake and Patrick M. Morgan (eds.), *Regional Orders: Building Security in a New World* (Penn State University Press, Pennsylvania, 1997), 318, 339.

power as an explanation for their behavior is considerably weaker than non-Realist interpretations.

Interstate cooperation may take place in institutional settings where states rely on existing institutions or create new ones. Alternatively, it may occur directly between states. In the context of the war on terrorism, cooperation also includes the steps each state takes in accordance with the resolutions and guidelines of the Security Council and other relevant organs. The discussion below starts with cooperation in institutional frameworks, focusing on action in ASEAN, and then moves to bilateral cooperation and states' internal actions.

ASEAN

ASEAN is the natural host for regional multilateralism in Southeast Asia. Founded in 1967 by Indonesia, Malaysia, the Philippines, Thailand and Singapore and slowly expanding, the organization currently comprises ten countries. ASEAN is characterized as a form of weak institutionalization. That it refers to itself as an association of states rather than as an organization but as is very telling. ASEAN's main function is to serve as a forum for consultations, exchanges of opinions and reduction of tensions. Its rules stipulate that any decision must be taken by consensus. The operation of ASEAN is based on the principles of state sovereignty and non-intervention, an expression of the organization's low ambitions and its preference for measured and stable progress. ASEAN's expansion during the 1990s brought in states even more averse to multilateralism, further reducing the likelihood of bolstering the institution and increasing regional integration in the near future.⁶⁸⁸

⁶⁸⁸ Among the numerous studies that have been written about, Shaun Narine, *Explaining ASEAN: Regionalism in Southeast Asia* (Lynne Rienner Publishers, Boulder and London, 2002); Amitav Acharya, *Constructing a Security Community in Southeast Asia* (Routledge, London, 2001); Alastair Iain Johnston, "The Myth of the ASEAN Way? Explaining the Evolution of the ASEAN Regional Forum," in Helga Haftendorn, Robert O. Keohane and Celeste A. Wallander (eds.), *Imperfect Unions: Security Institutions over Time and Space* (Oxford University Press, Oxford, 1999), 287-324.

Terrorism was on ASEAN's agenda prior to 9/11, although it was not singled out as a topic of special interest. ASEAN countries regarded terrorism as a continuing low-level threat requiring strategic attention, but not as the defining security issue in the region.⁶⁸⁹ Consequently, until 9/11 terrorism was subsumed under the rubric of transnational crime;⁶⁹⁰ underestimating its danger, ASEAN made little effort to consider collective solutions to face it. Attitude change in the aftermath of 9/11 led ASEAN members to consider the role of the organization in the global war on terrorism. The demonstration of modern terrorism's lethality combined with U.S. pressure led the organization to elevate the status of terrorism on ASEAN's agenda and to encourage cooperation among the members of the organization. In October 2001, ASEAN stated in a joint communiqué that efforts to fight transnational crime should have a particular focus on terrorism.⁶⁹¹ A month later, ASEAN heads of state signed the Declaration on Joint Action to Counter Terrorism in which they pledged to enhance cooperation, to comply with the Security Council anti-terrorism resolutions, and to explore ways to increase ASEAN's role in the regional and global war on terrorism.⁶⁹²

In May 2002, ASEAN adopted an action plan to confront transnational crime, including terrorism, that would provide for enhanced cooperation in intelligence sharing and coordination and standardizing their anti-terror laws. It was also agreed that each country would establish a special counter-terrorism unit to serve as a point of

⁶⁸⁹ Rommel C. Banlaoi, *The War on Terrorism in Southeast Asia* (Strategic and Integrative Studies Center, Inc., Philippines, 2003), 39.

⁶⁹⁰ Jonathan T. Chow, "ASEAN Counterterrorism Cooperation Since 9/11," *Asian survey* 45:2 (March/April 2005), 304-305.

⁶⁹¹ ASEAN, *Joint Communiqué of the Third ASEAN Ministerial Meeting on Transnational Crime*, October 11, 2001. www.aseansec.org/5621.htm. Accessed April 10, 2006.

⁶⁹² ASEAN, *2001 ASEAN Declaration on Joint Action to Counter Terrorism*, November 5, 2001. www.aseansec.org/5620.htm. Accessed April 10, 2006.

contact among the members.⁶⁹³ In August 2002, the U.S. and all ten members of ASEAN signed an agreement on counter-terrorism cooperation. The document specified goals such as the reinforcement of collaboration among law enforcement agencies, strengthening of capacity building, provision of assistance on border controls-related issues, and information-sharing on best practices in forming and implementing measures to block terrorist financing.⁶⁹⁴ The significance of the declaration goes beyond its content. It was adopted despite the reluctance of ASEAN's newest members to support an increase in the involvement of the U.S. in the region.

In the years that followed, cooperation in the framework of ASEAN deepened. This progress coalesced with the increase in the salience of the threat posed by the JI. The Bali bombing rendered the looming terrorist threat more vivid, while alerting states that their counter-terrorism apparatuses are inadequate to meet this threat. In March 2003, the ASEAN Regional Forum convened the first annual Intersessional Meeting on Counterterrorism and Transnational Crime (ISM CT-TC) in Malaysia. Jonathan Chow argues that this move reflects the improvement of the amount and quality of discussion about terrorism in ASEAN. He maintains that this move was particularly significant in bringing together not only ASEAN members but also extra-regional "dialogue partners," including the U.S, Japan, China, Russia and Australia. ASEAN thus signaled higher awareness of the seriousness and scope of the threat, willingness to cooperate with stronger actors to improve its members' ability to face the threat, and its stronger commitment to counter-terrorism. The meeting was later followed by the opening of lines of communications with international powers, as

⁶⁹³ Sheldon W. Simon, "U.S. Policy and Terrorism in Southeast Asia," in *Fighting Terrorism on the Southeast Asian Front*, Asia Program Special Report no. 112 (Woodrow Wilson International Center for Scholars, Washington, DC, 2003), 17.

⁶⁹⁴ Banlaoi, *The War on Terrorism in Southeast Asia*, 60-61.

indicated by the joint declarations to fight terrorism with the EU, India, Russia and Australia.⁶⁹⁵

In July 2003, the Southeast Asia Regional Center for Counter-Terrorism opened in Kuala Lumpur. The center is designed to serve as a clearinghouse for information on regional terrorism and includes a unit to monitor and disseminate intelligence. It also houses researchers and hosts training sessions for officials from the region's countries.⁶⁹⁶ Complementary to this step, Indonesia and Australia agreed in February 2004 to set up a regional counter-terrorism training center in Jakarta.⁶⁹⁷ Australia pledged nearly 37 million dollars to the center, which would support regional capacity building.

Scholars are divided about the progress made in the ASEAN framework. Abuza views the level of cooperation as unsatisfactory and, like other scholars, points to ASEAN's institutional characteristics as obstacles to more extensive collaboration. Indeed, the unwavering attachment to national sovereignty, non-interference and the consensus prerequisite are commonly used to explain the weak form of cooperation in the region.⁶⁹⁸ But those impediments only reinforce the sense of accomplishment; after all, they did not prevent the steady movement toward regional cooperation. Indeed, in one demonstration of commitment to take cooperation to the next level, eight ASEAN members signed on November 29, 2004 the Treaty on Mutual Legal Assistance in Criminal Matters. The two remaining members, Myanmar and Thailand, decided to

⁶⁹⁵ Chow, "ASEAN Counterterrorism Cooperation Since 9/11," 318.

⁶⁹⁶ CRS Report for Congress, *Terrorism in Southeast Asia*, 33, 41; "Malaysian Southeast Asian Counterterrorism Center to Bolster regional Cooperation – OPLE," Department of Foreign Affairs, Philippines, press release no. 326-03, July 3, 2003. www.dfa.gov.ph/news/pr/pr2003/jul/pr326.htm. Accessed April 10, 2006.

⁶⁹⁷ Tamotsu Fukuda, *Regional Cooperation against Terrorism in East Asia*, Strategic and Defence Studies Center, Australian National University (March 2004, Canberra). eprints.anu.edu.au/archive/00002714/01/Regional_Cooperation_against_Terrorism_in_East_Asia.pdf. Accessed March 25, 2006

⁶⁹⁸ Abuza, *Militant Islam in Southeast Asia*, 241-251. See also Chalk, "Militant Islamic Extremism in Southeast Asia," 30.

sign in January 2006. So far, four countries -- Singapore, Malaysia, Vietnam and Brunei -- have ratified the treaty.⁶⁹⁹ I therefore cautiously concur with the optimistic voices who argue that ASEAN states have been collaborating rather extensively,⁷⁰⁰ and that the institution has been revitalized as a vehicle to intensify counter-terrorism cooperation.⁷⁰¹

However, skepticism about the scope and effectiveness of the collaborative efforts is warranted. Abuza admits that intelligence sharing and police cooperation in Southeast Asia have improved dramatically in the last few years, but qualifies that ASEAN could hardly have had a lower starting point.⁷⁰² David Wright-Neville notes that thematic cooperation among the region's countries has yet to materialize. Consequently, cooperation, he argues, takes place only on specific issues such as the JI.⁷⁰³ Both claims demonstrate the limits of regional cooperation but at the same time they are consistent with the main thrust of this work that the emergence of the JI threat led to increased cooperation.

One cannot judge cooperation levels only on the background of an ideal conception that is usually informed by images of thick security communities; cooperation should be evaluated against the pre-crisis multilateral collaboration and must consider additional factors such as regional norms of cooperation and the historical circumstances that shape the form multilateralism takes. Moreover, one must also incorporate consideration of what has been in the realm of possibilities and at what pace. From this perspective, the increased cooperation among the region's states

⁶⁹⁹ Treaty on Mutual Legal Assistance in Criminal Matters. www.agc.gov.my/agc/sec/stat.htm. Accessed April 18, 2006.

⁷⁰⁰ See Seng Tan and Kumar Ramakrishna, "Interstate and Intrastate Dynamics in Southeast Asia's War on Terror," SAIS Review 24:1 (Winter-Spring 2004), 92.

⁷⁰¹ Angel M. Rabasa, "Southeast Asia: The Second Front?" in *Fighting Terrorism on the Southeast Asian Front*, Asia Program Special Report no. 112, 13.

⁷⁰² Abuza, *Militant Islam in Southeast Asia*, 240.

⁷⁰³ David Wright-Neville, "Prospects Dim: Counter-Terrorism Cooperation in Southeast Asia," in *Fighting Terrorism on the Southeast Asian Front*, Asia Program Special Report no. 112, 9.

looks much more meaningful and in line with the predictions of the English School. Given the circumstances, developments so far signify undeniable improvement both in the ability of states to confront terrorism and in the quality of their cooperative endeavors.

Indeed, confronting terrorism in Southeast Asia is an extraordinarily intricate enterprise. Domestic constraints such as low state capacity, weak central government control in some states, lack of legitimacy, pervasive and endemic corruption, and bureaucratic rivalries regularly undermine national and regional counter-terrorism efforts. Porous borders, longstanding informal and uncontrolled economic and trade links with Middle Eastern countries, and the abundance of weapons for sale increase the region's vulnerability and with it the requirements for success.⁷⁰⁴

At the same time, intelligence and security agencies around the region lack the necessary levels of professionalism, training and competence. Until clear evidence of the threat the JI poses was presented, some of the region's countries underestimated the terrorism threat and directed their limited resources to deal with others that were more transparent and arguably more urgent. Fierce bureaucratic competition and rivalries between security and intelligence organs within each state exacerbate cooperation problems, especially as resource strains increase competition over funds. Some observers suggest that interstate cooperation may be easier to achieve than cooperation among agencies within the same state.

These problems explain a large part of the variation in the quality of the response of the different actors in the region. There appears to be a direct relationship between the strength of the states in the region and their success in promoting comprehensive and effective counter-terrorism measures: The Philippines and

⁷⁰⁴ Abuza, "Al-Qaeda Comes to Southeast Asia," 39.

Indonesia, both weak states, face higher difficulties in confronting terrorism than the stronger and well-resourced states of Singapore and Malaysia.⁷⁰⁵

ASEAN itself has admitted that there are significant gaps that hinder members' ability to confront terrorism. In response to the request of the UN's Counter Terrorism Committee, ASEAN's secretariat identified four areas of counter-terrorism activities where external assistance is required: drafting of legislation on counter-terrorism and suppression of terrorism financing; drafting a possible regional convention on counter-terrorism; establishing a database on terrorism and other transnational crimes (to include legislation, studies and reports on transnational crime); and combating bio-terrorism.⁷⁰⁶ Taking these factors into account, it is clear that while there is still much to be done, a change in ASEAN's threat perception generated increased interstate cooperation. The signs that the region's countries are more willing to engage in contractual cooperation indicate a qualitative change that goes beyond the modest Realist expectations for cooperation as a function of mutual narrow interests. The existence of such indicators despite the general disappointment regarding the pace of socializing ASEAN's new members to the "ASEAN way" only reinforces the significance of the cooperation that has taken place thus far.

Multilateral cooperation in Southeast Asia takes place in several additional frameworks existing alongside ASEAN-led activities. The most significant of these is the Trilateral Agreement on Information Exchange and Establishment of Communicative Procedures that was signed by the Philippines, Indonesia and Malaysia on May 7, 2002. Though it was adopted as a trilateral agreement, the founding members welcomed additional states to join. So far, Thailand and Cambodia

⁷⁰⁵ Tan and Ramakrishna, "Interstate and Intrastate Dynamics," 95-99; Abuza, *Militant Islam in Southeast Asia*, 234-241.

⁷⁰⁶ S. Pushpanathan, "ASEAN Efforts to Combat Terrorism," Second APEC Counter-Terrorism Task Force Meeting, August 20, 2003, Phuket, Thailand. www.aseansec.org/15060.htm. Accessed April 10, 2006.

have chosen to accede to the agreement and Singapore has expressed interest in joining.⁷⁰⁷ The agreement's declared goals are to facilitate proper coordination and cooperation during incidents where individual resources of a party may be inadequate; establish common understandings about ways to manage complex issues arising from transnational crimes; strengthen national and sub-regional capacities through information exchanges, agreed communication procedures and training; review and enhance international rules and regulations to facilitate effective collaboration and coordination in time of need; facilitate dialogue on criminal activities carried out within the members' respective territories and that may have adverse effects on the other parties; and establish mechanisms for immediate response and assistance among the parties.⁷⁰⁸ This is clearly more cooperation than the Realist formula of measures designed to tackle a specific immediate problem allows. The long-term nature of the agreement and the willingness of its members to invite all other members in the region to accede to it indicate institutionalization and cooperation that is closer to the English School's conception than to the Realist one. One other such framework is the U.S.-organized Southeast Asia Cooperation Against Terrorism (SEA-CAT). This initiative aims to establish a regional coordination infrastructure for information sharing and exchange supporting a multinational response to combat terrorism and other transnational crimes in the region.⁷⁰⁹

Bilateralism and internal measures

The suspicion about thick multilateralism pushed Southeast Asia's states to emphasize bilateral cooperation with each other as well as with external partners (in particular the U.S. and to a lesser extent Australia). Bilateral cooperation against the JI took place

⁷⁰⁷ Chow, "ASEAN Counterterrorism Cooperation Since 9/11," 313; Abuza, *Militant Islam in Southeast Asia*, 249.

⁷⁰⁸ Agreement on Information Exchange and Establishment of Communicative Procedures. <http://www.aseansec.org/17346.pdf>. Accessed April 18, 2006.

⁷⁰⁹ Banlaoi, *The War on Terrorism in Southeast Asia*, 51.

even in the most sensitive field -- intelligence and law enforcement. Indeed, extensive cooperation between such agencies led to the capture of numerous JI leaders in various locations. Among the arrests that resulted: Indonesian explosives expert al-Ghozi was arrested in Manila on a tip from Singapore. Singaporean tips also led to the capture in Indonesia of the leader of JI in Singapore, and of another leading operative in Thailand. Collaboration among the region's intelligence services, together with those of the U.S. and Australia, resulted in the most significant capture, that of Hambali, in Thailand. Overall, independent as well as collaborative work has led since December 2001 to the arrest of over 250 suspected and admitted JI members.⁷¹⁰ This number includes numerous key leaders of the organization whose capture significantly reduced the JI's ability to operate across the region.

The penetration of the global level to the regional war on terrorism allows viewing compliance with UN resolutions as evidence of cooperation as well. The focus of the Security Council on internal reforms and strengthening state capacity appears to fit Southeast Asia's emphasis on sovereignty: states are encouraged to take measures but have significant freedom to design measures independently and according to their legal systems and national traditions. They may use external support but cannot be coerced. Thus, actions taken by each state serve as a useful -- though not the ultimate -- indicator for the elevation of counter-terrorism throughout the region.

The region's six countries cooperated with the CTC, with Malaysia and Singapore submitting five reports each, Indonesia, Thailand and the Philippines four each, and Brunei three. The high quality of the reports attests to the countries' serious intentions: they are engaging, responsive to the CTC's questions, and elaborative on the specific measures each state has been taking. More important, they all have put in place a legal infrastructure to confront terrorism and punish any person implicated in

⁷¹⁰ CRS Report for Congress, *Terrorism in Southeast Asia*, 6.

terrorist acts. In the following pages, I will briefly review some of the measures taken by Malaysia, Indonesia, Singapore and the Philippines in response to the Security Council resolutions as well as other collaborative acts.

Malaysia - Before 9/11, Malaysia took little action against foreign terrorists. Its notoriously lax visa requirements made it an appealing meeting place for terrorists; unknown to the government, key al Qaeda lieutenants met in Kuala Lumpur ahead of the attack on the USS Cole and the 9/11 attack.⁷¹¹ Malaysia also served as a haven to Islamist exiles, Indonesians and Filipinos, to the dismay of their home countries. Some of the exiles went further: they established the JI in 1993 and turned Malaysia into their main base until the fall of the Suharto regime.

Malaysia's approach changed radically in the fall of 2001. The 9/11 attack as well as JI plots in Malaysia clarified the nature of the threat and prompted the regime to take steps to strengthen its anti-terrorism policies and increase collaboration with its neighbors. Malaysia is one of the three founding members of the Agreement on Information Exchange and Establishment of Communicative Procedures. Internally, Malaysia tightened its laws and regulations to prevent the use of its institutions for financing terrorism. It also established a Financial Intelligence Unit. Malaysia efficiently cracked down on local jihadis and their international connections, detaining by January 2003 approximately seventy KMM and JI members under the draconian Internal Security Act.⁷¹² Malaysia also strengthened its lax visa policies and improved enforcement.⁷¹³ It joined the U.S. Container Security Initiative (CSI), which allows U.S. officials to prescreen U.S.-bound containers, thus improving its overall ability to supervise shipment of goods to and from the country.

⁷¹¹ Abuza, *Militant Islam in Southeast Asia*, 122-123.

⁷¹² *Ibid.*, 215.

⁷¹³ *Ibid.*, 217.

Malaysia increased its control over religious schools and their curriculums and created special units to monitor covert terrorist activities on the campuses and to identify foreign students trying to recruit students to terrorist organizations. At the same time, the government instituted regulations obligating all Malaysian students studying or aiming to study abroad to register with the immigration office.⁷¹⁴ Slowly, Malaysia is also working on acceding to all universal counter-terrorism instruments to which it is not yet a party. While the process is slow, the Malaysian authorities repeatedly state their intention to become members to all relevant instruments and are preparing the legal and bureaucratic infrastructure that is required in order to adhere to the treaties.

Singapore – Singapore responded quickly and with vigor to the jihadi threat, in a few months almost eliminating the JI's infrastructure in its territory. Shortly after 9/11, it created an inter-ministerial task force responsible for reviewing existing laws, and taking all necessary measures to amend them according to counter-terrorism needs and take follow-up measures as needed. The United Nations Act is an exemplar for Singapore's commitment to comply with the Security Council's guidelines. It enables the authorities to give immediate effect to measures mandated by the Security Council.⁷¹⁵

Singapore tightened border controls, imposed stricter visa requirements on foreign nationals from certain countries⁷¹⁶ and established a new border control agency that amalgamates the functions of two different agencies under one unified authority. In addition, it joined the U.S. Container Security Initiative. Singapore also signed and ratified the convention on the suppression of terrorism financing and

⁷¹⁴ Banlaoi, *The War on Terrorism in Southeast Asia*, 45-47.

⁷¹⁵ Singapore's reports to the Counter Terrorism Committee. All reports can be found on the website of the CTC. www.un.org/sc/ctc/countryreports.shtml. Accessed April 15, 2006.

⁷¹⁶ Banlaoi names foreigners coming from Egypt, Iran, Pakistan, Saudi Arabia and Sudan as the target of these policies. See Banlaoi, *The War on Terrorism in Southeast Asia*, 54.

passed the relevant legislation. It established a FIU, strengthened supervision on charities and required all Hawalas to register.⁷¹⁷ It also acted to regulate the movement of strategic goods, in particular munitions and dual-use material. Singapore has taken steps to improve maritime security; in 2004 it joined trilateral coordinated patrols of the Straits of Malacca with Indonesia and Malaysia. It also launched joint naval exercises with Australia.

The Singaporean security services have been cooperating with their counterparts as well as with external actors. Its robust intelligence agencies were effective in thwarting the number of attacks on targets within and outside Singapore. The pivotal role of Singaporean security and intelligence forces in sharing intelligence and coordinating law enforcement work with neighboring states is well known in the region and facilitated the capture of some JI leaders.⁷¹⁸ Singapore also granted access to detained JI operatives to officials from Malaysia, the Philippines, Indonesia, Thailand, the U.S. and Australia.

Together with the U.S., Singapore hosted a counter-terrorism financing workshop in January 2003, attended by participants from twenty-five countries from ASEAN and the Pacific island region. Singapore offered ASEAN members to support training in bomb/explosive detection, post blast investigation, airport security and documents' security and inspection. It was the first to ratify (2005) the regional mutual legal assistance treaty.⁷¹⁹

Indonesia – Indonesia was slow to respond to the threat of terrorism. The Indonesian president Megawati was the first Muslim leader to visit Washington after 9/11, exchanging pledges with President Bush to strengthen cooperation against terrorism.

⁷¹⁷ www.un.org/sc/ctc/countryreports.shtml. Accessed April 15, 2006.

⁷¹⁸ Government of Singapore, *The Jama'ah Islamiya Arrests and the Threat of Terrorism*, 21-22; CRS Report for Congress, *Terrorism in Southeast Asia*, 31.

⁷¹⁹ www.un.org/sc/ctc/countryreports.shtml. Accessed April 15, 2006.

The visit resulted in an aid package designed to build Jakarta's capacity to confront terrorism, including funding for the establishment of a national police counter-terrorism unit, counter-terrorism training for police and security officials, training for the financial intelligence unit and intelligence analysts, and finally, training and assistance to establish a border control system.⁷²⁰ But Indonesia was slow to conceive its own role in the war on terrorism or to understand how it might be affected by terrorism.

Throughout the year between the 9/11 attack and the Bali attack, the Indonesian government did little to curb terrorism. At the same time, it was swept by a wave of anti-American sentiment and broad opposition to the U.S. attack on Afghanistan.⁷²¹ Apologetically, the Indonesian minister of foreign affairs explained (January 2002), "we have limitations in legal infrastructure as we do not have an internal security act or laws on subversion. We also have problems in upholding human rights. So it is important for the international community to view the issues in the context that Indonesia is currently in a transitional period."⁷²² Indonesia's reluctance to take action frustrated its neighbors, in particular Malaysia, the Philippines and Singapore. They successfully thwarted terrorist attacks and dismantled JI cells; but they wanted Indonesia to take action against the organization's leadership residing in Indonesia. Though Indonesia was the focal point of the jihadi effort in the region, the Indonesian authorities made little effort to assist. Abu Ba'asyir himself was named as a prime suspect by both Singapore and Malaysia; but until the bombing in Bali the authorities in Indonesia refused to arrest him.⁷²³

⁷²⁰ CRS Report for Congress, *Terrorism in Southeast Asia*, 16.

⁷²¹ Rizal Sukma, "Indonesia and 9-11: Reactions and Implications," in Han Sung-Joo (ed.), *Coping with 9-11: Asian Perspectives on Global and Regional Order* (The Japan Center for International Exchange, Tokyo, New York, 2003), 56-70

⁷²² Quoted in Abuza, *Militant Islam in Southeast Asia*, 200.

⁷²³ Abuza, *Militant Islam in Southeast Asia*, 161.

Indonesian attitudes changed radically after Bali. The bombing created internal and external pressures on the Indonesian government, which was hard pressed to acknowledge the difficult realities. Days after the bombing, the Indonesian government adopted two anti-terrorism regulations. One explicates and classifies activities considered acts of terrorism. The second regulation stipulates corresponding punishments.⁷²⁴ These two regulations are part of a larger legal framework to establish terrorism as a crime and to facilitate the punishment of terrorists and their accomplices. Indonesia demonstrates higher willingness to cooperate with the UN's organs. It has improved its dialogue with the CTC and hosted the Monitoring Team in a visit designed to give the team a firsthand impression on countries' implementation of the Security Council's resolution and to evaluate their needs. As part of the increased cooperation, Indonesia also provided additional names and identifiers to the 1267 list.⁷²⁵

The success of the investigation team -- the result of unprecedented cooperation between four hundred Indonesian and over one hundred foreign investigators (mostly officers from the Australian Federal Police but also from Japan, Britain, Germany, New Zealand, the Netherlands, Sweden, the Philippines, France, and the U.S.⁷²⁶) -- in uncovering the details of the attack and arresting the conspiracy leaders helped convince a skeptical public, initially reluctant to accept that Muslims could be responsible for such an atrocity, that the JI was indeed the culprit. Within such a public mood, the government was in a better position to proceed in confronting the JI, although it only reluctantly arrested Ba'asyir.

⁷²⁴ Banlaoi, *The War on Terrorism in Southeast Asia*, 44-45.

⁷²⁵ The Analytical Support and Sanctions Monitoring Team, "Assessment of 131 Member States' Reports," S/2004/1037; Second Report of the Analytical Support and Sanctions Monitoring Team appointed pursuant to resolution 1526 (2004) concerning al-Qaida and the Taliban and associated individuals and entities, S/2005/83, 15 February 2005.

⁷²⁶ Barton, *Indonesia's Struggle*, 8; Abuza, "Al-Qaeda Comes to Southeast Asia," 51; and www.un.org/sc/ctc/countryreports.shtml. Accessed April 15, 2006.

Several factors account for Indonesia's weak response to terrorism prior to the Bali bombing. They illustrate the complications that weak states face when they need to confront such a threat, particularly before it hits them directly. Geography makes Indonesia a difficult place for counter-terrorism. With 2,700 islands and over 220 million people, the task of closing the country's borders or even detecting entries and exits is almost Herculean.⁷²⁷ While such conditions are permanent and largely out of state control, the domestic upheaval was domestically made. The 1997 financial crisis and the consequent fall of Suharto's regime created conditions that were hardly conducive to effective confrontation with transnational terrorist networks. For a feeble democracy such as Indonesia, struggling to reconstitute normality and bring back stability, the terrorist threat could hardly have come at a worse time. Indonesian authorities lacked both institutional capacity and public support to confront terrorism.

Institutionally, the state's organs were unprepared and under-equipped for the task. For years, the intelligence services were distracted by separatist rebellions and political mayhem. Thus, they were unable to focus their attention on the JI. Lack of funds and the poor shape of the organization's equipment further hampered its ability to meet the challenge. While the military was better positioned to handle the task, its past involvement in human rights abuses and public fear of further military political excesses rendered it a less appealing option.⁷²⁸ Some argue that the military also lacked the will to face the JI. It wanted the democratically elected leaders to fail in order to prove the vital role of the military in the Indonesian state. Moreover, the military's alliance with Islamic groups against secessionist movements compromised its ability to confront the same people or their allies on other fronts.

⁷²⁷ Jason Burke, "The Secret Mastermind Behind the Bali Horror," *The Observer*, October 20, 2002.

⁷²⁸ Moreover, the military's past abuses of human rights also disqualified it from receiving U.S. assistance. See Shahar, "Al Qaida's Asian Web."

Public support is critical for counter-terrorism policies, especially because effective counter-terrorism measures require imposing limitations on civil rights. The weaker the state, the more those limitations appear repressive and intrusive. But such were exactly the measures an Indonesian government was reluctant or unable to take as it attempted to recover from decades of the repressive regime that had ended only a few years earlier -- the memory of the excesses of which were still burned in the consciousness of Indonesian society.

Realists may see Indonesia's slow response as confirming their claims; but the list of genuine obstacles Indonesia faced account better for its policies. As the main arena for the jihadi efforts, Indonesia had a much stronger interest than Malaysia and Singapore in confronting the JI. But its weakness prevented it from taking the needed measures. The Indonesian authorities were largely blind to the existence and magnitude of the threat. Until the Bali bombing, Indonesian officials, including some among the police intelligence, denied the existence of the JI in Indonesia while acknowledging its presence in other countries in the region.⁷²⁹ Like the U.S. a year earlier, Indonesia needed to suffer a bombing to wake up and acknowledge the magnitude of the threat. Indonesian authorities may still not act exactly the way external observers would wish, but Indonesia knows the intricate nature of its Islamic opposition groups and the divisions within the Indonesian jihadi movement; no country has more at stake. So far, Indonesia has achieved considerable success in dismantling JI cells and thwarting planned attacks. It has been less interested in fighting the social networks in which the JI -- but also numerous other Islamic groups -- have evolved.

⁷²⁹ Anthony L. Smith, "Terrorism and the Political Landscape in Indonesia: The Fragile Post-Bali Consensus," in Smith (ed.) *Terrorism and Violence in Southeast Asia*, 107; Abuza, *Militant Islam in Southeast Asia*, 142.

Philippines – As opposed to Indonesia, the Philippines was happy to join the U.S. war on terrorism. While the MILF and ASG, not the JI, were the focus of its counter-terrorism efforts, these policies addressed the JI problem as well. The Philippines has been relying on direct American assistance more than any other country in the region. The most significant elements of the American assistance were the deployment of American troops to conduct joint military exercises and train Philippines soldiers, intelligence cooperation and other capacity building programs.

The Philippines authorities have captured numerous JI operatives, including some high ranking members. This continuous effort is especially important for the region at a time when the JI was almost completely chased out of Singapore and Malaysia and needs the Philippines and Indonesia as havens and for training purposes. The capture of JI members usually results from the Philippines' broader struggle with its local insurgency in Mindanao; but the government did stipulate in its peace talks with the MILF that the group will not provide sanctuary to JI operatives, thus serving the regional counter-terrorism campaign and not only its own. Another indication of its commitment to the region is its status as a founding member in the Agreement on Information Exchange and Establishment of Communicative Procedures.

The Philippines is currently a member to twelve counter-terrorism instruments. It joined most of them only following the call of the Security Council. Acknowledging the severity of the threat and the urgent need to confront it by all legal means, it put in place a fast track to allow the speedy adoption of the universal instruments. Among the treaties it recently acceded to are those on terrorism bombing and terrorism financing.⁷³⁰ The government of the Philippines has rushed to pass anti-terrorism legislation in accordance with the relevant Security Council resolution. As already

⁷³⁰ The Philippines reports to the CTC. See www.un.org/sc/ctc/countryreports.shtml. Accessed April 15, 2006.

noted, the Philippines also participated in regional forums and agreements to enhance inter-state cooperation.⁷³¹ The government has also taken steps to improve its immigration system and adopted computerized immigration checks at its international airports. But all of these efforts appear almost insignificant considering the geography of the country, with its porous borders and seven thousand islands.⁷³²

Conclusions

The JI is a case of a glocalized terrorist threat that produces a mixture of global and local counter-terrorism policies. Because the JI was identified as part of the jihadi movement and because compliance with the Security Council resolutions leads to the creation of an infrastructure to confront any actor designated as a terrorist entity, the global response to 9/11 provided states a framework within which the specific anti-JI campaign could nest. While all states in the region responded to 9/11 with a more serious approach to the problem of terrorism, some were faster than others in perceiving the magnitude of the threat to themselves and in taking the much needed steps.

The region's states prefer cooperation that preserves their sovereignty and conforms to the norm of non-intervention. Indeed, most counter-terrorism measures states were required to take are in line with these principles. But the countries of

⁷³¹ Banlaoi, *The War on Terrorism in Southeast Asia*, 47-54.

⁷³² Despite its distance from the main operational arena of the JI, Thailand's response to the threat is worth attention too. Thailand acted slowly. By 9/11 Thailand had been a member to only four international counter-terrorism treaties. Since the attack, it has signed and ratified the anti-terrorism financing treaty too and declared its intention to accede to all other relevant treaties. However, the pace of the legal preparations for accession is sluggish. Despite its slow response, Thailand has put in place a legal framework to deal with terrorism. Thailand partakes in the ASEAN initiatives and also joined the Agreement on Information Exchange and Establishment of Communicative Procedures. It concluded memoranda of understanding with numerous Egmont states to facilitate cooperation between the countries' FIU. Bilaterally, Thailand cooperates with its neighbors in intelligence and law enforcement issues; the successful cooperation with Singapore led to the netting of JI operatives in Thailand. Regional cooperation led to Hambali's capture in Bangkok in 2003. Thailand is also reinforcing its border controls, including hardening its visa policies and improving its ability to detect fraudulent documents. Thailand also cooperates with the U.S. and Australia on different aspects of guarding its borders. See Thailand's reports to the CTC. See www.un.org/sc/ctc/countryreports.shtml. Accessed April 15, 2006.

Southeast Asia went even further. In response to the evolution of the threat of terrorism, there has been an increase in the number of regional frameworks in Southeast Asia. Most progress in multilateral frameworks took place in ASEAN. This cooperation has been unique because it exhibited the first signs of qualitative change in the nature of cooperation. ASEAN states still adhere to the principles of sovereignty and non-interference, but they seem a little more comfortable with increasing the level of regional commitment. This progress is even more significant taking place in an expanded ASEAN that includes new members even more resistant to regional integration and intervention of external actors. All of the members in the region are making considerable effort to comply with the resolutions of the Security Council and engage in extensive cooperation with the CTC and other organs, even though the UN relies only upon persuasion to elicit states' cooperation.

One cannot dismiss altogether the role of states' narrow and short-term self-interest or the coercive power of a hegemon in producing the cooperation exhibited (the Realist explanation). Clearly, incentives and pressures from the U.S. partly account for the level and type of measures states take (for example, Malaysia's and Singapore's participation in the CSI do not reflect just counter-terrorism needs but also financial considerations). Narrow interests also provide part of the explanation for the variation in the pace of the measures taken (for example, the slow Thai response). But such explanations are insufficient in explaining the type and level of cooperation we have been witnessing.

The institutional rules of ASEAN and the composition of the institution do not allow the hegemon to force cooperation through ASEAN. To the extent that such cooperation has increased, with member states demonstrating more willingness to engage in contractual cooperation -- including those that are less likely to become victims of the JI (or al Qaeda) in the short term -- and despite the slow socialization of

the new ASEAN members, it has not been due to the hegemon's material power, but due to an increasing sense of state comity.

Moreover, the most important states in the region did not always follow the Realist predictions. Whereas Realism expects Indonesia to lead the confrontation with the JI as the country most likely to be its target, Indonesia ended up as the slowest one to perceive the danger and respond to it. A multitude of domestic factors prevented it from protecting itself from the threat. But after Bali, even Indonesia understood the danger and enhanced its ability to face the threat posed by the JI. Yet at that point Malaysia and Singapore were already much less threatened. On its face, a cold Realist calculation could suggest that the two would be better off making sure that the JI maintained its focus on Indonesia. But against the Realist predictions, they did not pass the buck and let Indonesia face the threat by itself; instead, they adhered to their commitment to fight the jihadi terrorism.

Chapter Ten:

Conclusion

Introduction

The survival of the international society is a prerequisite to the accomplishment of its other goals. It is curious, therefore, that scholars writing in the English School tradition have neglected the self-defense mechanism of the international society in their works. This study sought to bring back this fundamental yet disregarded element of the international society. I have argued that when facing a systemic threat, the members of the international society have an inclination to protect the system in order to preserve the state-centered order. Thus, the members of international society rose collectively to defend the system from the al Qaeda-led jihadi movement.

This preservation-seeking quality leads the members of the society of states to cooperate beyond the expectations of Realists. Faced with a systemic threat, states collaborate extensively: they take difficult and costly measures internally, and they help each other externally. They do not stop arguing, sometimes bitterly, on a range of issues; but they minimize negative spillovers from the conflicts of “normal politics.” They can fervently clash over the invasion of Iraq while cooperating extensively against the al-Qaeda led jihadi movement.

This English School explanation also lays out the unique motive behind this collaborative endeavor and the particular features it takes. States do not collaborate merely because of immediate short-term material interest, but because there is a broader interest stemming from being a member of the international society -- the survival of the system. States do not have to be directly and immediately threatened to take measures. Generally they also do not need to be coerced by the strongest power. They all pitch in to defend the society that provides the rules, norms and practices that

facilitate the achievement of states' fundamental goals, allow them to coexist relatively peacefully and even to cooperate in order to realize shared ends.

The multilateral aspects of the war on al Qaeda and its associates take a particular shape: multilateralism relies on the fundamental principles on which the system is based, sovereignty and non-intervention. It confirms the primacy of the state in world politics but highlights the obligations, rather than just the rights, that accompany statehood. Emphasizing states' responsibilities, the members of the international society strengthen the elements of mutual obligation in interstate relations: a state is not just an individual actor; it is a member of a society. As such, it is obligated to play a constructive role in the collective and advance the goals of the international society. Numerous states required increased capacity in order to realize their obligations in pursuing the war on terrorism. One product of capacity building has been a bolstering of the institution of the state, reversing the state's alleged course of decline. Thus, the war on terrorism leads to the return of the state, exhibiting in the process surprising levels of comradeship as strong states help enable weaker ones to contribute to the society's fight against the jihadis.

This study's focus on the multilateral aspects of the war on terrorism is designed to counter simplistic depictions of the conflict as one that relies almost entirely on the use of force. Indeed, the study has detailed additional fields of operations, in particular in the spheres of finances and protection from deadly weapons and material falling into the hands of non-state actors. It has also highlighted the creation of a legal infrastructure to combat terrorism that is slowly being institutionalized and that adds new layers to the structure of order in the international system.

The war on terrorism, as well as the American role in it, have various faces. Whereas most accounts focus on the use of force (usually depicted as excessive) by

the U.S., this dissertation has presented a different reading of its role in the war on terrorism. While on many issues on the international agenda the U.S. may pursue unilateral approach, most of its actions in the war on terrorism reflect multilateralism and the promotion of interstate cooperation; the use of military force is only one ingredient in a struggle that comprises several components. Moreover, without the leadership of the American hegemony, it is doubtful that states would have undertaken this enterprise at all.

The rest of this concluding chapter is dedicated to four subjects. First, I discuss the contribution of this study to the English School. I then examine the relationship between the English School and Realist explanations, arguing that while the first is superior, the two explanations can also be seen as complementary. Often the policy behavior observed is compatible with both explanations; but the English School provides a comprehensive framework to understand this over-determined behavior while also accounting for other-regarding behavior that Realism does not capture. The following section is more speculative. I discuss the relationship between the Westphalian and religious logics as organizing principles for international relations and suggest that the religious logic, through its jihadi interpreters and entrepreneurs, is fighting to establish or regain its prominence in global politics. I conclude with a brief rebuttal to the notion of the U.S. as a malevolent unilateralist hegemon that seeks to shape a new world order to support its own egoistic interests.

Contribution to the English School

This study contributes to English School debates and scholarship in five subjects. First, it highlights the preservation-seeking quality of the international society. Though Bull lists the preservation of the society of states among its fundamental goals, little work has been dedicated to the inclination of the members of the international society to preserve the system. To my knowledge, only Armstrong's work on revolutionary

states deals with this self-defensive quality. Thus, the present study adds to this thin body of literature and complements it with the focus not on states but rather on the interaction between violent non-state actors and states.

Second, this study argues that under certain circumstances, hegemony could be seen as an institution in the service of the international society. The institutions of the international society were among the least studied topics on the English School's agenda. What counts as an institution was usually assumed without clear standards presented. Recently, particularly following the publication of Buzan's book *From International to World Society?*, more attention has been given to defining and articulating the criteria.⁷³³ But Buzan's formulation focuses on the constitutive quality of institutions, that is, how they constitute and are constituted by the international society. This work, on the other hand, advances an approach that identifies institutions by their ability to promote order and consequently argues that hegemony, too, can be considered an institution. Such a claim is uncommon in English School scholarship. Some scholars ignore this possibility; others view American hegemony not as an institution but as a concrete threat to the foundations of the international society.⁷³⁴ Therefore, this study should at least broaden the debate on the conceptualization of the institutions of the society of states and the merits of considering hegemony as one of them.

Third, using the case of the war on terrorism, this study demonstrates how the depth of the international society determines the principles guiding the collective effort and consequently the characteristics and targets of this collaboration. Normally the level of shared values and the goals of cooperation -- the achievement of joint gains or mere coexistence -- are used to gauge and differentiate a thick international

⁷³³ Buzan, *From International to World society?*.

⁷³⁴ For example, see Nicholas J. Weeler, "The Bush Doctrine: American Exceptionalism in a Revolutionary Age," *Asian Perspective* 27 (2003), 183-216.

society from a thin one.⁷³⁵ This study suggests additional complexity: although there may be universal agreement about the values members of the international society want to promote, when states try to translate these values to workable definitions and operative plans the consensus may break down because such values mean different things for different states.

Terrorism, I argue, is one such issue. Once the members of the international society identified the al Qaeda-led jihadi movement as a systemic threat, they were able to overcome their reluctance to cooperate, establishing an encompassing system to confront the threat. But this is only part of the story: if terrorism inherently poses a certain challenge to the existing interstate order, why would the members of the international society focus on one set of actors rather than confronting the phenomenon of terrorism as a whole? The rejection of terrorism has been universal; but states could not agree on what terrorism actually meant. The main source of friction concerned what actions are permitted for people under occupation and oppression. Any definition of terrorism that might deny freedom movements the legitimacy and the legal right to fight their “oppressors” has been rejected by a block of post-colonial states, particularly among the Arab and Muslim countries.

Unable to agree on a definition of terrorism (Security Council resolutions on terrorism are close, yet still lack a clear description) or conclude a draft of the convention on international terrorism, but forced to find solutions to urgent operational issues, the members of the international society opted for a second-best option, going below and above “terrorism” as circumstances allow. Therefore, whereas on WMD the international society bypassed the concept of terrorism by focusing on the more inclusive category of “non-state actors,” the sanctions regime on

⁷³⁵ Buzan, *From International to World society?*, 121-122.

terrorism financing focuses on the jihadi movement rather than on the general category of terrorism.

There are two ways to interpret states' behavior. The most persuasive interpretation would view the international society as a thin (pluralist) one. In this analysis, the inability to agree on a definition of terrorism reflects disagreement that the phenomenon of terrorism is indeed a threat to the international society. The dispute forced the international society members to focus on what they could agree upon: that the jihadi movement represents a systemic threat. Pessimism about states' ability to make a breakthrough is not out of place. The inability to agree on a definition of terrorism has been the Achilles heel of collective counter-terrorism for decades, and is one of the main reasons why the international society failed to deal with terrorism collectively prior to 9/11. Thus, according to this storyline, a thin international society reverted to partial solutions that allowed the creation of a universal framework to face the current threat, but at the price of diluting the overall effort. In addition, leaving states to define what constitutes terrorism has created gaps that hinder the effectiveness of counter-terrorism.

But optimists may still maintain that the war on terrorism is a testimony to the existence of a thick (solidarist) international society. They could argue that value changes take time to accomplish and therefore it is only logical that states have not yet reached a consensus -- only five years after 9/11 -- about the definition of terrorism. Instead, solidarists would emphasize the constant effort and progress made by states to bridge their differences and by persuasion reach a shared view. Moreover, the proponents of thick international society could view the measures already taken as the groundwork for a comprehensive confrontation with terrorism. After all, the counter-terrorism measures, embedded in the resolutions of the Security Council, provide a conceptual and practical framework that increases the ability of the international

society to deal not only with al Qaeda and its associates but with any terrorist entity. The creation of worldwide legislation that makes involvement in terrorism a crime, as well as the legal mechanisms put in place to suppress terrorism financing, could be used against any terrorist entity, not only al Qaeda. Similarly, building state capacity may stem from the war on the jihadi movement; but it also provides states with tools to deal with terrorism in all of its various forms.

Moreover, as the growing rejection of suicide bombing demonstrates, there are spillover effects from the attitude towards the jihadi movement to other terrorist entities. Following 9/11, Islamic groups found it much harder to convince public opinion, even in the Muslim world, that suicide bombing is legitimate. These difficulties only increased with the gruesome killing in Iraq and the deaths of hundreds of Muslims in suicide bombings in other Muslim states. States may still have difficulty agreeing on a definition of terrorism; but terrorist methods are slowly being discredited throughout the world. While the evidence that a thin international society is at work is more compelling, one must not dismiss the solidarist reading altogether. Time may show its merits as well. One way or another, it is clear that the war on terrorism provides interesting lenses through which to analyze the depth of the international society.

This dissertation also advocates considering states' capabilities as an intervening variable, which together with the depth of the norms shared among members determines the international society's strength. Often, the discussion on thin and thick international societies is guided by a normative perspective, measured against ideal standards and detached from states' realities. The element of capabilities is almost completely absent from such accounts. But capabilities are critical: a weak state can subscribe in principle to certain norms, but if it lacks resources, its ability to deliver and act in accordance with these norms is diminished. After all, norms have to

be translated to behavior, and often behavior depends on the ability to act. Low state capacity is consequential to counter-terrorism; it is a critical element in states' failure to fully comply with the guidelines set at the global level.⁷³⁶ It may also account for the slow progress towards a comprehensive conceptual framework to fight terrorism. States without the ability to act in accordance to the anti-terrorism norms would be reluctant to give those norms legal status, in order to avoid being challenged later for violating their obligations. Therefore, taking into account the implications of variations in states' capabilities may moderate perceptions of a thin international society. If we understand the magnitude of the difficulties in acting as an international society, we will have a better understanding of it.

Fourth, in presenting testable hypotheses, this dissertation meets the criticism of Realist and Constructivist scholars in the U.S.⁷³⁷ and the call of various English School scholars to bridge the divide between the way political science is being studied in Europe and American political science.⁷³⁸ Curiously, while members of the English School regularly highlight its methodological pluralism, one cannot find testing hypotheses as one of the suggested ways to demonstrate this pluralism.⁷³⁹ Even though English School scholars acknowledge the American preference for "testable hypotheses in clear theory based on explicit micro-foundations,"⁷⁴⁰ they neglect to

⁷³⁶ For a parallel argument on the significance of state capacity for international cooperation in the financial sector, see Natasha Hamilton-Hart, *Asian States, Asian Bankers: Central Banking in Southeast Asia* (Cornell University Press, Ithaca and London, 2002).

⁷³⁷ See Dale Copeland, "A Realist Critique of the English School," *Review of International Studies* 29 (2003), 427-441; Martha Finnemore, "Exporting the English School?," *Review of International Studies* 27:3 (2001), 509-513.

⁷³⁸ For example, Barry Buzan, "From International System to International Society: Structural Realism and Regime Theory Meet the English School," *International Organizations* 47:3 (1993), 327-352; Barry Buzan, "The English School: An Underexploited Resource."

⁷³⁹ For example, Andrew Hurrell, "Keeping History, Law and Political Philosophy Firmly within the English School," *Review of International Relations* 27:3 (2001), 489-494; Richard Little, "The English School's Contribution to the Study of International Relations," *European Journal of International Relations* 6:3 (2000), 395-422.

⁷⁴⁰ Ole Waever, "Four Meanings of International Society: A Trans-Atlantic Dialogue," in B.A. Robertson (ed.), *International Society and the Development of International Relations Theory* (Pinter, London and Washington DC, 1998), 89.

take this path to the heart of mainstream American international relations. As this work demonstrates, some subjects on the English School's agenda lend themselves to the American style of social inquiry. In adopting this route, I believe there are mutual benefits for both American political science and the English School.

Fifth, this study provides initial insights into the question of systemic change which has been central to the English School's agenda. The state system is not an invincible and undeniable force of nature. It materialized only a few hundred years ago, and has been slowly evolving and increasing in prominence. Similarly, it is not guaranteed to have eternal life as the organizing principle in world politics. While this study cannot lay out the principles that would guide a future political organization, it can still deliver important insights regarding the possible trajectory to a systemic change -- one in which the collapse of an existing system results from of an assault by a malevolent actor who wants to violently overthrow the system. The gap between the inclination of the members of the society of states to protect the system and their actual ability to deliver may provide a possible route to systemic change. Thus, the focus should shift to first understanding the conditions for success or failure in the international society's fight against its enemies.

To achieve a broader view on the strength of the international society's inclination for self-preservation and to increase the number of cases, future research should consider focusing on a more inclusive category of systemic threats than that of terrorist entities. Environmental threats function differently from terrorist organizations, but they are real nonetheless; if they materialize, they could potentially bring about the end of the current international society as well. Different pandemics can also be conceptualized as systemic threats that require collective systemic responses; as with SARS and the bird flu recently, and with numerous outbreaks of various diseases before, pandemics do not recognize state borders and cannot be

tackled by each state separately. A study of alternative forms of threats to the international society is clearly in order, justified on its own merits and because of the expected benefits of comparing state actions in different securitized spheres.

English School vs. Realism

The central argument of this dissertation is associated with the English School, but one must not dismiss the merits of Realism in explaining states' behavior in the fight against the jihadi movement. Indeed, there is a significant affinity between the English School and Realism and it would be more accurate to view them as complementary rather than diametrically opposing. The affinity is not surprising. Many among the first generation of English School scholars, in particular Bull, were accused for having Realist tendencies manifested mainly in a statist approach. But it is the specific issue matter in the center of this dissertation that makes the similarity natural. Analogous to the main (and original) domain of Realist inquiry, this study is taken from the security realm. More specifically, it deals with the system's inclination to survive, largely mirroring Realism's emphasis on states' survival. As a result, there is a significant convergence between the social and the material dimensions of the international society: interstate cooperation is both a security imperative and a normative obligation of the society's members.

This section summarizes the merits of the English School and the Realist explanations. The English School is superior on numerous accounts; but a considerable portion of states' behavior is over-determined, and in a few cases Realism even provides a compelling answer to actions (particularly deviations from the general trend of collective action) that are not easily explained within the English School framework. I start by examining how both explanations fare against the empirical evidence. I then examine the positions of both perspectives on interstate cooperation and the working of hegemony in the war on the jihadi movement.

Balance sheet

The English School captures many aspects of states' behavior that Realism does not. It explains why:

1. states that were not targeted by the jihadis chose to join the collective effort, even when they had the ability to resist U.S. pressure and when cooperation increased the likelihood of being targeted by the jihadis.
2. most states have complied with the resolutions of the Security Council despite the high costs of compliance and the low costs of non-compliance.
3. the rate of ratification of anti-terrorism treaties has increased dramatically.
4. a legal framework to confront terrorism, making terrorism a legal offense and facilitating freezing the assets of implicated individuals and entities, has been created on a global scale.
5. stronger states are willing to assist weaker ones in building their capacity, even with no evidence that the operation of the jihadis in the assisted state threatens the help-providing state.
6. despite the temptation to pass the buck, in particular to the U.S., states have been willing to share the burden, for example in securing WMD facilities and material in Russia and elsewhere.
7. the U.S. hegemony was unable to promote its preferred strategy for preventing non-state actors from obtaining WMD, yet succeeded in getting the international society behind it when it shifted strategy -- despite the fear of numerous states that resolution 1540, the cornerstone of the regime, would adversely affect the ability of the weaker states in the international society to restrain the strong powers.

8. members of the Non-Aligned Movement choose not to press their agenda of total disarmament, allowing the conclusion of the nuclear terrorism treaty and joining the consensus around resolution 1540.

9. Muslim states were willing to take costly steps, including confronting established institutions and practices such as the *hawala* and charity-giving, and risk domestic upheaval in order to cooperate with other states.

10. EU countries were willing to risk becoming direct targets of the jihadis, to erode norms of civil rights that had been deeply ingrained in the European identity, and to increase domestic unrest, especially from their growing Muslim minorities.

11. states termed “rogue” by the U.S. choose to cooperate despite the price of cooperation and lack of any payoff.

While in many aspects the English School explanation is superior, a significant portion of states’ actions is over-determined: the English School and Realism may disagree on the motives behind states’ actions, but often they predict the same behavior. When states face a non-systemic threat, the expectations of the English School and Realism converge. Similarly, both perspectives expect countries that have been threatened directly and imminently to collaborate against terrorist entities. Both expect the U.S. to lead the war on terrorism, whether because it was the country attacked on 9/11 or for its role in providing public goods; neither is surprised that the U.S. acts in egoistic manner on occasion, or that members of the international society were reluctant to cooperate with the its state-oriented approach on WMD. While differing in their explanations, English School scholars and Realists alike expect states to disagree on the definition of terrorism (the working of a thin international society versus conflicting interests that lead to self-serving and thus conflicting definitions). Lastly, although the English School provides a fuller picture for the principles that

guide the universal campaign against the jihadi movement, Realists are very comfortable with its emphasis on preserving states' sovereignty, the adherence to the principle of non-intervention, the instrumental approach to institutions, and the inclination to base the collective effort on states' willful cooperation rather than coercion.

And still, Realism fares better than the English School on some accounts. It explains why states were unable to engage in meaningful cooperation against the emerging threat prior to 9/11. It also explains the behavior of those few states that deviated from the overall trend and were slow to cooperate, why states present a certain level of cooperation but go no further despite their ability to do so (for example, the significant but insufficient funding for project aimed at securing WMD facilities and material in Russia), or why states such as Saudi Arabia and Indonesia increased their level of cooperation significantly after they were targeted directly by jihadis.

Hegemony

The argument advanced in this study relies heavily on the role of hegemony. I argue that the hegemon plays a crucial role in organizing, leading and providing resources to the society of states' collective enterprise against a systemic threat -- the jihadi movement. In promoting this argument, I take a Gramscian concept that was appropriated by Realists, bring together both its material and ideological foundations, and embed it within the English School's framework as one of the international society's institutions. In making such a move, I argue with both Realist and English School scholars.

As already noted, to argue that hegemony can serve as an institution of the international society is not uncontroversial among English School scholars, particularly because some hold a diametrically opposed stand and view hegemony as a

cause of disorder. And yet my conception does not represent a departure from the English School; different conceptions of the institutions of the international society may lead to different views of the role of hegemony in international politics. Mine, following Bull's, emphasizes the role of the institutions of the international society in preserving order. Thus, while I acknowledge the ability of the hegemon to undermine order, I view hegemony, like other structures of power, as a natural candidate for the status of an institution.

My conception of hegemony is not far from the Realist view that sees it as providing -- intentionally or not -- public goods. However, whereas Realists agree that the hegemon may advance collective action, they are likely to disagree with some elements included in my conception: the emphasis on the social foundations of hegemony, the motivation behind the actions of the hegemon and the reasons for the cooperative behavior of the other actors in the system.

Hegemony in Realist theories is conceived in material terms only. I argue that hegemony also has a social element. Concurring with liberal scholars, I suggest that for the hegemon to achieve compliance and to advance its goals with only little resistance, material power alone is insufficient. Instead, I focus on the hegemon's leadership role. Moreover, whereas the hegemon often acts according to Realist prescriptions, on some occasions its acts are informed by the good of the whole international society, and support for its policies results from intersubjective understanding among members of the international society that they face a collective problem requiring a collective response. Throughout this study, I have shown that the U.S. pursued both particularistic and collective interests. When it pursued particularistic interests, its success in acquiring international support was mixed. But when the U.S. convinced the other members in the system that its goals were benevolent, served the collective and not only the interests of the U.S., and

corresponded to the fundamental principles guiding the international society, it elicited broad support for its agenda.

Though the English School better explains the success of the hegemon in generating collective action against the jihadi movement, one cannot deny that the inclinations emphasized by Realists still affect the behavior of the hegemon. At the same time that the hegemon orchestrates action for the good of the international society, it also engages in egoistic behavior intended to advance its own interests. On occasion, the hegemon may even try to “cheat” by pushing forward policies that stem from its own egoistic interests but portraying these policies as part of the agreed upon collective enterprise. Such behavior may even hinder the collective effort. Increasingly, the war in Iraq appears as such a case, as does the U.S.’ initial attempts to present the need to prevent the “axis of evil” countries from obtaining WMD as part of the war on the jihadi movement. The hegemon may also feel compelled to use its material power, in the form of incentives or threats of punishment, to bring reluctant states on board the collective campaign.

In seeking to protect the system -- which serves the hegemon’s interests well -- the hegemon may overreact and provoke balancing behavior by other powers. For Realists, balancing against the hegemon is natural; but balancing is also not incompatible with the expectations of the English School. The English School views such behavior as a mechanism of the international society that comes into effect when actors violate the “rules of the game.” According to the English School, hegemony as an institution has a special status, translated into prerogatives but also into obligations and limitations on its behavior. When the hegemon breaches these accepted boundaries, even if it aims to protect the international society, it may represent a threat to the society of states. The English School then expects members of the society of states to balance against the hegemon for the good of the society.

Interstate cooperation

My interpretation of the English School argues that facing a systemic threat, states exhibit higher levels of cooperation than Realism would expect. While Realism does not reject out of hand the possibility of cooperation in the international system, it is extremely suspicious of such an occurrence and sees it as conditional on states' direct and often immediate interests. This dissertation established that facing the jihadi threat, the members of the international society have been capable of extensive, long-term and costly cooperation.

The significance of the English School explanation goes beyond its ability to predict and explain meaningful interstate cooperation. By anchoring the motivation for collaboration in the international society, it also suggests that such an international campaign needs to correspond to the fundamental principles on which the society of states is based. Indeed, the four elements in the multilateral face of the war on terrorism -- state primacy and sovereignty, state responsibility, bolstering the state and interstate cooperation -- are all compatible with the fundamental principles of the international society.

Realism has a more mixed view of these four components. The concept of state responsibility is incompatible with Realism's emphasis on self-interested actors operating under anarchy. Realism could go so far as to claim that states may intervene, including by military means, in the affairs of states that cooperate with terrorists or that cannot confront it (a category that also includes failed states).⁷⁴¹ But this acknowledgement of mutual dependence among states, or of the dangers of spillovers, is far from the English School's view of mutual commitment in interstate relationships. Realism also cannot explain the strengthening of the institution of the

⁷⁴¹ For example, Stephen D. Krasner, "Sharing Sovereignty: New Institutions for Collapsed and Failing States," *International Security* 29:2 (2004), 85-120.

state. While its concept of “internal balancing” could be construed as compatible with the notion of internal reforms, Realism is ill-equipped to explain how states that are not under strong external threat take such actions despite the negative repercussions they may incur, particularly domestic instability. More significant, in strengthening their capacity, many states enjoy external assistance. For the English School, such cooperation is evidence of the social element in international relations; but Realists do not expect states to assist potential rivals to increase their capabilities, lest those capabilities later be directed against the assisting states.

And yet, Realism can explain the reliance on state sovereignty as a focal point for states’ collective efforts, as well as the great leeway states maintain in deciding what actions they will take. The two perspectives see the boundaries of the collaborative enterprise and states’ vast freedom of action as confirming their predictions. They provide different but linked explanations: for the English School, these are reflections of the pluralist nature of the international society that facilitates the preservation of states’ unique characteristics -- a product of their culture, history, social norms, geography and legal traditions -- whereas Realists would emphasize these features as evidence of the limits of cooperation.

While overall the explanatory value of Realism is lower than that of the English School, on several points Realism is not only compatible with some of the English School’s predictions but also superior. Realism provides explanations for variations in states’ cooperative behavior. Specifically, it explains the time lag between the emergence of the threat and the point at which it is acknowledged and met. Anarchy renders states egoistic: keeping one’s own interests above those of other actors and forcing suspicion toward other actors are imperatives, especially when security concerns are involved. As a result, states are highly alert to their own particularistic interest at the expense of attentiveness to other actors and to the needs

of the system. For the protection of the system to become a priority, the threat needs to be transparent and to trump other security threats the state may face. This may be especially difficult for the big powers that operate in numerous policy realms and are unlikely to quickly focus on the systemic threat and overcome fears of abuse by other actors. Therefore, the international society is unlikely to take the initiative and preempt possible threats beforehand, or in the preliminary stages of their emergence. The international society reacts only after its rival has already started its attack. Thus, not only does the international society start fighting back from a disadvantageous position, but the need to reach a tipping point where states gravitate toward a shared understanding of the challenge further delays its response. Realism may also explain the delay for some states in exhibiting a strong commitment to the collective effort even after broad agreement about the threat was reached. Though some states cooperated from the start, they increased their efforts considerably after the jihadi threat proved dangerous enough to warrant risking the domestic backlash.

Realism also accounts for cases where cooperation may be significant but yet somewhat unsatisfactory. States exhibit different levels of cooperation. While facing a systemic threat, they demonstrate higher levels of cooperation than Realism expects; but Realism may still account for why states engage in a certain level of cooperation and not beyond. Factors highlighted by Realists can thus complement the English School explanation by pointing at the reasons why, despite appropriate state capacity, cooperation is incomplete.

Westphalian Sovereignty vs. Sovereignty of God

The struggle between states and the jihadi movement raises intriguing questions regarding the status of the Westphalian model of sovereignty as a foundation for

contemporary international relations.⁷⁴² Both Realism and the English School pay insufficient attention to threats to the organizing principles of the existing system: Realism assumes and reaffirms Westphalian sovereignty, while the English School goes only as far as discussing the possibility of opening the Westphalian model to allow more space for a world society that puts human rights at its center. Though the English School is more receptive to a competition among the organizing principles of political life, like Realism it views territoriality and the state as robust foundations.⁷⁴³

The international society has in the past faced and overcome the ideological challenges posed by communism. Communism emerged as an alternative organizing principle but by the 1930s had already submitted to the Westphalian order.⁷⁴⁴ Westphalian sovereignty succeeded in taming communism, turning it into one possible state ideology in a pluralist international society where state logic dominates. Like communism, religion has subordinated status.

On its face, there is a fundamental contradiction between state logic and religious logic. The religious source of authority is divine, thus it claims to be higher than state' authority. Religion also challenges the territorial dimension of the state,

⁷⁴² In recent years, several scholars have pointed at the inadequacy of the mainstream literature of international relations to capture the role of religion in world politics. For example, see Scott Thomas, *The Global Resurgence of Religion and the Transformation of International Relations: The Struggle for the Soul of the Twenty-First Century* (Palgrave Macmillan, New York, 2005); Timothy A. Byrnes and Peter J. Katzenstein (eds.), *Religion in an Expanding Europe* (Cambridge University Press, Cambridge, 2006); John D. Carlson and Erik C. Owens (eds.), *The Sacred and the Sovereign: Religion and International Politics* (Georgetown University Press, Washington, DC, 2003); K.R. Dark (ed.), *Religion and International Relations* (Macmillan, London, 2000); Elizabeth Shakman Hurd, "The Political Authority Structure of Secularism in International Relations," *European Journal of International Relations* 10:2 (2004), 235-262; Fabio Petito and Pavlos Hatzopoulos (eds.), *Religion in International Relations: The Return from Exile* (Palgrave, New York, 2003); Susanne Hoeber Rudolph and James Piscatory (eds.), *Transnational Religion and Fading States* (Westview Press, Boulder, Colorado, 1997).

⁷⁴³ Thomas argues that whereas the first generation of English School scholars allowed space for religion, the current research program of the English School has marginalized religion. See Thomas, *The Global Resurgence of Religion*, 57-58. Similarly, while there used to be some space for religious Realism with the shift toward structural Realism, this space has virtually disappeared. See Carsten Bagge Laustsen and Ole Waever, "In Defense of Religion: Sacred Referent Objects for Securitization," *Millennium* 29:3 (2000), 733-735.

⁷⁴⁴ Armstrong, *Revolution and World Order*.

since it does not recognize arbitrary national boundaries. Instead, it unites people around a set of rules applied on a non-territorial basis. As a system of laws, religion may come into conflict with state laws, and even more so with international law. Authority conflict may also challenge common rules regarding the use of force. States' monopoly over the legitimate use of force is a cornerstone for the state logic, but it stands in direct opposition to religious notions of holy war that claim to override states' prerogative to determine what constitutes legitimate justifications for entering a war. Religious imperatives may also reduce states' right to carry out independent foreign policy; for example, religious imperatives may restrict actors' ability to make territorial concessions and thus perpetuate territorial disputes. And stable treaties, especially peace treaties, may be unattainable if religious statutes reject the possibility of equality between members of different religions and between the states to which those people belong.

And yet, the two organizing principles have been residing in relative peace since Westphalian sovereignty was instituted and the state logic won out.⁷⁴⁵ The state logic has been steadily increasing its power over the religious (though religion has continued to influence statecraft⁷⁴⁶). Enhanced secularization has gradually diminished the salience of the religious competitors in various, especially Western, states.⁷⁴⁷ This has been often accompanied by the removal of religion from the public space and its

⁷⁴⁵ Paradoxically, Westphalian sovereignty is based on Protestant origins as they came to light in a new conception of humanity's relationship with God. Daniel Philpott, "The Religious Roots of Modern International Relations," *World Politics* 52 (January 2000), 206-245.

⁷⁴⁶ Walter A. McDougall, "Religion in World Affairs: Introduction," *Orbis* 42:2 (Spring 1998), 161-162.

⁷⁴⁷ Peter Katzenstein and Timothy Byrnes note that religious Catholic elements were infused into the European post-War World II order before religion emerged on the losing side in Western Europe in recent decades. However, religion, they argue, continues to affect, and with increasing vigor, contentious political questions such as the enlargement of the EU. See Peter J. Katzenstein and Timothy A. Byrnes, "Transnational Religion in an Expanding Europe," *Perspectives* (forthcoming, Winter 2006).

relegation to the private sphere only.⁷⁴⁸ In other places, states have co-opted religion through multiple arrangements that give religion various levels of influence in the state but impose the Westphalian order internationally.⁷⁴⁹ In some states, religion is declared the defining feature of the state (for example, Iran, Taliban's Afghanistan), while in others it is given a smaller role (for example, viewing the religious codex as an official source for legislation).⁷⁵⁰ Numerous states have also co-opted and subordinated the religious establishment to the state to keep the religious threat at bay. These various methods have been effective, leading the threat that the religious logic posed to significantly subside.

But the inferior status of the religious logic did not mean that religion ceased to serve as a potential challenge to the state logic. Whereas communism was a short-lived challenge, religion has stronger roots and appeal.⁷⁵¹ As an organizing principle, it predated Westphalia and although kept under control, it was never brought to full submission. Sometimes it took ideational maneuvering and political realities to facilitate this coexistence between Westphalian and religious organizing principles. One such formula used by religious people was to confirm the superiority of the sovereignty of God but relegate it to a metaphysical world: if the sovereignty of God is out of this world, then the two logics are located in different spheres and are not in direct competition. And yet, despite the relatively stable nature of the relationship, there have always been entrepreneurs who attempt to mobilize the religious base to challenge the Westphalian order.

⁷⁴⁸ According to Thomas, the privatization and nationalization of religion was necessary for the state and the international society to be born. See Thomas, *The Global Resurgence of Religion*, 24-26.

⁷⁴⁹ Muslims' acceptance of "territorial pluralism" is one indication for the successful imposition of the Westphalian order internationally. See James P. Piscatori, *Islam in a World of Nation-States* (Cambridge University Press, Cambridge, 1986), 40-75.

⁷⁵⁰ K.R. Dark reminds us that many religious values are epitomized even in the constitutions of "secular states," not only in polities where religious and political identities are formally linked. See K.R. Dark, "Large-Scale Religious Change and World Politics," in Dark, *Religion and International Politics*, 50.

⁷⁵¹ Dark points at the remarkable longevity of religious communities compared with states and other political organizations. *Ibid.*, 75.

Therefore, one must not view the type of coexistence relationship and the balance of power upon which it is based as natural and permanent. Even though the competition between the two logics has been suppressed for some time, it has never truly disappeared; the power of religion as an alternative organizing principle should not be underestimated. Indeed, as this study has shown, conditions in the last few decades have been conducive to the resurgence of the religious challenge. While Westphalian sovereignty is still the dominant organizing principle in the system, the competition has intensified, religion has been threatening to again erode state sovereignty and its role in international politics is likely to be even greater.⁷⁵²

The focus on competition between state logic and a religious logic is somehow misleading; neither has power of its own with which to compete. It is people who interpret these logics and translate them into actions. The religious challenge to contemporary international relations is mainly the result of interpretation, provided by real actors, of the role of religion in world politics and concomitant action in hope of turning this interpretation into reality. In this regard, the jihadis are interpreters and entrepreneurs of the religious logic in international relations. Their challenge is particularly salient because unlike many other interpreters of religion, they use violence; their version strongly negates many foundations of Westphalian sovereignty. Thus, terrorism methods that inherently conflict with the rules of the Westphalian system augment the religious challenge.

Specifically, the jihadis reject the division of the world into states and the sovereign rights a state enjoys in its own territory. They reject states' exclusive right to

⁷⁵² Scott Thomas disagrees with the position I present here. According to Thomas, transnational religion has undermined the secular national state and not the principle of state sovereignty and the international society. Consequently, he advocates a pluralist yet thick international society that gives more room for religious virtues. See Scott M. Thomas, "Taking Religious and Cultural Pluralism Seriously: The Global Resurgence of Religion and the Transformation of the International Society," *Millennium* 29:3 (2000), 815-841; Scott M. Thomas, "Religion and International Conflict," in Dark (ed.), *Religion and International Relations*, 1-23.

use violence internally as well as externally, and deny limitations on the use of force emanating from states' decisions. The jihadis refuse to acknowledge states' right to award a new entity a state status as well as the legitimacy of international agreements and international law, because these draw their authority from states' prerogatives. Instead, the jihadis raise the banners of the ummah and the caliphate, declaring religious imperatives to be prior and superior to states' authority and rights. Therefore, religious decrees curtail states' freedom of maneuver -- limiting the right to recognize states and to enter into legal contract. Moreover, their rules and standards for the use of force put religious imperatives as the motive for applying force that surpasses states' authority: the state must enter war if religious conditions are met; if the state fails to meet its obligation, people must ignore its decision and assume the responsibility to apply force themselves.

While the jihadi threat is relatively straightforward, the problem is more complicated with transnational political Islamic groups that hold and promote a global platform without reverting to violence. The Muslim Brotherhood has national branches, and it declares that it wants to gain power in peaceful democratic ways; but its commitment to the political process is doubted. Though its politics has been mainly local, its ideology is global. Its actions so far reflect circumstances and constraints more than ideological accommodation with the international society. Therefore, it is feared that as the Muslim Brotherhood gains power in one or more Muslim states, it will turn to explicit and direct challenges to the Westphalian order. Presently the movement is getting stronger; it has captured power in the Palestinian Authority and made significant strides in each Arab country where it is allowed to compete. Similarly, Hizb al Tahrir has been working to recreate the caliphate through peaceful means. But it is recognized as a "transmission belt" for the jihadis: some Islamists who joined it later found their way to the jihadi movement. Moreover, the global scope of

Hizb al Tahrir's propagation efforts, its views regarding the inevitability of Islamic global domination and its admission that the movement's acts are designed to advance this cause necessitate consideration of the nature of the threat it represents.

The awakening of religion has already had considerable effects that raise doubts about the viability of Westphalian sovereignty as the sole foundation of contemporary international relations. Support for the importance of religious logic in determining outcomes in international politics is clear and increasing in scope: religious claims for the indivisibility of a territory hinder the resolution of territorial disputes (for example, the Israeli-Palestinian conflict, particularly the question of Jerusalem); expression on religious issues, even if carried out in a domestic arena, can override the principle of non-intervention and provoke international crises (for example, the Danish cartoons); standards for determining the legitimacy of the use of force are gradually shifting in various places from international law and norms of state behavior to the religious standpoint (for many Muslim countries the legitimacy of suicide bombing is determined by interpretations of the shari'ah); and choices of allies and the characteristics of alliances are being increasingly subjected to religious scrutiny (a Muslim regime that has close relations with non-Muslim countries could be construed as un-Islamic, or deployment of non-Muslim allying forces construed as a foreign occupation). Clearly, future work on the role of religion in international relations is in order.

American Hegemony and the War on Terrorism

Finally, this dissertation sought to present a new perspective on the war on terrorism and on the U.S. role in this war. This study uncovered elements of the war on terrorism that normally do not attract public attention; yet, they are critical components in the response of the international society to the threat and illuminate the struggle's multifaceted nature. Moreover, by bringing together these elements --

terrorism financing, WMD, and border security -- this study has brought to light the general principles that stand behind the collective effort and could affect the future of the international society and the shape of international relations. These principles include the establishment of mutual commitment as one of the international society's cornerstones, and the reinforcement of the system by building states' capacity to allow them to exert authority and control within their territories. These steps amount to the reinforcement of the institution of the state, a significant prerequisite for the long-term success of the war on terrorism. However, this is an intricate endeavor. It is slow to show tangible results and its success is uncertain; but it takes place nonetheless.

Orchestrating this multilateral effort is the U.S. hegemony. While it became common to speak about U.S. policies in the aftermath of 9/11 as unilateralist and to attribute to it malignant and parochial intentions, I argue that such a narrow perspective leads to an over-simplification of the working of hegemony and conceals significant aspects of U.S. policy in the framework of the war on terrorism. This dissertation argues that the U.S. -- even under the Bush administration -- adopted a much more positive approach to multilateralism than is generally assumed. By design, the war on terrorism exhibits a mix of unilateral and multilateral components. Attempting to classify U.S. actions as either unilateralist or multilateralist would miss the mark, because the picture is more complex than such a dichotomy suggests.

The war on terrorism provides states with room for independent action: normally the U.S. acts alone when it feels required to do so or when such actions are within states' authority; many other states act in a similar way (though because of power differentials the repercussions of their actions are smaller). But when one examines the multiple components of the war on terrorism, it becomes evident that most of the U.S. actions reflect multilateralism and the promotion of interstate cooperation, not unilateralism. The reasons for under-acknowledging American-led

multilateralism vary and cannot be elaborated here, but I argue that part of the erroneous interpretation results from understandable confusion regarding actions that constitute parts of the war on terrorism, as well as actions that concern other international policy issues where the U.S. may be more inclined to pursue a unilateral approach. Considering the complex nature of world politics, it should not come as a surprise that a state can cooperate on some issues and go it alone on others. Attempts to label all U.S. policies this way or the other suffer from over-simplification, and their usefulness is extremely limited.

Yet, such confusion alludes to a significant problem that deserves the attention of the Bush administration (and its successor). Spillover among policy issues is almost unavoidable. There is not one administration for the war on terrorism and another for all other policy issues. Consequently, perceptions of the administration, the goals it seeks to promote and its preferred modes of action are carried between policy realms and could hinder or at least limit cooperation. The general perception that the Bush administration assigns little importance to international legitimacy -- and that when it seeks to obtain such legitimacy it does so due to instrumental considerations rather than for the social purposes of the international society -- could limit the ability to pursue multilateral methods. Such negative repercussions have not been prevalent in the war on terrorism because many of the war's multilateral components do not require constant interaction at the highest levels: after the foundations for the war on terrorism were laid -- generally prior to the Iraq war, when the hostility towards the administration was significantly lower -- the focus shifted to cooperation among low level bureaucrats and experts. But negative perceptions of the Bush administration clearly do not help it to make progress on issues such as the conclusion of a comprehensive anti-terrorism treaty, where diplomacy and agreement among officials on the highest ranks are more important.

Spillover effects are even more significant considering the growing interdependence among policy issues. Often, actions taken outside the war on terrorism have bearing on the its progression and become part of it. Therefore, American disregard for the consequences of its actions could undermine the war on terrorism. The war in Iraq is a case in point: the U.S. attempted to portray the invasion as part of the war on terrorism but failed to convince most countries. However, the invasion intensified the appeal and consequently the threat of the jihadi movement, in fact rendering Iraq highly relevant to the war on terrorism. But opposition to the war prevented numerous countries from shouldering the burden along with the U.S. Some states have contributed forces to the mission in Afghanistan and helped relieve American forces for missions in Iraq; numerous states have also been attempting to detect recruitment networks working within their territories, prevent their citizens from traveling to Iraq to reinforce the ranks of the jihadis, and track the movements of returnees from Iraq. But such assistance, though important, still does not meet the American needs. To effectively carry out the war on the jihadi movement, the U.S. should be more attentive to the negative consequences of such spillover effects.

Despite these warnings, this dissertation emphasized the positive role of the American hegemony on the war on terrorism. That states take on this tremendous enterprise should be attributed first and foremost to U.S. leadership. The hegemon sets the agenda, provides resources, and in its leadership maintains focus on the target. The endeavor would not bring fruit by U.S. efforts only; it cannot win the struggle by itself. But without American leadership, success would become even more elusive. It is highly unlikely that states would have independently undertaken this project at all. Thus, the rumors of evil steering in Washington by a malevolent and abusive hegemon are exaggerated, do injustice to the U.S. and disservice to the rest of the international society for which the U.S. leadership is invaluable.

At the same time, calls to restrain the American hegemony are not out of place. Supervising the hegemon's actions is important in order to guarantee that it does not inadvertently threaten the international society by overreacting. Moreover, constraints on the hegemon are critical for countering its temptation to advance other particularistic interests under the guise of the war on terrorism. As this work has argued, American hegemony is already both more attentive and more constrained than observers tend to think. On issues easily defined as part of the war on terrorism, members of the international society have demonstrated considerable ability to influence and restrain U.S. actions; the design of the regime to deny non-state actors access to WMD and the modification of U.S. policies towards detainees are only two such examples. The war in Iraq presents a more complicated picture: the U.S. could not have been prevented from invading Iraq, but the opposition to the war denied the U.S. legitimacy and tangible assistance it badly needed, and as a result has led the U.S. to moderate its behavior in Iraq and on a host of other international issues. Clearly, even outside the war on terrorism, the hegemon is not almighty and can be engaged. Such engagement and cooperative spirit is beneficial for all: a hegemon that takes the advice and preferences of other states into account is better positioned to promote the goals of the international society.

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