Anti-terrorism and Peace-building During and After Conflict

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Preface

The first requisite for a war is normally an enemy. Rarely can the identity and nature of the opponent have evoked so much doubt and debate as in the case of the 'war on terrorism' declared by the USA—and supported by many others—after the horrific attacks of 11 September 2001. Terrorism is a long-standing and wide-ranging phenomenon, hydra-headed and diversely motivated, and it is far from clear that the methods of war provide a sufficient or optimum response to it. Indeed, it is one classic tactic of the terrorist to try to provoke the target into a counterproductive overuse of force in response.

The Stockholm International Peace Research Institute (SIPRI) cannot lay claim to any expertise in terrorism as such. We are, however, keenly interested in the interplay both of terrorism itself and of international reactions to the terrorist challenge with our established fields of study, including the analysis of violent conflict and peace-building. A research attachment by a Visiting Fellow at SIPRI, Dr Ekaterina Stepanova, Head of the Non-traditional Security Threats Unit of the Institute of World Economy and International Relations (IMEMO), Moscow, in spring 2003 has given us an opportunity to explore the specific linkages between anti-terrorism policy and the handling and resolution of conflict—an all-too-common combination during actual crises in many parts of the globe, yet a relatively new focus for conceptual work and policy formation.

The present Policy Paper contains Dr Stepanova's expert, empirically founded reflections on the distinctive features of terrorism as a challenge in the conflict management cycle (particularly in the later stages); its impact on the environment for peace operations; and the do's and don'ts of conflict resolution and peace-building in environments where terrorism is part of the problem. Her findings illustrate the paradox that the deepest understanding of this menace leads to the most nuanced and prudent prescriptions, informed particularly by a consciousness of the many penalties for excess. The lessons of this Policy Paper deserve careful consideration by policy makers and operators in both national and institutional settings, and they could hardly be offered at a more appropriate time.

Apart from congratulating Dr Stepanova on her achievement, I would like to acknowledge this Policy Paper's debt to the editing skills of Eve Johansson and the support and advice of other SIPRI colleagues. This research venture formed part of a broader cooperative programme of study in 2002–2003, supported by the John D. and Catherine T. MacArthur Foundation and conducted by SIPRI with the International Peace Research Institute, Oslo (PRIO).

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1. Introduction

Since the tragic events of 11 September 2001, much has been said about potential links between the fight against terrorism and peace-building. In the meantime, the fight against terrorism and peace-building have, by and large, continued to be implemented separately and by different sets of actors.

The events of 11 September might have led the world's leading states to reassess terrorism as a security threat, but could hardly fundamentally alter the nature of peace-building operations and tasks, from institution- and democracy-building to post-conflict recovery and reconstruction. It is not surprising that the way the threat of terrorism is addressed by actors involved in peace-building activities is often limited to its possible effect on the security environment for their operations. It is thus seen as a problem to be solved either by the security component of the mission, or by an ad hoc international security force, or by national security structures (if any). A certain reserve towards the fight against terrorism on the part of the peace-building community is not without foundation, and may be seen as a natural reaction to the declaration after 11 September 2001 of a global 'war on terrorism' which goes far beyond traditional anti-terrorist priorities and needs. In fact, many of the adverse effects of this global campaign stem precisely from a lack of clarity about its nature and operational goals.

Against this background, it is not surprising that the impact of the war on terrorism on the many conflict and post-conflict areas around the world has so far been very mixed, at best. While some of the harsher measures undertaken as part of the war on terrorism, such as inflicting direct military losses on groups involved in terrorist activities, depriving them of safe havens and blocking their financial channels, have helped temporarily to improve the security environment in certain areas, there have also been serious adverse effects. These have included (but are not limited to) the serious disruption of economic activity in post-conflict areas as a result, for instance, of the targeting of key business groups operating in those regions for their alleged terrorist ties. Above all, the impression given by some of the world's leading states that they are now prioritizing the need to fight terrorism over all other considerations has provided room for endless attempts by all sides to local conflicts to misuse the anti-terrorist agenda for their own purposes.

Similarly, chances to use the war on terrorism as a lever to pressure local actors in conflict and post-conflict areas to engage in more active cooperation among themselves and with the international community appeared to be greatest in the immediate aftermath of 11 September, but tended to fade afterwards. Early hopes that the global campaign against terrorism would provide an opportunity to launch new or more ambitious peace-building efforts in previously neglected areas have been accompanied by concerns that political and financial resources might be diverted away from these activities, as they cannot be as easily tied to the vital national security interests of the world's leading states as the fight against terrorism can. In sum, the mixed effects of the war on terrorism may well have persuaded the

peace-building community of the need to play down anti-terrorism concerns in the interest of avoiding damage to longer-lasting and, ultimately, more fundamental peace-building efforts.

The 'do no harm' approach is certainly a sound point of departure, but it should not be used as an excuse for doing nothing in the fight against terrorism. Actors involved in terrorist activities do threaten peace and stability, and anti-terrorism should not be played down for the sake of building a lasting peace. In other words, in conflict or post-conflict areas where terrorism is an issue, *'peace-building as usual' will not do*.

Both the difficulty of reconciling anti-terrorism and peace-building in conflict and post-conflict areas and the way in which they are inseparably interlinked can be demonstrated by one of the most complicated challenges posed by the global war on terrorism when it is applied to some of the most protracted armed conflicts and some of the most demanding post-conflict environments. This is the problem of targeting *locally or regionally based indigenous non-state organizations* which are tainted with terrorist connections or directly involved in terrorist activities. The problem of dealing with these groups and movements operating in conflict or post-conflict environments is complicated by the fact that terrorism is rarely their only or main mode of action. Many such groups are also involved in other types of violent activity, such as rebel attacks against governmental security and military targets, and inter-communal violence. Additionally, some of the organizations which have been or continue to be engaged in armed confrontation may also be involved in non-violent activities that can range from social and community work to economic, political and religious functions. These activities are of critical importance in 'failed' or weak states where non-state groups often have to fill the governmental void, as local authorities, if there are any, are unable to perform their direct political, security and social functions.

It need hardly be said that this combination of violent and non-violent activities is often found in Islamic fundamentalist organizations which operate in conflict and post-conflict areas—from the large and highly visible Palestinian Hamas to the low-profile Somalia-based al-Ittihad al-Islami—if only because, in fundamentalist Islam, politics, religion, state and society are inseparable. The problem of targeting these non-state actors is further complicated by the fact that they may have their own concepts and ideas of the state to be built (the Islamic state), which are not compatible with either other locally driven agendas or those designed by the international community in line with Western political discourse. Also, some of these groups' economic activities, often with the backing of Muslim states, funds and charities, can be seen as efforts for reconstruction in war-torn areas. Finally, the most extensive influence of Islamic fundamentalist groups is to be found in social and community work. While working within society, these groups ultimately aspire to create an alternative to elements of modern civil society. Some of them have also been quite successful in infiltrating traditional societal networks (such as clan structures) which have survived armed confrontation and are often the only remaining functioning social mechanisms in a war-torn society. As such, these

societal networks are particularly crucial from the point of view of peace-building (which is as much about rebuilding a stable society as it is about rebuilding a functional state).

In sum, while the terrorist activities and connections of these non-state actors operating in a conflict or a post-conflict environment cannot be ignored, the political, ideological, social and other fundamental challenges posed by them can go far beyond any terrorist threat they might present. This further underlines the need to reintegrate the peace-building perspective into the anti-terrorism agenda.

Even this brief outline suggests that the tools used to destroy and deter clandestine transnational terrorist networks with a global outreach and agenda, such as al-Qaeda, may not always be particularly well tailored for dealing with home-grown groups involved in terrorist activities that are generated by and tied to specific armed conflicts. A critical challenge here is to try to ensure that the various tools and methods used in the war on terrorism, as applied to conflict and post-conflict areas, are modified and refocused so that they at least do not interfere with and, at best, complement and reinforce the more fundamental and longer-term work of peace-building.

How can the far-reaching goal of integrating anti-terrorist measures into the more general framework of peace-building be achieved? What political, military, legal, economic and other tools can be employed for anti-terrorist purposes in conflict and post-conflict areas, and what are the comparative advantages and disadvantages of these tools? How effective are formal mechanisms, instruments and institution-building processes for countering the challenges posed by organizations involved in terrorist activities? Should the same methods be applied to different groups that are operating in conflict and post-conflict areas? These are some of the issues that are addressed in this policy paper.

First, however, the main terms must be defined, because any discussion of terrorism always boils down to the same basic theoretical and methodological issues focused on the fundamental problem of defining terrorism itself.

Terms and definitions

Terrorism

From the point of view of finding an adequate definition, there can hardly be a more contested phenomenon than terrorism. The events of 11 September 2001 have only added to the general confusion about the term and reinforced a tendency, particularly on the part of policy makers and the media, to use *terrorism* as an umbrella term for all sorts of violent activity—from criminal to punitive—as well as for various forms of political extremism and asymmetrical warfare. The most logical way to attempt to counter this, at least at the level of terminology, is to narrow the definition of terrorism and make it more focused. The phenomenon itself, however, is so complex and multifaceted that narrowing the definition car-

ries the risk of leaving aside some of the important features, elements or variations of contemporary terrorism.

One way to get around, if not out of, this dilemma is to suggest that there may in fact be more than one type of terrorism and that any definition of terrorism depends at least partly on which type of terrorism it refers to. The 11 September events particularly underlined the need to distinguish between at least two types of terrorism that have too often been confused in the course of the global anti-terrorist campaign:

– the more traditional type of *conflict-related* or *conflict-generated terrorism* ('*terrorism of conflicts*'); and

– the more recent and still highly contested phenomenon, embodied above all in the 11 September events, of so-called *super-terrorism* or *mega-terrorism* (also referred to as 'global mass-casualty terrorism' and 'strategic' or 'high-impact' terrorism).

Conflict-related terrorism is linked to the concrete agenda of a particular armed conflict. Groups involved in terrorist activities usually choose to identify themselves openly with a certain political cause and to formulate their political goals. However ambitious, these goals (whether independence, greater autonomy or merely the release of political prisoners) are always limited. The means and weapons used are mostly standard, fairly readily available, not very advanced and sometimes even quite primitive (such as the unstable bombs used by Palestinian suicide bombers). Since post-cold war conflicts are commonly internal, and at the same time readily become internationalized, defining terrorist activities as conflict-related or conflict-generated ones already implies that they can both be driven by domestic factors and have important international aspects and implications. Also, while this type of terrorism is more traditional, that does not mean that it has remained unchanged since the time of the cold war.

In contrast to conflict-related terrorism, 'super-terrorism' of the 11 September type does not have to be tied to any particular local or regional armed conflict. It has a much broader agenda, theoretically unlimited goals, such as challenging the existing world order, and a reach that could be close to global, as in the case of al-Qaeda. Super-terrorism is focused exclusively on targets in the developed world or targets directly associated with it. It is more likely to be anonymous and relies heavily on the use of more advanced modern technology.

The two types of terrorism are, of course, not unrelated. The origin of al-Qaeda, for instance, can be traced to the anti-Soviet jihad in Afghanistan. The nature of super-terrorism, however, remains particularly unclear: it is even questionable whether it is a mere extension of a more traditional terrorism of local and regional conflicts, upgraded to a global terrorist network, or a new, qualitatively different type of terrorism. In fact, had it not been for the 11 September attacks, super-terrorism would have remained a largely unsubstantiated threat. It took the horror of 11 September, however, to awaken much of the developed world, if only for a limited period of time, to the daily reality of a more traditional conflict-related

terrorism in other parts of the world that might not be as high-profile as super-terrorism but is more widespread.

As is clear from the title of this study, its focus is primarily on *terrorism of conflicts*.[1] A lowest common denominator for definitions of conflict-related, or conflict-generated, terrorism is *the deliberate, politically motivated use of, or threat to use, violence against civilians or civilian targets by a weaker side in an asymmetrical conflict*.[2] For practical purposes, this long definition can be reduced to three main points which are crucial for drawing clearer distinctions between terrorism and other violent activities with which it is most commonly confused in conflict or post-conflict environments.

First and foremost, the *asymmetrical nature* of this type of violence must be stressed. This refers not merely to the gap in capabilities but primarily, and most importantly, to the asymmetry in the level and status of the actors involved: terrorist means are used by a non-state actor as one of its modes of operation in an asymmetrical confrontation with a state to influence the actions or policy of the latter. Deliberate use of force by the state against its own or foreign civilians is not included in the definition of conflict-related terrorism, as it is not applied by a weaker actor in an asymmetrical armed confrontation. This, of course, does not make it less of an international crime from the point of view of the international law of armed conflict,[3] which explicitly forbids such activities by the state and defines them, depending on the scale and the domestic or international context of atrocities, as either 'war crimes' or 'crimes against humanity'.[4] Nor does this definition exclude state support for terrorist activities by non-state actors. Acts of inter-ethnic or sectarian inter- and intra-communal violence are not seen as acts of terrorism either, as they are not used in an asymmetrical confrontation.

Second, it is the existence of a *political goal*, broadly interpreted to include religious and ideological motivations, that distinguishes terrorism from criminal violence, including organized crime. Modes of action that are often seen as typical of terrorists, such as violating public security, terrorizing the population or forcing the authorities to meet the perpetrators' demands, do not amount to terrorism if these demands are non-political. They may be purely financial or material. This does not mean that a certain action cannot be driven by a combination of political and non-political motives, but action that lacks any genuine political motivation (as is quite typical for hostage-taking and kidnapping activities, often undertaken for purely financial gain even in the midst of an armed confrontation) cannot be seen as a form of political violence and thus does not qualify as a terrorist act.

[1] Other types of terrorism, such as 'super-terrorism' or terrorism as a form of violent political extremism in peacetime (left-wing, right-wing etc.) not related to or generated by any armed conflict, are not specifically addressed here.

[2] For a detailed and comprehensive discussion of the definitional problem see Hoffman, B., 'Defining terrorism', B. Hoffman, *Inside Terrorism* (Columbia University Press: New York, 1998), pp. 13–44; and Ganor, B., *Defining Terrorism: Is One Man's Terrorist Another Man's Freedom Fighter?* (International Policy Institute for Counter-Terrorism: Herzliyya, 24 Sep. 1998).

[3] Hereafter referred to as international humanitarian law.

[4] Rome Statute of the International Criminal Court, UN document A/CONF.183/9, 17 July 1998, articles 7, 'Crimes against humanity', and 8, 'War crimes', pp. 7–13.

It should also be noted that the same political goal may be pursued both by violent means and groups, including those involved in terrorist activities, and by a non-violent approach. The goal of creating the Islamic Caliphate on the territory of the Central Asian states has been proclaimed, for instance, both by the militant Islamic Movement of Uzbekistan (IMU),[5] which has used terrorist means, and by the transnational extremist Hizb-ut-Tahrir movement, operating in the same region but emphasizing non-violent means.[6] If a certain group has chosen to turn to terrorist means, its actions cannot be justified by any political goal, however noble. At the same time, the resort to terrorist methods by one group pursuing a certain political goal does not necessarily de-legitimize the goal itself, particularly if it is shared by militant groups that do not use terrorist means or/and by non-violent movements.

Third and finally, in distinguishing between terrorism and another form of politically motivated violence which it is most often confused with in the context of an internal armed conflict—guerrilla warfare—the crucial point is the *target* of violence. While guerrilla warfare is waged primarily against governmental military and security targets and property, terrorism involves deliberate attacks on civilian populations and targets. Distinguishing between guerrilla warfare and terrorism has critical implications from the point of view of international humanitarian law. According to Article 48 of Protocol I to the Geneva Conventions, 'the Parties to the conflict shall at all times distinguish between the civilian population and combatants, and between civilian objects and military objectives, and accordingly shall direct their operations only against military objectives'.[7] Also the international law regulating non-international armed conflict does not prohibit members of rebel forces from using force against government soldiers or property provided that the basic tenets governing such use of force are respected. Such use of force is not currently an international crime, although it could well be a criminal act under national laws.[8]

Matters are further complicated by the fact that, in the context of an armed conflict, an organization may choose to use several different modes of operation at once in order to achieve its political goals or switch from one mode of operation to another and back. Thus, the same organization can both be an insurgency/guerrilla

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[5] Also known as the Islamic Party of Turkestan.

[6] See, e.g., United Nations Office for the Coordination of Humanitarian Affairs, Integrated Regional Information Network (IRIN), Central Asia, 'Central Asia: IRIN focus on threat by Islamic militants', 5 June 2001, URL <http://www.irinnews.org/report.asp?ReportID= 7837&SelectRegion =Central_Asia>; and Pannier, B., 'Central Asia: opposition movements crippled by failure to cooperate Part II)', Radio Free Europe/Radio Liberty (RFE/RL), 26 July 2002, URL <http://www. rferl.org/nca/features/2002/07/26072002163531.asp>. While Hizb-ut-Tahrir publicly preaches a peaceful way to the creation of an Islamic state, there are indications that it could become more confrontational in its approach. See, e.g., Igushev, A., 'Hizb-ut-Tahrir remains active in Central Asia', *Eurasia Insight*, EurasiaNet, 4 Feb. 2003, URL <http://www.eurasianet.org/departments/ insight/articles/eav020403.shtml>.

[7] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, Article 48.

[8] Human Rights Watch, 'Human Rights Watch commentary 2 on the UN Draft Comprehensive Convention on Terrorism', Press release, New York, 22 Oct. 2001.

movement engaged in classic guerrilla warfare and resort to terrorist means at certain stages of its struggle, depending on the politico-military context or on how desperate the situation is. Rather than being employed by clandestine professional terrorist cells whose violent activities are limited to terrorist methods (which might be more common for other types of terrorism), conflict-related terrorism is a mode of operation of resistance groups or movements that enjoy the support of at least some sectors of the local population and are normally engaged in more than one type of violence. In fact, many of the organizations that used to be or are involved in violent activities in conflict and post-conflict settings tend to employ both guerrilla tactics and terrorist means (this is true for most of the violent Palestinian groups which have combined terrorist attacks with other forms of violence in the course of the second intifada,[9] and for militant groups of the Kashmiri *tahrik*[10] or the Chechen resistance). This also partly explains why terrorism and guerrilla warfare are so often confused in practice—so much so that the problem of defining a particular group engaged in violence in the course of an armed confrontation as a 'terrorist organization' presents one of the most challenging conceptual and practical problems in dealing with conflict-related terrorism. So far, this challenge has not been adequately met by any state or international organization, not even by the European Union (EU), whose approach to this problem has so far been more nuanced than that of many other international organizations and individual states.[11]

Against this background, the preferred term, and the one used in this study, is '*organization involved in terrorist activities*'[12] rather than 'terrorist organization'.

Even when all necessary clarifications have been made, however, it has to be recognized that in some cases it will still not be possible to differentiate between intentional and collateral damage; to clearly define the purpose of a certain action as political; or to accurately identify its target as civilian, particularly in a conflict or post-conflict environment where the boundaries between combatants and non-combatants, and between militants and civilians, might be fairly arbitrary. While a suicide attack against Israeli security forces in the West Bank would qualify as an act of guerrilla warfare, a bomb explosion in a Jerusalem restaurant is a clear act of terrorism. More complicated cases, however, such as an attack on a residential part of an army camp[13] or an explosion in the midst of a holiday crowd, where the intended target might have been the military unit on a parade but the bulk of the

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[9] Intifada means 'uprising' in Arabic. The 2nd Palestinian intifada, also referred to as the al-Aqsa intifada, started in late Sep. 2000.

[10] *Tahrik* means 'resistance movement', literally, 'the movement' (in Urdu).

[11] For more detail see page 44 of this policy paper.

[12] For the purposes of this study, the term 'terrorist activities' is used as a synonym for 'terrorism'. In the national legislation of many states, however, terrorism is usually defined as a more general, conceptual term; see, e.g., section 140(d)(2) of the US Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, 22 US Code §2656f(d)(2). 'Terrorist activities' refer to a list of specific types of terrorist action, such as hijacking, kidnapping and the use of explosives; see the US Immigration and Naturalization Act, 8 US Code, §1182(a)(3)(B), section 212(a)(3)(B).

[13] E.g., the attack by Kashmiri militants in Indian Kashmir on 14 May 2002. 'Militants storm Kashmir army camp', BBC News Online, 14 May 2002, URL <http://news.bbc.co.uk/2/hi/south_asia/1986212.stm>.

victims were civilians,[14] are not uncommon. Such instances have to be dealt with on a case-by-case basis and can only be properly categorized after a detailed post-action investigation is completed.

Needless to say, such complex cases are most common in times of armed conflict, as opposed to peacetime, and for conflict or post-conflict areas, rather than in regions removed from conflict. Generally, a terrorist act is more easily identified as such if it is committed in London, New Delhi or Moscow than if it takes place in a conflict/post-conflict area or in adjacent regions.

Counter-terrorism and anti-terrorism

To denote efforts to combat and prevent terrorism, the terms 'counter-terrorism' and 'anti-terrorism' are both used, as they have both become a standard part of the United Nations lexicon. In contrast to some national definitions, notably those suggested by the US military doctrine,[15] 'counter-terrorism' should not necessarily be viewed as being limited to offensive or active measures to fight terrorism, nor should 'anti-terrorism' be used to embrace defensive or passive strategies only. As used in this report, neither of the two terms carries any evaluative connotation. The choice between them is determined by a functional approach: while *counter-terrorism* is seen as a security task performed by the security component of a national or international authority, the use of political, legal, economic, civil-society and other peace-building instruments for the purposes of both countering and preventing terrorism is more broadly referred to as *anti-terrorism*.

Peace-building

While most of the potential controversies over definitions and terminology are inevitably related to the debates on terrorism, some clarifications are needed on the other side of the equation as well. The use of the term 'peace-building' in this study cannot be limited to the post-conflict stage only, especially if the latter is strictly defined as a period that follows the end of hostilities. In many conflict areas the intensity and distribution of violence, both in geographical and in temporal terms, are very uneven. Open fighting may be going on in some parts of an area generally referred to as a 'conflict zone' while other parts might remain relatively stable for significant periods of time. In this context, it probably makes sense to focus on a period when—and an area where—hostilities have abated to or remain at a level which permits some peace-building efforts, however limited—such as

[14] This was the case in the town of Kaspiysk (in Dagestan, Russia) on 9 May 2002. 'Terrorist blast in Kaspiisk', *RFE/RL Security and Terrorism Watch*, vol. 3, no. 17 (15 May 2002).

[15] In US military doctrine, 'counter-terrorism' is defined as 'offensive measures taken to prevent, deter, and respond to terrorism'. US Department of Defense, *Dictionary of Military and Associated Terms*, Joint Pub. 1-02, 12 Apr. 2001 (as amended through 9 Jan. 2003) (Joint Chiefs of Staff: Washington, DC, 2003), p. 130; and US Department of Defense, *Joint Tactics, Techniques, and Procedures for Antiterrorism,* Joint Pub. 3-07.2 (Joint Chiefs of Staff: Washington, DC, 12 Mar. 1998), p. vii, GL-3. 'Anti-terrorism' involves 'defensive measures used to reduce the vulnerability of individuals and property to terrorist acts' (Joint Pub. 1-02, p. 41; and Joint Pub. 3-07.2, p. vii, GL-3).

reintegration, recovery, and confidence- and capacity-building activities—to begin or proceed at the national and/or international level. In fact, this broad definition is not in conflict with the usage of the UN Brahimi Report, which refers to peace-building in both post-conflict and preventive terms.[16] Apart from more typical post-conflict activities, such as strengthening the rule of law and the reintegration of ex-combatants, it extends the definition of peace-building to cover, for instance, conflict resolution techniques.

For the purpose of this study, however, in addition to *international* peace-building operations and strategies, measures undertaken at the *national* level as part of domestic stabilization campaigns in post-conflict areas—such as recovery, reconstruction, reintegration, and so on—are also treated as peace-building activities or elements of peace-building. In sum, this study argues for broadening the definition of peace-building almost as strongly as it calls for a narrower and more type-specific definition of terrorism.

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[16] The report stresses 'the need to build the United Nations' capacity to contribute to peace-building, both preventive and post-conflict'. United Nations, Report of the Panel on United Nations Peace Operations (the Brahimi Report), UN document A/55/305, S/2000/809, 21 Aug. 2000, Part I, para. 6f. For the Brahimi Report definition of 'peace-building' see Report of the Panel on United Nations Peace Operations, Part II, para. A-13.

2. The security context

For the purposes of exploring actual or potential links between the fight against terrorism and peace-building efforts, at least two basic scenarios for operations in conflict or post-conflict areas have to be addressed:

  – international peace-building efforts and operations in failed, weak, seriously fractured, or emerging states, from the Palestinian territories to post-Taliban Afghanistan; and
  – national 'stabilization' operations, carried out by functional states on parts of their own territory, and usually combining counter-insurgency strategies and techniques with post-conflict reconstruction and rehabilitation (ranging from the UK's operations in Northern Ireland to Russia's operations in Chechnya).

In a conflict or post-conflict environment the division between the security and non-security elements of an international or domestic operation is often moot. For the sake of clarity, however, it does make sense to first identify counter-terrorism as a task performed by the security (enforcement) component of an international peace-building effort or of a national stabilization campaign, and then focus on the ways in which political, socio-economic and other peace-building instruments could be used for the purposes of combating and preventing terrorism.

The fight against terrorism during the final stages of conflict or in a post-conflict environment is closely linked to the tasks of establishing and maintaining public security, law and order, and of creating a relatively safe environment for both the local authorities and the population in the conflict zone. In the period between the cessation of hostilities and the establishment of a lasting peace when stable political institutions, law and order are restored and socio-economic recovery is achieved, the functional division between traditional military duties and other tasks taken on by the security component of a peace-building mission—such as law enforcement and counter-terrorism—can be very blurred. It is into this 'grey area' that most of the security tasks in a post-conflict environment fall, from patrolling refugee camps, escorting humanitarian convoys, and providing protection to refugees, internally displaced persons, international civilian personnel and local populations, to controlling riots or mob violence and pursuing war criminals.

Until recently, counter-terrorism would certainly have been seen as falling within the range of these 'grey area' tasks and, for both conflict and post-conflict settings, would qualify as an 'operation other than war'. The events of 11 September, however, have demonstrated that there is a distinctive aspect that differentiates counter-terrorism from classic 'operations other than war' such as peace support and humanitarian operations, and policing missions. This aspect is that, like military action, counter-terrorism can be directly linked with the vital national interests of the world's leading states and even associated with the global war on terrorism.

In reality, many of the problems that are blamed on the war on terrorism as it manifests itself in various conflict and post-conflict areas around the world have

little to do with counter-terrorism in the more narrow, traditional sense. This 'war' is an uneasy combination of war-fighting, international peace enforcement and national counter-insurgency campaigns with the fight against terrorism as such.

Counter-terrorism and military action

The war on terrorism has been particularly problematic at its military–counter-terrorist interface. Much of the confusion stems from the nature and type of the 11 September attacks, which were perceived, at least by the US Government, as acts of both terrorism and war.[17] That view may help to shed some light on the nature of the 11 September-type super-terrorism, which could indeed be seen as a new form of contemporary warfare rather than a new type of terrorism, but it does not help to clarify the goals in view or the methods used under the banner of the war on terrorism in conflict and post-conflict areas.

It is still unclear, for instance, to what extent the US-led campaign in Afghanistan has been and remains a military affair rather than a counter-terrorist operation. Many of the operational problems it raised have been similar to those typical for most recent military interventions in local or regional conflicts and for 'grey area' tasks performed by both national militaries and international forces at the end of conflict and in the post-conflict stage. It was not counter-terrorism as such that caused many of the civil–military tensions that have become almost routine in the course of the recent military interventions in local and regional conflicts. One of the lessons learned from previous interventions was that the comparative advantages of the military tend to be stood on their heads in the post-conflict stage: while they are not particularly competent or well-prepared to cope with the most pressing grey area *security* tasks, troops have been more than active in providing humanitarian assistance to local populations. The same pattern can be seen in the campaign in Afghanistan, where the US Department of Defense's 'humanitarian daily ration' initiative was coupled with the appearance of many US soldiers, wearing civilian clothes rather than uniforms for security reasons, and thus placing humanitarian workers at significant risk.[18] The militarized nature of the US-led post-11 September war on terrorism in Afghanistan and elsewhere was also reflected in a heavy emphasis on heightened force protection measures for the US troops stationed around the world.

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[17] As stated in a Military Order signed by President George W. Bush on 13 Nov. 2001, attacks on US citizens and property were carried out by international terrorists 'on a scale that has created a state of armed conflict that requires the use of the United States Armed Forces'. Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism, Military Order, 13 Nov. 2001, §1(a), 66 Fed. Reg. 57,833 (16 Nov. 2001).

[18] See, e.g., Minear, L., 'Humanitarian action in the age of terrorism', Background paper for the International Expert Conference on Security and Humanitarian Action: Who Is Winning?, Arden House, Columbia University, New York, 24–25 May 2002, p. 10; and Kelly, M. and Rostrup, M., 'Identify yourselves: Coalition soldiers in Afghanistan are endangering aid workers', *The Guardian*, 1 Feb. 2002.

Two radically opposed conceptual and practical approaches to the role of military operations, forces and tools in combating terrorism can be formulated.

One extreme would be to conflate counter-terrorism with the war on terrorism. While the latter may also involve the use of various diplomatic, intelligence, financial and law enforcement tools (arresting suspects, increased security at key sites and border controls, suppression of the channels and sources of funding for terrorist activities, and so on), it relies on the use of the military force as its primary instrument. This approach tends to be event-driven, reactive and short-term in nature, and has been neither specifically tailored to counter-terrorist needs nor particularly effective in meeting them—not to mention its mixed political, security and socio-economic effects on various conflict and post-conflict settings around the world.[19] So far, an excessive reliance on the use of force has neither worked well for the US-led global war on terrorism nor helped to curb the terrorist violence generated by the Israeli–Palestinian confrontation or the conflicts in Kashmir and Chechnya.

The other extreme would be to question *ab initio* the utility of military force applied in support of counter-terrorism objectives and to argue that there is no role for the military to play in counter-terrorist operations. In reality, conflict-generated terrorism has become a standard mode of operation of militant resistance groups, and a military defeat can affect their performance in more ways than one. In some cases it can provoke militant groups to resort increasingly to terrorist activities (although this may also be a sign of their becoming increasingly marginalized). In other cases, an organization can suffer such a decisive military blow that its ability to mount both guerrilla-type and terrorist attacks is drastically curtailed and it takes a significant time to re-establish its operational capability.[20]

In sum, the armed forces, and special operations forces in particular, can certainly play a useful role in support of counter-terrorism, but military tools are not best tailored for specific counter-terrorist tasks and should not assume the primary role.

Counter-terrorism and counter-insurgency

In counter-terrorist operations, the problem of dividing responsibilities and coordinating activities between the military, police and intelligence components of a mission is extremely important. The lack of such coordination and balance has been most evident in national counter-terrorist operations conducted as part of larger stabilization missions that might also involve post-conflict reconstruction, rehabilitation and other activities of a peace-building type, but it is also an issue for

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[19] See also pages 1–2 of this policy paper.
[20] An example is the IMU, which was defeated militarily on the ground in northern Afghanistan in Nov.–Dec. 2001 to the point where its ability to mount both guerrilla-type incursions into the Central Asian states and terrorist attacks was temporarily crippled, which, in turn, gave the Central Asian governments some sense of relief. *Patterns of Global Terrorism, 2001* (US Department of State: Washington, DC, May 2002), p. 96; and International Crisis Group (ICG), *The IMU and the Hizb-ut-Tahrir: Implications of the Afghanistan Campaign*, Central Asia Briefing (ICG: Osh/Brussels, 30 Jan. 2002), pp. 3–4.

international operations in conflict and post-conflict areas. The problem, however, goes much deeper than just the need for better demarcation and coordination of security tasks and the proper division of responsibilities. The key issue here is whether and to what extent counter-terrorism can be viewed and undertaken as an enforcement-type activity. In fact, what distinguishes counter-terrorism in the narrow sense from other security tasks is that its central goals are always *the prevention, disruption and pre-emption* of terrorist activities, not post hoc *punishment, coercion or retaliation*. While coercive measures can be used selectively in support of counter-terrorism (for instance, to prevent a specific act of terrorism),[21] they are not what counter-terrorism is primarily about. The most proactive and effective counter-terrorist policy is never the one that is the most offensive and retaliatory.

In conflict or post-conflict areas in particular, operations whose impact goes far beyond the individual terrorist suspects themselves—'collective impact' or 'collective punishment' measures, from curfews to large-scale mopping-up operations—can hardly serve counter-terrorist needs unless they are applied for a pre-defined period of time, cover a limited area, are based on very solid intelligence and are selectively implemented for specific operational purposes. (Such a purpose would, for instance, be to detain a group of persons suspected of mounting a specific terrorist action while they are based in, operating from or trespassing in a certain location.) When undertaken primarily for punitive and essentially 'counter-insurgency' purposes, collective impact measures, such as the frequent Israeli closures of Palestinian territories in response to surges of guerrilla-type and terrorist attacks, as well as the Russian-style *zachistka* operations,[22] tend to create greater problems than they are meant to solve because they cause serious tensions with and grievances among the local population. Moreover, since at least some conflict-related terrorist acts and attacks are undertaken as the most immediately available way of retaliating against offensive actions by government forces, collective impact measures can directly stimulate violent reprisals that might take the form of terrorism. In sum, although they have become almost standard counter-insurgency instruments for a number of states, collective impact measures have not been particularly effective as specific counter-terrorist tools.

This further underlines the need to distinguish between counter-insurgency and counter-terrorist methods and techniques and, to the extent possible, also between guerrilla-type and terrorist activities, even if they are employed or carried out by the same organization.

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[21] See, e.g., Human Rights Watch's recommendation to the government of Israel that 'any restrictions on freedom of movement are implemented only when and where necessary to prevent specific acts of violence'. Human Rights Watch, *Erased in a Moment: Suicide Bombing Attacks against Israeli Civilians* (Human Rights Watch: New York, 2002), p. 9.

[22] These are intense population screening by special police units in a certain populated area after it has been sealed off by the military or Ministry of Interior troops, or both.

Counter-terrorism and intelligence

While the role of the military in counter-terrorist operations is by definition limited (otherwise, an operation would probably not even qualify as a counter-terrorist one), the critical challenge is how to achieve an optimal division of functions and establish working cooperation between the two key sectors that bear primary operational responsibility for counter-terrorist activities—the law enforcement and the intelligence/counter-intelligence communities. In tackling this problem, it must be borne in mind that, in an international peace operation in a post-conflict environment, the law enforcement sector is likely to be as multinational as the military component itself and to remain so for an extended period of time until local policing and judiciary capacities are fully restored. By contrast, the intelligence sector is likely to remain the almost exclusive domain of the respective contributing nations (often solely of a 'lead nation', if there is one) for the same period of time.

The need to combat terrorist threats in a post-conflict environment is likely to heighten the difficulty involved in coordinating activities and sharing information between different security components. It makes it more difficult to strike the balance between different security functions, and particularly between tasks that are more specifically focused on and tailored for counter-terrorism needs (intelligence assistance, intelligence sharing, and special and covert operations), on the one hand, and more regular 'enforcement' and policing measures, on the other hand. Many of these difficulties, which are typical for both domestic stabilization campaigns and multinational post-conflict operations, have little to do with the nature of specific counter-terrorist tasks or operations on the ground or, indeed, with the specifics of a particular post-conflict environment. Rather, they reflect the more fundamental problems of coordination and information sharing, as well as the inter- and intra-institutional tensions and infighting which exist at the level of national intelligence and law enforcement communities. In the case of an international involvement in a post-conflict area, most of these problems are 'imported' by participating states 'from home' and can only be exacerbated by the multinational nature of the operation.

One of the most serious constraints—one which is typical of other security tasks in a post-conflict environment but particularly relevant to counter-terrorist operations—has been that of *intelligence sharing* between the countries participating in a peace operation, as well as between different functional components of the mission itself: not to mention information sharing between international and local security forces and structures as the latter are being built or rebuilt. It is difficult to expect any significant progress on information sharing on terrorism-related issues between national contingents and functional components of an international security operation in a post-conflict environment as long as these issues remain poorly addressed at the national level in the participating states. There is not enough information sharing on terrorism-related matters (for instance, between operational and analytical units) even *within* the respective national intelligence and law enforcement

communities, let alone *between* them (for instance, between criminal and intelligence investigative organs).

Depending on the particular national system, the leading role in combating terrorism may be reserved for the intelligence community or the law enforcement sector, or both. It has been more or less recognized internationally that counter-terrorism requires extensive collaboration between the two branches. In this context, however, it must be stressed once again that terrorism is always a form of political violence which, while it can and should be 'criminalized' to the extent possible, can never be reduced to plain crime. Its political, religious or ideological motivation, its psychological effects on society and its diffuse financial, logistics and operational links need to be countered by highly specialized capacities which need to develop solid intelligence on the perpetrators of violence and their networks on a permanent basis. Given the centrality of pre-emption, disruption and prevention in counter-terrorism, it becomes extremely important to obtain timely information about the planning and preparation of terrorist attacks by means of heightened use of human intelligence and of undercover methods in order to penetrate groups involved in terrorist activities from within.

In a given nation, the law enforcement community may have some of these capacities, but most of them are more directly associated with the intelligence community. Perhaps even more important, the collection and analysis of intelligence on terrorist activities and groups require all-source analysis and the cross-correlation and constant re-evaluation of all the jigsaw pieces of often seemingly unrelated information. This approach is quite different from the case-file mentality that prevails in the law enforcement community, whose main focus remains the investigation of specific crimes and the ongoing process of criminal prosecution.[23]

While counter-terrorism generally implies a heavy reliance on the specialized capabilities of the intelligence/counter-intelligence sector, the specific conditions, constraints and demands of a post-conflict environment may still require the law enforcement sector to play a role in support of counter-terrorist tasks which is no less important than its domestic counter-terrorist functions. In an unstable security situation in a post-conflict area, counter-terrorist measures are likely to be more dependent on the ability of the law enforcement sector to provide basic law and order than they are in relatively stable or peaceful areas. More specifically, in the area of human intelligence the intelligence sector (especially in countries that are not known to be particularly successful at this type of intelligence collection) might have something to learn from the extensive experience of the law enforcement branch, for instance, in counter-narcotics operations, undercover work and information collection.

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[23] For a more detailed discussion of the differences between intelligence and law enforcement agencies, and between their organizational cultures and information collection and analysis methods, see 'September 11 and the imperative of reform in the US intelligence community: additional views of Senator Richard C. Shelby, Vice Chairman, Senate Select Committee on Intelligence', Washington, DC, 10 Dec. 2002, pp. 34–37, 62–68, URL <http://www.fas.org/irp/congress/2002_rpt/shelby.html>.

Counter-terrorism and war crimes issues

Given their dependence on intelligence and functional intelligence sharing, counter-terrorist operations can, at least on the surface, appear to be similar to one of the most problematic and controversial of security-related functions in post-conflict environments—the task of identifying, detecting and arresting persons suspected of war crimes. Like operations to search out and arrest war criminals, counter-terrorist activities in a post-conflict environment, especially if they involve or are synchronized with excessive resort to military tools, are highly politically sensitive and can create additional security risks for both the security and the peace-building components of an operation.

Both types of activity require not only a high degree of specialization but also a special mandate and status within a mission, if their legality is not to be questioned.[24] One of the practical lessons learned from the experience of dealing with war crimes issues has been the need to create an international team to carry out arrests that is separate from the military (peace enforcement) presence and possibly supplemented by a team set up to track down indicted war criminals.[25] However, whether the same forces or units can be used for counter-terrorist purposes remains highly questionable.

This is where the seeming similarities between counter-terrorism and activities aimed at dealing with suspected war criminals in post-conflict areas end. As noted above, what distinguishes counter-terrorism from other security functions is that its central goals are always the *prevention, disruption and pre-emption* of terrorist activities and networks. It is in this respect that the distinction between counter-terrorism and war crimes-related activities, whose focus is limited to *post-action investigation, detention and conviction* of suspected war criminals, is most evident.

From the perspective and for the purposes of the humanitarian and human rights community, whose concerns are primarily the implications for and grievances of the civilian population, distinguishing between war crimes and acts of terrorism may be less relevant, to the extent that both are deliberate attacks against civilians as defined by international humanitarian law.[26] However, from the perspective and for the purposes of the security community (the decision makers, security analysts and, above all, practitioners), it is essential to distinguish between war crimes and acts of terrorism in a post-conflict environment. Unless such distinctions are made

[24] For more detail see, e.g., Vallières-Roland, P., *Prosecuting War Criminals: A Critique of the Relationship between NATO and the International Criminal Courts*, Briefing Paper (Center for European Security and Disarmament: Brussels, Feb. 2002).

[25] International Peace Academy (IPA), *Managing Security Challenges in Post-Conflict Peace-building*, IPA Workshop Report, Willson House, Ottawa, 22–23 June 2001, p. 11.

[26] While the term 'terror' is used in Article 51(2) of Protocol I and Article 13(2) of Protocol II to the Geneva Conventions, and Article 4(2)(d) of Protocol II prohibits acts of terrorism against non-combatants, there is no definition of terrorism in international humanitarian law (although the term might be legally defined by national legislation). In this context, members of the humanitarian community are more consistent in using a broader term—deliberate attacks against civilians—than terrorism.

it will be difficult to identify appropriate security tools to deal with each of the two. As seen above, they are likely to require different approaches and techniques.

The need to differentiate between these two types of security activity in a post-conflict context is further underscored by the fact that, even in a very basic threat assessment by an international security presence, war crimes and terrorist threats are likely to have very different standings in the list of security priorities. While war criminals rarely pose an immediate or large-scale security threat, terrorism has far greater potential to become a priority security issue for the international community than have many, if not most, other security tasks in post-conflict operations. In contrast to war crimes issues, counter-terrorism can be directly tied to the vital national security interests of the world's leading states—which are also the main donors and decision makers in international peace-building operations (albeit not necessarily the main personnel-contributing nations). While war crimes are committed in conflict areas themselves, conflict-generated terrorism has a wider international impact and can also threaten developed nations. Among other things, the much-criticized practice of arresting suspected war criminals 'accidentally'—in the course of the international forces' regular duties or if the suspect obstructs them in the exercise of their duties—is not even an option for the forces involved in a counter-terrorist operation.

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In a post-conflict environment, when a certain level of security may have been achieved already, it is critical to ensure that counter-terrorist measures do not actually reduce levels of security for the population or provoke the targeted groups to resort more actively to terrorist activities. In addition to general military and political stabilization and the improvement of the law-and-order situation, the key to solving this problem is to realize and stress the specific nature of counter-terrorism, which distinguishes it from other types of security-related activities—in particular its essentially preventive, pre-emptive, disruptive and highly selective character, and its complete dependence on solid, accurate and constantly re-evaluated intelligence.

The main problem here is that the more coercive the overall security element of a post-conflict operation is (whether it is an international peace enforcement mission or a domestic stabilization campaign), the greater is the risk that specific counter-terrorist concerns will be surpassed in importance by military calculations or political priorities (not necessarily benign ones) and that specific counter-terrorist methods, such as carefully targeted special operations, will be misused for purposes other than fighting terrorism.

With counter-terrorism likely to remain one of the top security priorities for the international community in post-conflict settings, an excessive emphasis on the counter-terrorist agenda by key donor states can have a number of adverse effects. Most importantly, it could marginalize the longer-term international tasks of building, rebuilding or strengthening the local security sector in general and local counter-terrorist capacities in particular. Additionally, for domestic operations in

'failed areas' of otherwise relatively functional states, an excessive focus on counter-terrorism may distort the broader national security sector reform agenda.

As these problems cannot be solved at the level of the security component of a mission, they should be explored in the context of more fundamental peace-building, and particularly state- and institution-building, efforts—which are the subject of the next chapter.

3. The political and legal context

Most of the political, legal, economic, socio-economic and other tools that are used as part of the general peace-building effort to promote the goal of a lasting peace are aimed at preventing violence in general rather than being addressed to any particular type of violence (such as guerrilla warfare, terrorism or criminal violence). As conflict-related terrorism is a very specific type of violence, the tools that could be adapted to serve anti-terrorist needs effectively should be selected from the general pool of peace-building instruments. Furthermore, this should be done without fundamentally changing the nature of the instruments applied in order not to compromise them as peace-building tools. This should be kept in mind as the potential role for peace-building instruments in combating and preventing terrorism at the end of conflict or at the post-conflict stage is explored.

Anti-terrorism and peace processes

While the link between anti-terrorism and peace processes is not a central issue for this study, it has to be addressed before turning to more concrete peace-building instruments, strategies and techniques that could be adapted to serve anti-terrorist needs.

As is already apparent from the previous chapters, it is not always easy to draw a line between situations and areas of open conflict and post-conflict settings. Peace-building activities may start long before any formal or final political accommodation is achieved and a political solution to a conflict is found, and can go on even if a peace agreement fails. An example of peace-building efforts continuing after a peace agreement has failed and armed confrontation has resumed is the Israeli–Palestinian conflict. The Israeli–Palestinian peace process and peace-building (including state-building) activities in the Palestinian territories have not only been going on simultaneously but have also been interdependent and contingent one upon the other. The link between anti-terrorism and the peace process relates both to international peace-building activities conducted at different stages of a conflict, and to national stabilization campaigns when security operations, political accommodation and activities of a peace-building type are going on simultaneously.

On the one hand, conflict-related terrorism used as a mode of operation by groups involved in an armed conflict cannot by definition be de-linked from the peace process. On the other hand, sustained or high-profile acts of terrorism should not be allowed to impede the peace process. This dilemma becomes most apparent when terrorist attacks are used: (*a*) by the key non-state actors at the stage of ongoing confrontation specifically to disrupt actual or potential peace negotiations;[27] or (*b*) by 'spoilers' (usually more radical splinter groups that enjoy less or

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[27] In the Israeli–Palestinian context, one of many such examples was the deadly suicide attack by Hamas in a hotel in the Israeli town of Netanya on 27 Mar. 2002, specifically timed to coincide with

no broad popular support and stand to gain little from the peace process) at the stage when some preliminary or more formal agreement with the main parties has already been achieved (the classic example is the case of Northern Ireland).[28]

While there is no question that conflict-generated terrorism is ultimately best addressed by peaceful resolution of the primary issues of the conflict itself, the extent to which this link should be politically established and recognized is less clear. Should reaction to terrorist attacks or anti-terrorism concerns in general be politically dissociated from the peace process for the practical purposes of conflict resolution and political reconciliation? Or, alternatively, should the two be linked to the point of one being largely dependent upon the other?

The strategy of separating anti-terrorism from ongoing political negotiations and from the peace process in general might seem to offer the parties to a conflict a way out of the vicious circle of violence and the need to respond to it. This approach can certainly be used as a conflict resolution tool to create a short-term 'window of opportunity' when politico-military conditions, for whatever reason (such as a change of leadership in one of the sides in a conflict, or international developments), seem to be favourable for a decisive breakthrough in a peace process. It is not necessarily a one-time tool only, but it cannot be used repeatedly. Unless decisive progress is quickly achieved, de-linking the political process from anti-terrorism concerns is not an effective long-term strategy.[29] In fact, it can seriously undermine both anti-terrorist efforts and public support for the peace process itself.

However, the approach at the opposite extreme—that of tying the peace process and anti-terrorism too closely together, to the point of making one entirely conditional upon the other—can neither lead to a lasting peace settlement nor effectively address the security challenge posed by terrorism. This was most dramatically demonstrated by the link between terrorism and the peace process in the context of the conflict in Chechnya in the mid-1990s, when two high-profile terrorist attacks by Chechen militants (the raids on hospitals in Budennovsk in June 1995 and in Kizlyar in January 1996) forced the federal government to sign the hasty and inherently problematic Khasav-Yurt agreement, which was backed by neither

the Arab League Summit in Beirut, Lebanon. 'Passover massacre at Israeli hotel kills 19', CNN, 27 Mar. 2002.

[28] On the spoiler problem in the case of Northern Ireland see, e.g., Arthur, P., 'The Anglo-Irish peace process: obstacles to reconciliation', ed. R. L. Rothstein, *After the Peace: Resistance and Reconciliation* (Lynne Rienner: Boulder, Colo., 1999), pp. 85–109. For a general overview of the spoiler problem in peace processes see Stedman, S. J., 'Spoiler problems in peace processes', *International Security*, vol. 22, no. 2 (fall 1997), pp. 5–53.

[29] One example is the handling of the Oslo peace process by Israeli governments in the early and mid-1990s. See, e.g., Karsh, E. (ed.), *From Rabin to Netanyahu: Israel's Troubled Agenda* (Frank Cass: Portland, Oreg., 1997), pp. 117–262; and Ganor, B., *Israel's Counter-Terrorism Policy: 1983–1999: Efficacy Versus Liberal Democratic Values* (International Policy Institute for Counter-Terrorism: Herzliyya, 15 Sep. 2002).

political will nor economic resources and did not lead to post-conflict peace-building.[30]

Thus, while anti-terrorism cannot be separated from the peace process because the two are inherently intertwined, linking the former directly to the latter can create problems. Some standard political and diplomatic techniques (for instance, recognizing a certain group as a negotiating partner on condition that it puts a temporary moratorium on its terrorist activities) can be used to address this problem, but the need to link anti-terrorism and the peace process in a way that is sufficiently indirect not to make one entirely conditional on the other requires a more fundamental solution.

This study explores: (*a*) whether one potential solution to this problem could be provided by peace-building efforts at the transitional stage from a conflict to a post-conflict environment; and (*b*) whether ongoing peace-building and particularly state-building activities can provide the optimal link between anti-terrorism and the peace process. In this context it should be stressed that the relation between a peace process and peace-building (and state-building as one of its key elements) is not a one-way relation: the latter not only depends on the progress achieved in peace negotiations but is often a precondition for a peace settlement itself.

Political governance and institution building

State-building is an important element of peace-building. It focuses more narrowly and specifically on political governance and institution-building (political authority, civil administration, and law and order) than does the more general process of 'post-conflict peace-building'. The latter might also include humanitarian assistance, refugee repatriation, demobilization and reintegration of former combatants, and a host of other activities. Clearly, all aspects of state-building are particularly pressing tasks in respect to failed states, such as Somalia, or embryonic states (state-like entities), such as the Palestinian Authority (PA), where the institutions have been seriously weakened or degraded by armed confrontation resuming even before the state-building process was completed.

Conflict-related terrorism has traditionally been seen as a mode of operation of a 'weak' side (a non-state actor) in an asymmetrical confrontation with a 'stronger' side (the functional state), but in fact in many conflict or post-conflict areas of the past decade, from Afghanistan to Somalia, the local context has been characterized not by the existence of strong or functional states but by weak or failed states. From the anti-terrorist perspective, the absence of a functioning state can mean two things.

First, there can still be grounds for home-grown groups that are involved in sectarian or communal violence, as well as for competing state-like entities struggling

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[30] On the conflict and peace process in Chechnya in the mid-1990s and for an overview of peace proposals see Curran, D., Hill, F. and Kostritsyna, E., *The Search for Peace in Chechnya: A Sourcebook 1994–1996*, Strengthening Democratic Institutions Project Report (Harvard University Press: Cambridge, Mass., 1997).

among themselves, to resort to terrorism. In this case there is not much place for asymmetrical warfare in the local context, but terrorist means can be used against neighbouring, more or less functional states, especially if the latter are perceived as meddlers or occupying powers. In this way terrorist methods have been used, for instance, by the Somalia-based fundamentalist al-Ittihad al-Islami against neighbouring Ethiopia, which is perceived as occupying the Somali-populated province of Ogaden.[31] Also, where there is a foreign or international presence not limited to military or security presence, terrorist means can be locally applied against foreign or international targets.

Second, states that are failed or seriously weakened offer external or transnational terrorist networks opportunities for relocation, sanctuary and transhipment of arms and people. In both cases the impact of terrorism is not confined within a failed or a weak state, but has wider regional and international implications.

It is particularly problematic to apply anti-terrorist measures in weak or failed states as they lack effective national or local state capacity to fight terrorism. They are also areas where the line between home-grown and international terrorism can be very blurred. In the absence of local or national anti-terrorist capacity or where it is weak, the international community has found itself increasingly pressed, particularly since 11 September, to take up certain anti-terrorist tasks that are normally associated with a functional state.

It is in this way that the phenomenon of the failed state links anti-terrorism to peace-building and, more narrowly, state-building. In fact, it has almost become a cliché to agree that the reconstruction of a stable and functional state is one of the most effective long-term anti-terrorist strategies.[32] Only a sufficiently strong state can effectively combat terrorism and serve as the best hedge against a post-conflict area re-emerging as a safe haven or hotbed for terrorism.

However, *what are the implications for anti-terrorism of the type of state, political governance system and institutions that are to be built?*

One way to address this problem is to stress the need to build, rebuild or strengthen the state and its institutions in such a way that they can serve as solid internal constraints on and defences against terrorism, and take upon themselves the task of suppressing organizations that are involved in terrorism. This approach emphasizes the centralization of power, strict hierarchy and formal institution-building as the main principles on which the new state and its institutions will be based and pays special attention to the need to strengthen the security sector. In its different modifications, this approach has been adopted both internationally (for

[31] *Patterns of Global Terrorism, 2001* (note 20), pp. 8 and 115; and Dagne, T., *Africa and the War on Terrorism*, CRS Report for Congress (Library of Congress, Congressional Research Service: Washington, DC, 17 Jan. 2002), pp. 14ff.

[32] See, e.g., Bildt, C., 'State building and international security', Remarks at the International Institute for Strategic Studies (IISS) Global Strategic Review, London, 14 Sep. 2002; and Tishkov, V., 'Sotsial'no-kul'turny aspekt fenomena terrorizma' [The socio-cultural aspect of the phenomenon of terrorism], *Sotsial'nye i psikhologichskiye problemy bor'by s mezhdunarodnym terrorizmom* [Social and psychological problems of combating international terrorism] (Nauka: Moscow, 2002), pp. 26–27.

instance, in support of the Palestinian-driven efforts to build the PA) and by different individual states in dealing with internal conflicts (for instance, Russia in its attempts to rebuild a loyal administration in war-torn Chechnya).

Building, strengthening or streamlining the functional security sector (particularly its law enforcement and intelligence components) might seem to be the most logical, direct and immediate response to terrorist threats. However, should the same order of priorities (centralization, emphasis on formal structures, and so on) be applied to other aspects of state- and institution-building, particularly those related to political governance and administration? Rather than applying the same 'rigid' security-oriented approach to political institutions, this problem can be addressed in a more flexible way by taking into account different, often competing, locally driven state-building agendas, particularly as they relate to the handling of those home-grown organizations that enjoy some—even broad—popular support and are involved in terrorist activities.

Hamas is perhaps the best known case in point. In performing basic social welfare functions in the Palestinian territories, it has proved to be more effective than the PA. With its declared goal of establishing an Islamic Palestine,[33] coupled with a flexible and pragmatic political strategy, Hamas shows an apparent lack of interest in internal Palestinian debates over the reform of the existing secular PA institutions. (The same is true of most other Islamic fundamentalist groups in Palestine.[34]) Hamas enjoys a combination of structural flexibility and centralization, growing involvement in political activities and participation in an armed resistance, solid experience in community-based social work and extensive grassroots outreach. This combination is its main strength and gives it significant popular support. (To a certain extent this also characterizes a number of other radical Islamic groups.) This impressive combination does not necessarily imply, nor is it interpreted by Hamas and some other radical Islamic groups as implying, the need to take political power and establish direct control of the state, but it can still have a profound effect on the political situation in a conflict or a post-conflict area, as well as on the ongoing state-building efforts and on non-fundamentalist authorities that might be forced as a result to co-opt some elements of the Islamic radicals' agenda.

Needless to say, those Islamic fundamentalist organizations which are suspected of past or present involvement in terrorist activities but enjoy much less political visibility than Hamas in the Palestinian territories are even less likely to be influenced by formal political and state-building instruments. A case in point is that of al-Ittihad al-Islami, which was engaged in internal infighting in the first half of

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[33] Article 27 of the 1998 Hamas Covenant states: 'We are unable to exchange the present or future Islamic Palestine with the secular idea. The Islamic nature of Palestine is part of our religion and whoever takes his religion lightly is a loser . . . The day the Palestinian Liberation Organization adopts Islam as its way of life, we will become its soldiers'. Covenant of the Islamic Resistance Movement, 18 Aug. 1988, available on the Internet site of the Avalon Project at Yale Law School, URL <http://www.yale.edu/lawweb/avalon/mideast/hamas.htm>.

[34] For more detail on the intra-Palestinian debate on institutional reform see International Crisis Group (ICG), *The Meaning of Palestinian Reform*, ICG Middle East Briefing (ICG: Amman and Washington, DC, 12 Nov. 2002).

the 1990s, was implicated in terrorist acts and kidnappings in Ethiopia in 1996–98 and is believed to have had some ties to al-Qaeda. After having been defeated militarily by rival factions, al-Ittihad adopted a more pragmatic approach and shifted its focus to 'working on the prerequisites for eventual Islamic rule' by becoming increasingly active in social welfare, education, commerce and the media. While not emphasizing, at least for the time being, its political role and ideological agenda, which is centred on the establishment of an Islamic state, al-Ittihad is trying to consolidate its influence within the Islamic justice system (the sharia courts) and to infiltrate its individual members gradually into secular local and national governments.[35]

These and similar organizations which promote the concept of an Islamic state show little interest in state-building agendas sponsored by the international community and drawn up in line with Western political discourse. It therefore remains unclear how relevant an approach that emphasizes formal institution-building is for addressing their terrorist activities. While, for instance, providing for regular *elections* at all levels of government might be critically important from the point of view of formal political institution-building and bringing greater legitimacy to the peace process, it will not necessarily have a direct impact on the activities of organizations and forces that choose not to participate in elections at all.

This problem is most evident for elections that are managed by functional national authorities and held as part of domestic stabilization efforts in post-conflict environments. It could be very controversial in states and areas where seriously flawed or failed elections have played a critical role in encouraging dissident groups to resort to violence (including terrorism) in the first place.[36] In a highly ethnically and politically polarized post-conflict environment, the problem could also apply to elections that are internationally managed as part of larger post-conflict peace-building operations. While some militant groups might participate, others will choose to boycott the elections. The latter are likely to include both the groups that have been most active in using terrorist means, and extremist organizations that might simply have different or alternative political and state-building agendas and concepts of political representation, as is common for both conflicts over autonomy or independence and internal conflicts over control or the very nature of the state (civil wars). Islamic fundamentalist groups and movements in particular might choose either to ignore elections completely or to participate in them selectively.

These concerns can certainly be ignored if it is assumed that the state to be built or reconstructed will be able to mount a decisive crackdown on groups involved in

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[35] Menkhaus, K., *Somalia: A Situation Analysis*, UNHCR Centre for Documentation and Research, WRITENET Paper no. 07/2000 (United Nations High Commissioner for Refugees: Geneva, Nov. 2000), p. 18; and Abdulkadir Abiikar Hussein, 'Somalia versus international terrorism: the link?', *Somalia Watch*, 4 Jan. 2002.

[36] Cases in point include the 1987 elections in the Indian state of Jammu and Kashmir, when perceptions of fraud led to the start of a massive resistance campaign (*tahrik*); and the cancellation of the 2nd round of the 1992 elections in Algeria by the ruling regime out of fear of a victory for the Islamic fundamentalists, which provoked reprisals by violent means, including terrorism.

terrorist activities. However, acts of conflict-related or conflict-generated terrorism are usually prepared and committed not by small, marginal terrorist cells but by larger organizations or movements that are engaged in various types of violent activity and enjoy support from at least some sectors of the local population. This means that a decisive military and police crackdown by local state structures, even with external support, is less likely to succeed—particularly if such pressure is driven as much by the self-interest of those engaged in internal infighting and the struggle for power as by the declared need to combat terrorism.[37] In this context, strengthening the state institutions, and particularly the security sector, is likely to be problematic from the point of view of human rights, but may still not bring tangible results where anti-terrorism is concerned.

In fact, when the strengthening of formal state institutions appears to be of limited effectiveness for anti-terrorism purposes or is problematic from the point of view of human rights, more informal and unorthodox political alternatives could be explored. Internal constraints on terrorism could be more effective when imposed not by a formal central authority (particularly if it is inefficient and corrupt, or a secular and externally sponsored state entity imposing constraints on a competing Islamist movement) but, for instance, by a less formalized broad national political alliance or national front which could include organizations and groups of concern on condition that they moderate or halt their terrorist activities.

Bearing in mind the link between anti-terrorism and the peace process, this might also provide the right context for achieving a sustainable political power-sharing arrangement. The 'national front' alternative, however, applies only where there is a constant recurrence of violence and where the resistance by the key factions (even if there are tensions between them) is focused against some common target (such as a foreign power) and, most importantly, has the overwhelming support of the population. While such an option might apply to Palestine, it does not, for instance, seem to be relevant for the failed state of Somalia, where the main infighting goes between the different internal factions.

Similarly, an emphasis on building a rigid, robust and centralized government capacity to combat terrorism might not always be appropriate for a fractured, failed or semi-failed state, such as Somalia, where some parts of the country are more or less effectively governed by regional authorities and administrations while other parts remain virtually ungoverned. In fact, in the Somali case, it is the 'central' Mogadishu-based Transitional National Government (TNG) that has been accused of having ties to al-Ittihad al-Islami,[38] which has been involved in some terrorist

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[37] It is, e.g., difficult to determine how far the Palestine Liberation Organization (PLO) repeated crackdowns on Hamas in the 1990s were driven by external pressures to fight terrorism or by the need to undermine its main domestic political opponent.

[38] The extent and nature of these ties remain disputed. Some observers stress the need for the TNG to '[purge] itself of ties to Al-Ittihad that are problematic from a counterterrorism perspective'. See, e.g., 'Weak states and terrorism in Africa: US policy options in Somalia, Testimony by Walter H. Kansteiner, Assistant Secretary for African Affairs before the Senate Committee on Foreign Relations Subcommittee on African Affairs, Washington, DC', 6 Feb. 2002, URL <http://www.globalsecurity.org/military/library/news/2002/02/mil-020207-usia07.htm>. Others see no grounds for viewing the TNG either as a front for al-Ittihad, with the role of the latter being limited to having

activities in the past and is suspected of having terrorist connections. From the point of view of anti-terrorism, sponsoring centralized state-building in a very fractured and failed state might not necessarily be the best option: focusing on strengthening regional administrations and other workable governing institutions, if there are any, can be more productive. Another anti-terrorism rationale for paying specific attention not just to regional authorities but to local government and administration stems from the fact that some of the militias and paramilitary groups involved in terrorist activities in conflict or post-conflict areas tend to be localized. This is, for instance, the way in which the 'unknown number of small cells'[39] that comprise the Palestinian al-Aqsa Martyrs' Brigades operates, with some of its locally based units loosely affiliated with the Fatah movement[40] and others acting independently.

To sum up, from the anti-terrorist perspective, the goal should not be to build the state for the sake of the state but to support an administration that can provide basic security conditions and enjoys the support of the population, even if it is only regionally or locally based.

Functionality and legitimacy

In a post-conflict environment the need to build a functional state capacity to combat terrorism is most evident as it applies to the security sector, but might appear less relevant for other aspects of political governance and institution-building. In this context, the introduction or strengthening of the separation of powers in general, and the separation of the legislative and judicial branches of government in particular, deserves special attention, as it directly facilitates the carrying out of law-and-order functions that are essential both for meeting the needs of anti-terrorism and for imposing legal constraints on anti-terrorist activities. Above all, the focus on law-and-order structures and instruments, particularly on the legislature and the judiciary, takes on major importance in addressing one of the main dilemmas for building or rebuilding the state as a powerful tool to fight terrorism—that of *functionality and legitimacy*.

Legislation appears to be one of the very few things that can be relatively easily adapted and specifically tailored for anti-terrorism purposes, particularly in the course of international post-conflict peace-building operations. In post-conflict areas where terrorism is a matter of concern, if there are omissions in the previous legislation that is being used as applicable law, basic anti-terrorist provisions should be included in the earliest versions of internationally sponsored governing statutes or regulations to be further incorporated into national legislation.

In the legislative vacuum that is typical of most post-conflict settings, the *legitimacy* of anti-terrorist measures and operations can be a problem for both

some members in the Somali Parliament, or as 'the Somali equivalent of the Taliban government'. Menkhaus, K., 'Somalia at crossroads of American foreign policy', *Somalia Watch*, 31 Jan. 2002.
[39] *Patterns of Global Terrorism, 2001* (note 20), p. 88.
[40] Fatah is the core movement of the ruling PLO.

international and national operations and can have serious repercussion for peace-building. This problem can be addressed by introducing proper *oversight* responsibilities early in the institution-building process, particularly on the part of the legislature and the judiciary.

One way to do this is to give anti-terrorism legislation an explicitly emergency status, subjecting it to regular review by the transitional legislative bodies, if there are any, and subsequently to parliamentary review. Some form of external review, oversight or verification (for instance, by inviting UN human rights missions or applying for membership of the relevant international conventions and institutions, such as the International Criminal Court) could also be helpful, although there might be difficulties in introducing this form of international oversight for domestic stabilization operations undertaken by functional states.

In a post-conflict environment, the *accountability* of the international security forces, and particularly of the security component of a domestic operation and local security structures, is critically important both for their performing the basic law-and-order functions that are essential to support a peace-building process and for more specific anti-terrorist tasks. Greater accountability can hardly be achieved without formalizing, centralizing and streamlining to the maximum extent possible the local security forces and paramilitary groups (often composed of former combatants) with the goal of either integrating some of them into the formal security sector or eventually disbanding them. Another way to increase the accountability of security forces might be to introduce some balance to the legal provisions that give personnel taking part in a counter-terrorist operation immunity from criminal prosecution for damage incurred in the course of and directly related to that operation. This could be done, for instance, by restricting these provisions to apply to a limited area and for a pre-defined period of time only, rather than indefinitely and for entire conflict or post-conflict area. Apart from that, security personnel should be liable to criminal prosecution, preferably in civilian courts; and some offences by security personnel, such as looting, should be liable to criminal prosecution under any circumstances.

Another important example of how the functionality and legitimacy dilemma relates to anti-terrorism, especially where human rights implications of the latter are concerned, is the *investigation* of acts of terrorism and the *indictment* of those suspected of terrorist activities. The goal here should be to minimize possible differences between the process for suspected terrorists and normal criminal procedures. Whenever possible and applicable, regular civilian criminal statutes and procedures should be used to prosecute alleged perpetrators, particularly of terrorist acts generated by internal violent conflicts. Likewise, civilian courts should be used to indict and try suspected terrorists, rather than special security or military commissions, in order both to establish the legitimacy of anti-terrorist efforts and to increase public confidence in the legal process.[41]

[41] Given the confusion between different types of terrorism (such as conflict-related terrorism and super-terrorism) in the course of the global anti-terrorist campaign, the decision taken by the Bush Administration after the 11 Sep. attacks to use military commissions to try al-Qaeda and Taliban

This will not be easy to achieve in practical terms. Among other things, in the context of an international post-conflict operation, severe national and institutional constraints on the sharing of sensitive information are and will remain the principal obstacle to transferring to civilian courts evidence based on the use of classified intelligence,[42] particularly in cases of politically motivated violence, including terrorism. Attempts to solve this problem at the operational level by giving selected international prosecutors and judges specific clearance to get access to classified information are likely to become mired in the sustained reluctance of the nations that are best equipped in terms of surveillance, intelligence collection and analysis to engage in functional intelligence sharing, particularly on terrorism-related matters which might have direct implications for the national security of participating states.[43] Also, while perhaps justified in the earlier stages of a post-conflict operation, too rigid constraints on intelligence sharing with local security forces and structures, whose support is needed or desirable for countering terrorist threats, might subsequently interfere with the longer-term tasks of an internationally sponsored institution-building process by slowing down the transfer of at least some counter-terrorist responsibilities to local police, intelligence and counter-intelligence services.

One way to bridge the apparent gap between what should be done to ensure both the functionality and the legitimacy of anti-terrorist actions in a post-conflict environment and what can realistically be achieved, given the various security and political constraints, is to use the legal and other tools and techniques that are relatively non-controversial from both perspectives. *Amnesty provisions*, for instance, can be particularly effective as a specific anti-terrorist tool in a post-conflict environment and might even play some role as a disincentive for militant groups to resort to terrorist means. While fully extending amnesty provisions to former combatants who have been involved in rebel attacks against government forces or targets, anti-terrorism legislation should explicitly deny the right of amnesty to all individuals who have committed terrorist acts against civilians. Used in such a way, amnesty provisions would not be in conflict with such peace-building tasks as reintegration and the rehabilitation of former combatants[44] and can, in fact, provide an example of how functionality and legitimacy concerns can be successfully reconciled in anti-terrorism.

To summarize, the main law-and-order dilemma of fighting terrorism in conflict and particularly post-conflict areas should not be seen as that of functionality *versus* legitimacy—rather, it is functionality *and* legitimacy. An apparent lack of

suspects on charges of terrorism has further underscored the need to avoid controversial interpretations, such as interpreting the 11 Sep. events as both a set of terrorist acts and a coordinated military attack. See Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism (note 17).

[42] Dziedzic, M., 'Policing from above: executive policing and peace implementation in Kosovo', ed. R. Dwan, *Executive Policing: Enforcing the Law in Peace Operations*, SIPRI Research Report no. 16 (Oxford University Press: Oxford, 2002), p. 42.

[43] See also pages 14–15 of this policy paper.

[44] For more detail on reintegration and rehabilitation programmes see page 37 of this policy paper.

legitimacy, or at least of determined efforts to create legitimacy, for counter-terrorist operations in a still unstable and relatively polarized post-conflict environment could seriously limit, if not impede, their functionality.

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While formal state and institution building is essential for creating the security, political, regulatory, legal and other infrastructure to serve as a basic protection against terrorism, the process is far from being direct and linear, does not apply to all aspects of state building in the same way and faces some inherent challenges, such as those posed by the 'functionality and legitimacy' dilemma. Moreover, ironically, internationally assisted state building, in its initial stages, can even temporarily increase the risk of domestic terrorism in a formerly failed or weak state. While (re)building the functional state and government is essential as a long-term anti-terrorist strategy, in the short term the conditions for asymmetrical warfare to start or resume at the local level might actually be recreated.

The security environment in post-conflict Afghanistan may be illustrative of this paradox: for much of the 1990s terrorism was not a matter of *internal* security concern for this fractured country, and the first major acts of violence that can possibly qualify as terrorist attacks occurred in Kabul after the first transitional post-Taliban central government, headed by Hamid Karzai, was installed.[45] In post-Taliban Afghanistan, various local contenders for power and potential 'spoilers' of the peace process could be motivated to carry out terrorist attacks that affect civilians but are ultimately directed against the new Afghan administration.

Ironically, a surge in local terrorist attacks in a post-conflict environment might in fact serve as an indicator that the state and its institutions are being rebuilt and have started to function: the state is the main protagonist for home-grown terrorists to engage with in asymmetrical confrontation. Alternatively, however, it might also be an indication that the political and security institutions that are being built are perceived by at least some sectors of the local population as alien or externally imposed entities.

In this context, one of the main problems for international involvement in conflict and post-conflict settings is that foreign actors tend to support local state- and institution-building efforts primarily as a subsidiary to the peace process rather than as goals in themselves.

Another major issue of concern is the extent to which international mediators, donors and peace-builders are ready to take into account locally driven state-building agendas or concepts of the state that might be different from, if not entirely incompatible with, the ones they are fostering themselves. The main problem here is that international actors often seem to be interested not in rebuilding a functional local state capacity that would be supported by most sectors of the local

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[45] One example is the car bombing in a crowded market area of Kabul, which killed 30 people and injured many more on 5 Sep. 2002, the same day as Karzai himself was attacked in Kandahar. Associated Press, 'Karzai survives assassination attempt; Kabul hit by bombing', 6 Sep. 2002.

population but in creating the kind of local capacity that best fits the preferred state-building agenda of either leading donor states or the lead nation in a peace-building operation. This approach produces, among other things, growing suspicions in the West about any recovery and reconstruction efforts that are launched or backed by Muslim states.

In a transitional or post-conflict environment, however, the choice is often between an 'improperly' functioning state based on one or several locally driven state-building agendas and enjoying the support of significant sectors of the population of a post-conflict area, or an 'imported' state, built along 'proper' Western standards of basic democracy and political governance, but dysfunctional and lacking significant local support.

4. The socio-economic context

The problem of applying socio-economic tools for the purposes of anti-terrorism has both long-term and short-term aspects which ideally should complement one another.

The longer-term approach, emphasizing development, the building of economic institutions and reform, such as transforming the budget process in order to ensure financial accountability, is absolutely essential as a far-reaching way to address the root causes of the conflicts that generate terrorism; but tying development directly to concrete anti-terrorist needs seems to be more problematic. Furthermore, an excessive emphasis on the potential impact of the long-term economic aid and development strategies on the root causes of terrorism seems to reflect a tendency on the part of some of the leading donor states—most evident in the aftermath of 11 September—to directly tie 'poverty abroad to security threats at home'.[46]

Terrorism is never a mere extension of poverty or underdevelopment. Many traditional societies are both poor and backward but show no signs of and do not give rise to terrorism or other forms of political violence. Rather, the roots of terrorism grow in those areas that are most dramatically affected by incomplete, unbalanced or failed socio-economic and political modernization. Thus the roots of terrorism as a socio-political phenomenon are always socio-economic, rather than purely economic (this is also true of the impact of most of the economic tools that are used to fight conflict-related terrorism). Even when applied for a pre-defined period of time and on a short-term or medium-term basis, most of these tools tend to have longer-term effects for the populations of conflict or post-conflict areas.

Economic tools

Economic sanctions remain one of the main formal economic tools applied for anti-terrorism purposes. Negative economic sanctions are used primarily to undercut state support to foreign non-state groups engaged in terrorist activities, in addition to other forms of violence. The purpose of negative economic sanctions is to influence the behaviour of states and stop them financing these groups and/or providing them with safe havens. In addition to economic sanctions per se (such as bans on direct foreign aid, the blocking of financial assets, and restrictions on trade, export credits, guarantees and economic access), negative sanctions also include measures that have additional military or diplomatic implications (such as military embargoes, licensing restrictions, commitments to vote against lending to a targeted country by international institutions, and so on).

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[46] For an insightful analysis of this tendency see Carothers, T., 'The new aid', *Washington Post*, 16 Apr. 2002.

By themselves, negative economic sanctions do not appear to be particularly effective in altering states' behaviour or position on terrorism.[47] This is most often the case when they are applied unilaterally—as with most of the sanctions imposed on 'terrorism list' countries and organizations by the United States—and do not enjoy wider international support. At the same time, negative sanctions imposed against states, state-like entities in conflict or post-conflict areas, or non-state economic actors operating in these areas (financial and business companies) may have very dramatic, if not disastrous, socio-economic implications for the local population. After 11 September, the US Government froze the assets of al-Baracaat,[48] Somalia's main banking, telecommunications and construction group and largest employer, which was involved in transferring money from the Somali diaspora, on the grounds that some of the remittances could have been diverted for terrorist needs. This move aggravated the already critical economic situation in Somalia. A large part of the Somali population was affected: money transfers from abroad remain the main source of income for an estimated 70–80 per cent of the Somali population and amount to $500 million annually, as compared with just $60 million in international humanitarian aid for 2000.[49]

In this context, certain 'collective punishment' security measures undertaken in direct response to surges of terrorist and other violent activities can have such dramatic socio-economic implications that they should be seen as the equivalents of negative economic sanctions. Such measures have been widely applied, for instance, by Israel in the course of its confrontation with the Palestinians. Israel has increasingly, and particularly since the start of the second intifada in September 2000, used 'internal' and 'external' closures, separating cities, villages and sectors of Palestinian territories from one another and from Israel, and prohibiting the travel of individuals and the transport of goods. The closures, intended to serve as a disincentive for terrorism and other forms of violence, have had a devastating effect on the Palestinian economy, disrupted commercial and other economic activities, and led to further economic decline in the region. In October 2002, representatives of the International Committee of the Red Cross described the

[47] See, e.g., Katzman, K., *Terrorism: Near Eastern Groups and State Sponsors, 2002*, CRS Report for Congress (Library of Congress, Congressional Research Service: Washington, DC, 13 Feb. 2002), p. 37.

[48] As designated by the US Treasury Secretary on 7 Nov. 2001 pursuant to Executive Order 13224, signed by President Bush on 23 Sep. 2001, imposing economic sanctions on persons and entities who 'commit, threaten to commit, or support certain acts of terrorism'. See *US Federal Register*, vol. 67, no. 53 (19 Mar. 2002), pp. 12644–46. Overall, the assets of 62 organizations and individuals associated with al-Baracaat and the Swiss-based al-Taqwa financial and business networks were seized. The move was supported by the EU on 12 Nov. 2001. Commission Regulation (EC) no. 2199/2001, 12 Nov. 2001, *Official Journal of the European Communities*, L295, 13 Nov. 2001, pp. 16–17.

[49] United Nations Office for the Coordination of Humanitarian Affairs, Integrated Regional Information Networks, Central and Eastern Africa (IRIN—CEA), 'Disaster beckons as US cuts lifeline', 8 Nov. 2001, URL <http://allafrica.com/stories/200111080274.html>; and 'Somalia', *Amnesty International Report 2002* (Jan.–Dec. 2001), POL 10/001/2002 (Amnesty International: London, 2002), URL <http://web.amnesty.org/web/ar2002.nsf/afr/somalia!Open>.

humanitarian situation as 'at its worst in 35 years'.[50] Virtually every sector of the Palestinian economy has been affected, including tourism, construction, agriculture, social and health services, and the financial and manufacturing sectors. After the start of the second intifada, unemployment rocketed from 11 per cent to 38 per cent by November 2001: the closures resulted in an estimated 82 000 people losing their jobs within the Palestinian territories, in addition to up to 100 000 Palestinians losing their employment in Israel (which meant hitting hardest a group of the population that has rarely engaged in acts of violence against Israel).[51] Furthermore, given the eroding confidence of the population in the PA's ability to provide social and economic stability in the Palestinian territories, the Israeli closures seem to play straight into the hands of the domestic Islamist opponents of the PA as an internal defence against terrorism, however limited and imperfect.

There are several ways to make sanctions more effective as anti-terrorism tools and to moderate their negative consequences for the local population in conflict and post-conflict areas. Negative sanctions can be more effective for anti-terrorism purposes when they are applied multilaterally, preferably within the UN framework. The political and psychological effects of UN-mandated sanctions can in fact outweigh their economic impact by creating a perception that a state is being isolated for its support of terrorist activities. The serious socio-economic effects of negative sanctions for the local population could also be moderated by supplementing them with 'positive' sanctions or 'carrots', such as increased economic, development and technical assistance, allowing commercial sales of certain products or granting trade preferences on condition of increased cooperation on anti-terrorism on the part of states supporting groups involved in terrorist activities. The use of more targeted sanctions, such as those specifically targeting certain individuals (leaders or identified members of groups involved in terrorist activities), supplemented by targeted diplomatic actions against the same persons, might also partly counterbalance the collective-impact approach which does not seem to be a particularly effective strategy for fighting terrorism, either in security or in socio-economic terms.

The limited effectiveness of collective impact economic measures as anti-terrorism tools highlights one of the most critical challenges in *suppressing fundraising* efforts for conflict-related terrorism—the problem of separating funding for terrorist actions and for non-terrorist activities (other forms of armed struggle or social work) by the same organizations. This problem is most typical for targeting Islamic fundamentalist organizations on anti-terrorist grounds. In the post-cold war era, non-state groups formed on a religious basis and Islamist movements in

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[50] International Committee of the Red Cross (ICRC), *Israel and the Occupied/Autonomous Territories: Overview of Humanitarian Priorities, 2003*, ICRC Operational Update (ICRC: Geneva, 15 Jan. 2003).

[51] Birzeit University Development Studies Programme, United Nations Development Programme (UNDP) and Palestinian National Authority, Ministry of Planning and International Cooperation, *Palestinian Human Development Report 2002* (Birzeit University: Birzeit, June 2002), pp. 31–32; and Ruebner, J. *et al.*, *The Current Palestinian Uprising: Al-Aqsa Intifadah*, CRS Report (Library of Congress, Congressional Research Service: Washington, DC, 5 Jan. 2001), pp. 7–9.

particular often seem to be better off financially than left-wing or secular nationalist groups. Islamic fundamentalist organizations also tend to enjoy a better reputation for financial efficiency and probity in their operations in conflict and post-conflict areas.[52]

The balance between foreign and domestic, as well as state and non-state (private), financial support received can vary significantly from one group to another: the wider the range of a group's activities, the more complex is its structure and the more diverse are its sources of funding. For instance, Hamas's funding reportedly comes from a wide range of sources, including businesses which it runs in areas controlled by Palestinians, wealthy individual benefactors and charities in the Persian Gulf states, Palestinian expatriates and, to a lesser extent, foreign government sources.[53] Voluntary donations, alms and the Islamic tithe (*zakat*) remain key sources of funding for Islamic foundations and charities.[54] These funds are legitimate and are managed by Islamic foundations and charities themselves and by Islamic banking institutions. While most are donated 'for the poor and the needy' (for humanitarian, welfare and other benign purposes), their potential diversion to violent activities, including terrorism, on their way to the final recipients can hardly be monitored or controlled by formal mechanisms.

The international community persists in focusing on the role of more 'formal' sources, such as state funding, in terrorist fund-raising, despite the recorded gradual decline of state support to terrorist activities in the post-cold war era,[55] possibly because governmental funding is easier to trace. This approach implies that the funding for the militant activities of non-state actors comes primarily from foreign sources and mainly from governments or non-governmental actors operating with official consent. A case in point is the heightened international attention paid to the 'post-mortem' payments made to the families of the Palestinian 'martyrs' as part of programmes that appear to be funded to a significant extent from foreign sources.[56]

Nowhere is the difficulty of distinguishing between funding for social or charitable and for militant activities, as well as the excessive reliance of the international community on formal financial mechanisms, more evident than in tackling the problem of suppressing financial flows and money transfers that could be used or diverted to fund terrorist activities. Unlike more recent and technically advanced types of terrorism, conflict-related terrorist activities are relatively inexpensive.

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[52] In Palestine, Hamas-operated Islamic organizations and charities enjoy a better financial reputation and operate a more extensive network of social services than the PA; in Somalia, al-Ittihad al-Islami proved itself incorruptible and efficient in operating a number of seaports (e.g., Bossasso and Marka) in the early 1990s and in other areas where it has maintained a presence. Abdulkadir Abiikar Hussein (note 35) and Dagne (note 31), p. 16.

[53] *Patterns of Global Terrorism, 2001* (note 20), p. 93.

[54] E.g., Saudi charitable organizations receive $3–4 billion annually, of which 10–20% is sent for operations abroad. For more detail see Brisard, J.-Ch., *Terrorism Financing: Roots and Trends of Saudi Terrorism Financing*, JCB Consulting Report prepared for the President of the UN Security Council (JCB: New York, 19 Dec. 2002), p. 26, URL <http://www.nationalreview.com/document/document/un122002.pdf>.

[55] On this trend see, e.g., *Patterns of Global Terrorism, 2001* (note 20), p. 63.

[56] See, e.g., Human Rights Watch (note 21), pp. 104 and 107ff.

The channels for transferring funds for these purposes do not have to be integrated into a global financing network and are often unofficial. They are exemplified by the *hawala* system[57] and transfers by couriers and in the form of valuables and legal goods. To suppress the flows of money that could be used or diverted for terrorist activities through such unofficial channels, formal instruments in general and enforcement or disruption techniques in particular appear to be of little relevance.

Hawala makes very real economic sense in a particular economic environment. It offers financial attractions to both the remitters and the recipients of money, particularly in countries and areas that have large ethnic or expatriate populations who often make transfers or remittances to their families at home. Informal transfers of this type are often faster and more reliable, reach more destinations, benefit from better exchange rates (especially when the remitting country has a convertible currency and the receiving country a non-convertible currency and a black-market exchange rate) and are cheaper than transfers through licensed banks. The use of *hawala* for terrorist purposes has mostly been limited to the final stages of a particular operation—for sending money directly to the 'end-user' on the ground—rather than for moving large sums of money.

The only rational way to limit the scale and volume of *hawala* transactions is to reduce the economic incentives for using this method, for instance by facilitating cheap and fast international remittances and by abandoning parallel (black) exchange markets.[58] Otherwise, in conflict or post-conflict areas where *hawala* is often the only functional money transfer system,[59] it can theoretically be disrupted only by completely paralysing all everyday cash-based economic and business activities.

In fact, one of the unintended side effects of the increased national and international monitoring of the *formal* financial and banking system has been that the flows of money have increasingly gone underground and the financing of terrorist activities is increasingly handled through informal channels, which makes the task of suppressing them all the more complicated. Against this background, measures undertaken by various governments and international institutions as part of the global campaign to 'suppress terrorist financing' might, in fact, seem better tailored for purposes that go beyond anti-terrorism. Such purposes might include increasing the transparency of national banking and financial systems (for instance, in an

[57] *Hawala* (the Arabic for 'money transfer') is one of the world's traditional informal funds transfer systems and is generally associated with the Middle East and the Indian subcontinent (where it is called *hundi*). *Hawala* transactions are comparable to other kinds of international payment transaction in that they usually go across international borders, involve more than 1 currency, and entail 'principals' and 'intermediaries'—*hawaladars*—with the difference that transfers are made on the basis of trust, without the intermediacy of a formal financial institution, such as a bank or money exchange. *Hawala* is nothing more than an informal alternative for sending remittances that could also be sent via licensed channels but at greater cost and inconvenience. For more detail see Wilson, J., '*Hawala* and other informal payment systems: an economic perspective', Paper presented at the International Monetary Fund Seminar on Current Developments in Monetary and Financial Law, Washington, DC, 16 May 2002.
[58] Wilson (note 57), p. 12; and Brisard (note 54), p. 9.
[59] In Somalia, e.g., the *hawala* money transfer system has been used by the BBC and the UN, as well as other international organizations, to pay their local staff. IRIN (note 49).

attempt to create a more favourable environment for foreign investors) or increasing pressure on the world's remaining offshore zones.

The civil society implications

While terrorism is a deadly performance staged specifically for the state, its immediate targets are civilians. Not surprisingly, it is *civil society* that is most directly and dramatically affected by terrorism.

The task of examining the role that peace-building efforts specifically tailored to the needs of a war-torn society could play in support of anti-terrorism is complicated by the fact that indigenous organizations involved in conflict-related terrorist activities are also engaged in other forms of armed struggle, and sometimes in non-violent activities as well, and enjoy the support of at least some sectors of the local population. On the one hand, this support is usually greater for the armed resistance that does not employ terrorist means.[60] On the other hand, as long as violence continues, even at low intensity, and a final political accommodation is not achieved, this support, however limited, is likely to persist. The following two starting points are critical for effectively addressing this problem.

– The position of those sectors of local population that tend to express support for terrorist activities by groups operating in a conflict or a post-conflict area cannot be fundamentally changed by violent and coercive means.
– Support for anti-terrorist activities by at least some sectors of the local population must also be secured, and may be no less critical for combating terrorism effectively than many of the formal instruments employed.

For anti-terrorist activities in conflict or post-conflict areas, the prevailing moods among the local population are clearly a key factor to be considered. This further underscores the need to avoid as far as possible security and other measures that could alienate large segments of the local population, such as the collective impact measures described above.[61] In a multi-ethnic or multi-confessional environment in particular, the inevitable negative consequences of collective impact measures (such as regular surveillance of public areas and population screening), particularly if they have involved some form of ethnic profiling, could be partly mitigated by extending them to members of all ethnic groups and confessions.

In this context, traditional social networks that have not been fundamentally undermined by the armed conflict, as well as the remaining elements of civil society, are especially important for both peace-building and anti-terrorism. It must be noted, however, that, in a situation of continuing violence or in the early post-

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[60] This is so even in the Palestinian territories, where public support for the use of terrorist means by various Palestinian groups has generally been higher than in many other conflict areas. According to one survey undertaken at the height of the 2nd intifada, 92% of respondents expressed support for attacks against soldiers, while 58% supported attacks against civilians inside Israel. Palestinian Center for Policy and Survey Research, Survey Research Unit, 'Public opinion poll no. 3', 19–24 Dec. 2001.
[61] For more detail see pages 13 and 32–33 of this policy paper.

conflict stages, the remaining elements of civil society—if any—are likely to be seriously damaged and their influence limited. The relationship between non-governmental organizations (NGOs) and emerging local governmental institutions may be weak or non-existent. In Muslim-populated areas in particular, Western-backed NGOs, as well as local interest groups and professional bodies, are not likely to enjoy wide grass-roots support,[62] in contrast to more traditional charitable organizations such as Islamic community networks and associations. The extensive outreach of the latter is the greatest strength of most radical Islamic organizations. While they have been less successful in politics or state building, radical Islamic organizations, including those operating in conflict and post-conflict areas, have so far been most active in the social sphere. Moreover, as the very concept of modern civil society has little or no relevance for the agenda of fundamentalist Islam, their social activities can be seen as attempts to create an alternative to the basic elements of civil society, such as 'alternative media'.

Given the likely weakness of local civil society and the complex combination of security and social issues raised by the anti-terrorist agenda in the post-conflict environment, it is not surprising that the main focus of international peace-building efforts is on multi-purpose tools that could be instrumental for addressing both security and social concerns and integrating anti-terrorism into the overall peace-building effort.

Such tools are, for instance, available as part of various *reintegration and rehabilitation programmes*. The reintegration of ex-combatants, refugees, internally displaced persons, returnees and other war-affected populations might help to erode recruitment opportunities for groups involved in terrorist activities.[63] Reintegration and rehabilitation programmes demonstrate that security concerns in a post-conflict environment (including those related to terrorism) can be best addressed by a synthetic approach at the community level, combining security, social, economic, humanitarian and other tools. In fact, one recent finding of the United Nations Development Programme (UNDP) from its vast experience in reintegration programmes has been that the reintegration needs of ex-combatants and other focus groups can be best addressed through an area-based approach at the war-affected community level, rather than at the specific target group level.[64]

Another way of integrating anti-terrorist preventive measures into the very core of international peace-building activities might be to introduce special *public educational and awareness programmes* similar to the widely used mine and unexploded ordnance awareness courses. Such programmes can be both conducted

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[62] E.g., out of 881 Palestinian NGOs operating in the West Bank and Gaza, only about 10% work in refugee camps. For more detail see *Palestinian Human Development Report 2002* (note 51), pp. 49–53.

[63] E.g., Palestinian refugee camps continue to serve as breeding grounds for new radical movements and groups, such as the al-Aqsa Martyrs' Brigades, formed in the late 2000 and early 2001 and involved in both guerrilla-type and terrorist activities in the Palestinian territories and in Israel.

[64] United Nations Development Programme, 'Sharing new ground in post-conflict situations: the role of UNDP in support of reintegration programmes', Annex to Executive Board of the United Nations Development Programme and of the United Nations Population Fund Business Plans, UN document DP/2000/14, 9 Feb. 2000, p. 3, URL <http://www.undp.org/execbrd/word/dp00-14.doc>.

for the general public and focused on specific groups of the population, and should inform the participants not just about the public danger posed by terrorist acts but, perhaps more importantly, about their potential counterproductive effects for the local population itself: such as retaliation that could cause further cycles of violence and antagonize the targeted population, adverse international implications, and other negative political, economic and social effects. (These programmes might be specially tailored for and have some impact on younger children, but can hardly be relevant for those young people who are already members of extremist violent organizations. For members of Islamist groups in particular, once they are indoctrinated the way out is extremely complicated or even impossible.)

A more controversial and still not adequately explored, although much discussed, civil society issue that is directly related to both anti-terrorism and peace-building is *the role of the media and public information providers* in a post-conflict environment.[65] Much of the controversy stems from the fact that incitement by the media (and educational organizations as well) on both or all sides of the conflict often contributes to the outbreak or continuation of violence itself. This does not mean that there is no constructive role for the media to play in anti-terrorist efforts in a transitional or post-conflict environment. Theoretically, the media could contribute to these efforts by: (*a*) stimulating the political and public debate within the population of a conflict or post-conflict area questioning the resort to terrorist means; and (*b*) warning of the high potential costs, including adverse international implications, of resorting to terrorist means not just for the resistance groups' political cause but, more importantly, for the local civilian population whose support they might enjoy.

It has to be stressed, however, that even if all available media and public information levers are mobilized for these ends, whether by internationally sponsored or national authorities, their impact is still likely to be seriously limited for at least two fundamental reasons. First, any internal discussion of the appropriateness, effectiveness and rationality of the use of terrorist means in an armed conflict or in the early post-conflict stages might be overwhelmed by the desperateness of the security, political, social, economic and humanitarian situation on the ground. Second, the main political and ideological sources of encouragement for violence in general and terrorist activities, such as various forms of religious fundamentalism, might be outside the control of the international administration or local (national) authorities and, indeed, beyond the direct reach of any formal influences. This is as true for mosques and religious schools, as it is, for instance, for the alternative media, such as the al-Manar 24-hour satellite television station run by the Lebanon-based Hizb'allah, the first major radical Islamic movement involved in conflict-related violence to broadcast by satellite. The station produces around 70 per cent of its programmes, which include talk shows, religious programmes,

children's shows and plays, to 'Islamic standards'. It is competitive in that it is often the first station to break news and is gaining popularity with audiences in the wider region.[66]

All the above further underscores the inherent limitations of operational tools and techniques (such as military and other censorship) and formal state mechanisms (particularly secular mechanisms vis-à-vis religious fundamentalist movements) in addressing the socio-political and ideological challenges posed by radical non-state actors involved in conflict-related terrorism and other forms of political violence. Some of the ways to address these challenges at the strategic, rather than operational, level, with the ultimate goal of reconciling anti-terrorism with peace-building, are explored in the concluding chapter of this report.

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[66] Blanford, N., 'Hizbullah sharpens its weapons in propaganda war', *Christian Science Monitor*, 28 Dec. 2001.

5. In lieu of conclusion: a medium-term anti-terrorist strategy

The previous chapters analyse the security, political, legal, social and economic implications of, the dilemmas of and the tools for reconciling anti-terrorist priorities with peace-building tasks at the end of conflict or in a post-conflict environment. How are these implications reflected in the practical policies of the states and international organizations faced with the problem of pursuing both anti-terrorist and peace-building tasks in conflict and post-conflict areas? Could this problem be solved *at the strategic level* in a way that is relatively non-controversial from both the anti-terrorist and the more fundamental peace-building perspectives?

To answer these questions, the task of reconciling anti-terrorist and peace-building priorities must be put into the context of the current strategies for fighting terrorism.

This requires at least a very basic classification of different national and institutional approaches. Such a classification suggests a continuum from a *short-term reactive approach*, stressing post-action investigation, coercion, retaliation and interdiction, to a *long-term preventive approach* which emphasizes long-term preventive measures and explores different ways of addressing the so-called root causes of terrorism and armed confrontation that stimulate terrorism. In real life, these ideal models are rarely seen in 'pure' form and the strategy of any state combines some elements of the two, but it is still useful to consider both. Needless to say, the same applies to international security organizations: if they are able to formulate and exercise any coherent anti-terrorist approach at all, it is bound to be heavily influenced by the strategies prevailing in the leading members or in the majority of the participating states.

A *short-term reactive approach* seems to prevail, not necessarily in its pure form, in most states whose citizens have been targeted by terrorists on a large scale and on a more or less regular basis. This approach plays a significant role or is dominant in the anti-terrorist policies both of the states primarily threatened by more traditional conflict-related terrorism (India, Israel and Russia), and of states that have become targets of super-terrorist attacks (such as the United States), with the respective governments acting from a position of 'aggressive defence', stressing the immediate need to search out and destroy terrorists and to cripple their ability to operate.

Depending on the domestic political and security pressures to respond rapidly and decisively to a terrorist threat, the respective governments tend to emphasize methods of coercion, interdiction and retaliation over pre-emption and prevention of terrorist activities. They seem to have little time, political will or, in the case of less developed countries, resources to prioritize the long-term need to address the social, economic and political roots of terrorism—especially if these have been aggravated by protracted armed conflict—or to do so comprehensively, rather than

on an ad hoc basis. This trend tends to be only reinforced by any new major terrorist attacks.

Perhaps paradoxically, those states that are less affected, or not directly affected, by the threat of terrorist attacks against their own citizens (such as many European states) appear to be better suited to address the root causes of terrorism and explore ways to integrate anti-terrorism into longer-term conflict-prevention and peace-building efforts. The apparent advantages of the EU states in advancing the long-term preventive approach to anti-terrorism, both individually and collectively, have included not only their traditionally strong emphasis on the root causes of conflict and instability, as well as the availability of resources to address these issues, but also the relative absence of the political and security pressures to react decisively to a terrorist threat 'no matter what', which to a significant extent shape the actions of the governments of India, Israel, Russia, the United States and others.

The effectiveness of the short-term reactive approach, even from a narrow counter-terrorist perspective, is questionable at best. As noted above, this can be partly explained by the fact that many of the methods employed have little to do with counter-terrorism as such.[67] Even some of the measures specifically tailored for counter-terrorist needs, such as detecting and blocking the flow of weapons and money to terrorists, while certainly important, cannot fundamentally undermine the main comparative advantages of groups involved in conflict-related terrorist activities. At the same time, while theoretically more adequate for addressing the nature of the terrorist threat than a short-term approach, a *long-term preventive strategy* that emphasizes the need to address the root causes of conflict and terrorism may take decades to produce noticeable results. In the meantime, the scale and scope of the terrorist threat faced by many states today are such that this problem cannot wait so long to be solved and must be addressed as soon as possible.

In sum, at the current stage, neither of the two extreme approaches outlined above is an optimal strategic option for reconciling anti-terrorism with peace-building. Nor will the threat of terrorism be adequately addressed by a mechanical combination of some elements of the short-term reactive and the long-term preventive approaches, such as specific short-term measures that emphasize pre-emption and the disruption of terrorist activities plus selective long-term efforts aimed at economic, social and political reconstruction and peace-building. Rather, the task of reconciling the fight against conflict-generated terrorism with peace-building efforts during and after conflict could be best served by a *medium-term anti-terrorist strategy* that focuses on undermining the fundamental strengths of organizations involved in terrorist activities.

An analysis of the key problems of countering terrorism during and after conflict leads to the conclusion that the main comparative advantages of groups involved in conflict-related terrorist activities lie in their *structure* and *ideology*.

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[67] On the inadequacy of this approach see pages 11 and 13 of this policy paper.

A structural approach

Organizations involved in terrorist activities in conflict or post-conflict areas can be structured in a number of different ways, and the spectrum of these groups can be very wide. Structurally, most of them are likely to fall somewhere between the following two broad categories.

   – *Militant groups created in the course of an armed conflict*, specifically and primarily for the purposes of armed struggle or resistance. Examples are the Palestinian al-Aqsa Martyrs' Brigades, Chechen rebel groups and the IMU. While some of these groups might have or gradually develop political wings, various forms of violence remain the main type of their activities. Groups of this type are most closely related to armed conflict, as they are both generated by an armed confrontation and often dependent on it for their survival.
   – *Organizations created independently from and often before the armed stage of conflict* and not necessarily for the purposes of violent resistance. Examples are many of the Islamist fundamentalist movements and groups which are currently taking part in armed struggle and terrorist activities but initially emerged as social welfare and religious organizations that were often not involved or even not particularly interested in either violence or political activism. When, for various reasons, they join the armed struggle and turn to violence, most of them have to form military wings which are structurally autonomous and specialize in militant and terrorist activities. The balance between the violent and non-violent activities of such organizations can vary significantly, but for some of them (including such high-profile groups as Hamas) more traditional social welfare, humanitarian, educational, religious and other functions can amount to a very significant proportion (up to 90 per cent) of the organization's overall activities. In contrast to groups of the first type, these organizations are involved in non-violent activities on a permanent rather than an ad hoc basis.

   As noted above, while representing a more traditional type of terrorism, conflict-related terrorism has inevitably undergone certain structural, ideological and other changes since the time of the cold war. In structural terms, during the last decades of the cold war a typical group likely to combine conflict-related militant and terrorist activities was a left-wing organization with a relatively centralized structure and chain of command.[68] In contrast, in the post-cold war context, groups formed specifically to carry out violent activities have increasingly tended to follow models borrowed from classic guerrilla movements—various non-hierarchical, diffuse, net-type or networked types of organization. Decision making and operational activities in such organizations are relatively decentralized. Like classic guerrilla movements, they often lack strict organizational coherence and consist of many autonomous cells and units, which internally may be structured as primitive hierarchies (often personality-driven) but are held together by informal

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[68] E.g., the PLO or the Popular Front for the Liberation of Palestine (PFLP).

rather than formal links. The main advantages of this structural model are flexibility, mobility and the lack of a single central unit to focus on.

The structure of such groups or movements is one of their main comparative advantages in engaging in asymmetrical violence (including conflict-related terrorism). As long as they keep their diffuse and flexible structure, it is very difficult for a state, as an entirely different structural entity—a classic hierarchy—to defeat them militarily in an asymmetrical confrontation. From the structural perspective, the most logical way to challenge these groups is to try to deprive them of their structural advantage—to find ways *to formalize the informal links within the organization and to turn decentralized horizontal networks into hierarchies.* At the stage of ongoing peace negotiations and the search for political accommodation, this imperative becomes all the more pressing as the type of structure that characterizes many of these groups tends to complicate centralized strategic decision making and coordination of action, thus calling into question their adherence to any formal or informal agreements that may be reached.

While the formalization and centralization of such groups can hardly be orchestrated, these processes should be encouraged, both externally and internally. Internally, this could be done by infiltrating these groups by using covert (undercover) methods and undermining their structure from within[69]—a task that cannot be implemented on a short-term basis and requires at least a medium-term approach. Ironically, the task of undermining the structural advantages of militant organizations involved in terrorist activities becomes even more complicated when it comes to overt methods and influences. It might seem that the most logical way to achieve this objective would be to encourage these groups to involve themselves increasingly in non-militant activities and to form distinct political wings which could possibly be transformed into political parties which would develop a stake in some legitimization for the group and could be incorporated into the political process. The evolution of Hizb'allah has provided an example of the transformation of a radical Islamic group, created for the purposes of armed resistance to the Israeli occupation of southern Lebanon by all possible means, including terrorism, into a movement that became increasingly involved in social work and political activities and sought to become the main political player on behalf of Lebanon's growing Shi'a community.[70] While such a transformation would not necessarily result in a group's rejection of violence once and for all, and may in fact lead to violent internal splits, it could contribute to marginalizing the most radical elements within the group.

The main problem here is *whether and to what extent the integration and recognition of militant groups that are or have been involved in terrorist activities can be politically, legally and publicly acceptable.* It is at this stage that a group's

[69] See also page 15 of this policy paper.
[70] For recent publications on Hizb'allah see, e.g., Hajjar, S. G., *Hizballah: Terrorism, National Liberation or Menace?* (Strategic Studies Institute, US Army War College: Carlisle, Pa., 2002); and Saad-Ghorayeb, A., *Hizbu'llah: Politics and Religion* (Pluto Press: London, 2002). For more detail see Ranstorp, M., *Hizb'Allah in Lebanon* (St Martin's Press: New York, 1997).

present or past involvement in terrorist activities becomes a major, often insur-mountable, stumbling block.

The parallel involvement in non-violent activities of an organization which at a certain stage chose to resort to violence does not make this problem any easier to solve. Groups that were not specifically created to wage an asymmetrical armed confrontation (such as most Islamic fundamentalist organizations that came out of the Muslim Brotherhood network) generally tend to have more complex structures than groups that are predominantly or exclusively involved in violent activities. Because the former perform a broader range of tasks, their structures are composed of various elements, some of which are more horizontally structured while others are more centralized hierarchies. The closest to the classic networked structures are the social and civic components of these organizations, such as Hamas's network of grass-roots charities which gives this movement solid support at the local community level. The more politically oriented the goals and activities of these groups, the more centralized and hierarchical the structures they tend to employ and the greater the degree of internal cohesion and discipline. This does not, however, necessarily turn their decision-making structures into strict hierarchies: the decision-making process might remain relatively decentralized and involve a set of executive, coordinating and steering bodies, operating from more than one location, sometimes in more than one state. Moreover, while some of these bodies are hierarchically structured, the links between them are often informal.[71]

Some of these organizations make more or less clear distinctions between their community-based social components and/or politico-ideological leadership, on the one hand, and their military wings (such as Hamas's Izz id-Din al-Qassam Brigades or Islamic Jihad's al-Quds Brigades), on the other hand, and these might be helpful in distinguishing between their violent and non-violent activities[72]—an approach selectively applied by the EU in compiling its list of terrorist organizations.[73]

However, *the distinctions made between these groups' violent and non-violent activities are not particularly helpful for distinguishing between their terrorist and guerrilla-type activities that are concentrated in the same organizational units (military wings).* It is the integration of different modes of operation within the same structural units that gives these groups and movements an important advantage both at the stage of armed conflict and in the early post-conflict stage. It seems that this problem cannot be fundamentally solved unless some political and legal mechanisms are devised and some criteria introduced, particularly at the inter-

[71] Mishal, S. and Sela, A., *The Palestinian Hamas: Vision, Violence, and Coexistence* (Columbia University Press: New York, 2000), appendix 1, 'Hamas's internal structure'.

[72] While the distinctions between an organization's social (civic) component and its military wing can be made, it is often the political leadership that seems to provide the main link between these 2 components.

[73] Only the military wing of Hamas (the Izz id-Din al-Qassam Brigades), rather than the entire organization, has been included in the EU's list of terrorist groups. European Union, Council, 'Council Common Position of 12 December 2002, updating Common Position 2001/931/CFSP on the application of specific measures to combat terrorism and repealing Common Position 2002/847/CFSP', *Official Journal of the European Communities*, L337 (13 Dec. 2002), pp. 93–96.

national level, to distinguish between terrorist and other violent activities as modes of operation, even if they are performed by the same organizations—*quod erat demonstrandum.*[74]

Paradoxically, it is structural analysis of the organizations engaged in various types of violence that leads to the conclusion that, as far as conflict-related terrorism is concerned, an excessive focus on *organizations* as such might be somewhat misplaced. As demonstrated by this study, both the international community at large and individual governments seem to lack the tools (and many states the political will as well) to distinguish between terrorist activities and other violent means, such as guerrilla warfare, used in a conflict or post-conflict environment. Until such tools are devised, the only way to influence a particular organization's behaviour and position on terrorism that is relatively non-controversial from both the anti-terrorism and the peace-building perspectives is to increasingly target specific individuals and leaders rather than entire groups or movements that are engaged in violent activities, ranging from guerrilla warfare to terrorist attacks and may also do some basic social and humanitarian work that is essential for their war-torn communities and societies.

Countering Islamic extremism at the ideological level

'A creed could not be fought except by a creed.'[75]

As demonstrated by the structural analysis of organizations involved in terrorist activities, their elements and branches are interconnected and united by informal links rather than by strict formal arrangements. The basis for these informal links is provided by the group's shared ideological values and beliefs. Needless to say, the ideologies of the groups involved in terrorist activities are by definition extremist.

In the context of most contemporary armed conflict where terrorism has been involved, the two most powerful ideologies have been radical nationalism and religious fundamentalism. While the latter can be found in any religion and can be employed as a justification for terrorist activities by groups of various religious denominations, currents and sects,[76] it is Islamic fundamentalism that has presented the most critical challenge in the way it has been misused and manipulated to serve as an ideological basis for terrorism in many current conflict and post-conflict areas.

The ideological spectrum of organizations involved in conflict-related terrorism suggests a continuum from nationalist groups which are either completely secular or at least not hotbeds of religious extremism to transnational religious fundamentalist movements, such as the radical Islamic organizations which adopt Islam as their way of life but do not necessarily emphasize nationalism as part of their

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[74] See pages 2 and 7 of this policy paper.
[75] Hamas Covenant (note 33), Article 34.
[76] This has been done, e.g., by the Jewish fundamentalist group Kahane Chai (Kach) and the Japanese religious sect Aum Shinrikyo.

ideology. Neither of these two extreme types, however, happens to be the primary object of concern from the point of view of anti-terrorism. Not surprisingly, in the post-cold war era, 'purely' secular nationalist groups, and particularly left-wing groups which de-emphasize religion, seem to be on the decline. At the same time, transnational Islamic fundamentalist movements that do not emphasize nationalism or ethnicity might be less interested in and less motivated to employ violent means in general (for instance, many networks that are affiliated with or originated in the Muslim Brotherhood movement or Hizb-ut-Tahrir in Central Asia).

While they are distinct types of ideology, nationalism and Islamic (or any other religious) fundamentalism do not have to be mutually exclusive. On the contrary, they appear to be increasingly used to reinforce and complement each other: nationalism is often successfully co-opted by Islamic fundamentalist groups, and vice versa.

The reasons why radical Islamic groups turn to nationalism tend to be pragmatic rather than ideological. Their fundamentalist religious ideology is not particularly rational as it is centred on the idea of the creation of an Islamic state for which 'Allah is its target, the Prophet is its example and the Koran is its Constitution'.[77] Ideologically, these groups are not simply radical but aspire, or at least ultimately hope, to exist in 'another dimension' of the imagined 'reconstructed' world of the first Muslims. Ultimately, this ideology is a reaction of at least parts of Muslim societies to the modernization, globalization, Westernization and other painful and controversial social, economic, political and cultural transformation processes of the modern world. As the 'imagined reality' of the 'return' to an analogue of an early Muslim state is a distant goal and will realistically be difficult to achieve, in order to continue their activities 'in the meantime' radical fundamentalist movements concentrate their activities on society itself, from the most impoverished sectors of the population to the frustrated parts of the elites. The very lack of immediate progress towards their ideological goals makes these radical Islamic movements particularly dependent on the significant support of at least parts of the local population, which they need to survive while, as they believe, they slowly advance towards the future 'ideal Islamic government'. It is the imperative to keep pace with the prevailing popular mood that leads many of them to turn to armed struggle in the first place.

In this context, nationalism not only serves as a way for radical Islamic groups to gain and retain public support but also provides the necessary link between the seemingly 'irrational' declared fundamentalist ideology of these groups, centred on the idea of Islamic state, and the rationality of the use of terrorist means.

This link is one of the most critical for understanding the radical Islamic movements' resort to conflict-related terrorism. Contrary to what is commonly believed, terrorist means are most effective in the context of an armed conflict when they are used by non-state actors, regardless of their ideology, *in a highly rational manner*,

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[77] Hamas Covenant 1988 (note 33), Article 5.

as the most direct way to achieve their politico-military goals.[78] In this context, nationalism may well serve for Islamic fundamentalist groups as a modernized means of political rationalization for the resort to violence in general and for terrorist means in particular. In other words, it is nationalism that gives Islamic fundamentalism the rationality which is essential for successfully waging armed resistance, employing various violent means, including terrorism, as a rational operational strategy. An example of this combination is Hamas, which describes itself as 'a distinguished Palestinian movement, whose allegiance is to Allah' and for which 'nationalism . . . is part of the religious creed'.[79]

Islamic fundamentalism and extremism, in turn, can complement and reinforce the nationalist agenda of groups involved in terrorist activities in conflict or post-conflict areas. Among other things, fundamentalism serves as an additional powerful source of public legitimization, provides links to the larger Muslim world, thus avoiding complete international isolation, and backs nationalism with socio-political agendas that are by definition alternative to those suggested by the leading international actors.

Finally, religious fundamentalism in general and Islamic fundamentalism in particular place emphasis on moral issues. Groups that use radical Islam as their ideological basis tend to enjoy a far greater degree of moral persuasion and group solidarity than many contemporary secular organizations.

In sum, it is the *combination* of Islamic fundamentalism with local nationalism (rather than secular nationalism or transnational religious fundamentalism that does not emphasize a nationalist agenda) that gives rise to extremist ideologies suitable to serve as a basis for the conflict-related terrorist activities that are the most difficult to confront using standard political or military means.

The task of countering Islamic extremism as the ideological basis of conflict-related terrorist activities is without doubt a long-term one. Extremist philosophies and religious currents tend to thrive on social and economic crisis, poverty, failed modernization and lack of legitimate political process. They are both deeply rooted in the fundamental sources of conflict, and able by themselves to generate or re-ignite conflict and instability. However, the ideological challenges posed by Islamic extremist organizations that choose terrorism as a mode of operation, such as their attempts to use—or, rather, misuse—Islam in its radical form as an ideological basis for terrorism, *should also be countered at the ideological level: 'A creed could not be fought except by a creed'*.

The long-term approach to anti-terrorism implies a need to tackle and undermine the socio-economic and political sources of Islamic as well as any other extremism. This approach could and should be supplemented by a medium-term strategy centred on countering Islamic extremism as an ideological basis for terrorist

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[78] Conversely, if an organization involved in conflict-related violence persistently appears not to be using terrorist means as a rational operational strategy—as the most direct and efficient way to achieve its declared goals—then there is a prima facie case to question the nature and authenticity of its declared goals and motivation.

[79] Hamas Covenant 1988 (note 33), Article 6 and Article 12.

activities *by ideological methods*—particularly by using Islam in its moderate version against Islamic extremism.

This means that the West has to recognize that its main and indispensable allies in the search for an ideological alternative to radical Islamic extremism are to be sought and found in the moderate parts, sectors and movements of the Muslim world and in the moderate currents of Islam itself.

In the context of peace-building, both at the national and at the international levels, this could be done by encouraging moderate Islamic groups, movements, madrasas, charities and foundations not only in their practical social, humanitarian and reconstruction activities, but also in their political, ideological and religious debates with Islamic radicals on such issues of critical relevance and importance to anti-terrorism as the concepts of martyrdom and jihad (holy war). Any efforts on the part of the moderate Muslim clergy to promote, for instance, the traditional religious ban, originating in *Hadith* (the sayings of the Prophet), on targeting the enemy's women and children as long as they do not take up arms and remain non-combatants[80] should be fully supported and widely publicized.

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The role of *structural capability* and *extremist ideology* as the main prerequisites for and comparative advantages of organizations involved in terrorist activities is all the more important as the impact of both is not limited to conflict-related terrorism and can shed light on how to deal with other types of terrorism, including the more recent, more advanced and globalized, super-terrorist phenomenon of al-Qaeda.

In the aftermath of 11 September, excessive attention has been paid to the search for direct financial, operational and other 'links' between al-Qaeda and locally based conflict-related terrorism. As it turned out, either there was not sufficient evidence for most of these supposed links or their influence on the scale and intensity of conflict-related terrorism has not been decisive.[81] At the same time, more important similarities in the types of structure and ideology employed by both al-Qaeda and different radical Islamic groups involved in conflict-related terrorism have often been overlooked.

The horizontal, networked structural model, with its main elements loosely inter-connected by informal rather than formal links, has both been increasingly

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[80] Islamic law forbids the killing of women and children in the course of jihad, as well as the destruction of buildings and establishments not directly related to an actual battle. This explains why the leaders of radical Islamic groups that give their approval to terrorist acts against civilians (many of whom are women and children) often need specific justification for such acts or some other 'way around' the *Hadith* ban—e.g., by insisting that all non-combatants in the 'fortress state' of Israel are 'potential fighters' engaged in some type of 'combat support activities' or by trying to lower the age below which hostages could qualify as children (as in the case of the Oct. 2002 hostage crisis at the Dubrovka Theatrical Centre in Moscow).

[81] E.g., financial support provided by al-Qaeda to some of the locally based groups involved in conflict-related terrorism did not automatically turn them into subsidiaries of al-Qaeda or make them switch to more advanced types of terrorism.

employed by groups involved in conflict-related terrorism and has characterized the structure and operations of al-Qaeda's global terrorist network.[82]

Similarly, extremist Islamic ideology has been one of the few characteristics shared by locally based, indigenous Islamist organizations involved in conflict-related terrorist activities and by al-Qaeda, with its operations focused more on the developed world than on any particular local or regional conflict. This does not mean that the way in which violent Islamic extremism, with its emphasis on jihad, manifests itself in terrorist activities is the same for home-grown groups using terrorism as a mode of operation in a conflict as it is for al-Qaeda's transnational clandestine terrorist network with a global outreach. As noted above, many Islamic fundamentalist groups operating in a conflict environment often choose to turn to asymmetrical armed struggle (from insurgency to popular uprising) as the most direct way to connect to the local population. It is only at certain stages of this struggle and by way of these groups' mainstream activities that Islamic extremism is 'extended' to serve as a basis and justification for acts of terrorism. In contrast, for al-Qaeda's global terrorist network, the link between Islamic extremism and terrorism is direct and the former has been directly manipulated as a basis for the latter.

Apart from the need to counter and undermine structural capability and extremist ideology as the main prerequisites of terrorist activity, both at the global level and in the world's numerous conflict and post-conflict areas, the link between anti-terrorism and peace-building highlights the critical importance of another major anti-terrorist strategy which is relevant to more than just conflict-related terrorism. This strategy emphasizes the *state-building* process as one of the key elements of peace-building.

While this strategy manifests itself at the local and regional level, it is also supported by developments at the global level, where states as the mainstays of law, order and security have assumed the central role in countering and preventing the large-scale terrorist threats posed by transnational non-state actors. At the local and regional level, it stresses the importance of state-building efforts—as part of the overall peace-building process—for fighting and preventing terrorism in conflict and post-conflict areas, particularly in the so-called failed states or in the 'failed areas' of otherwise functional states. In the final analysis it is a stable, functional and legitimate state, supported by a healthy society, that is the best hedge against terrorism. Thus, peace-building and, more narrowly, state-building efforts have a very concrete and critical role to play in anti-terrorism, as they are ultimately aimed at rebuilding one of the most effective tools for combating terrorism—*the functional and legitimate state.*

The general focus on the state-building aspects of the peace-building process as a fundamental way to address terrorist threats in conflict and post-conflict areas should not, however, become a goal in itself. State building is not a panacea. Anti-

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[82] For an analysis of networked organizational structures in the context of 'super-terrorism' see, e.g., *Superterrorizm: novyi vyzov novogo veka* [Super-terrorism: a new challenge for the new century] (Human Rights: Moscow, 2002), pp. 37–42.

terrorism in a conflict or a post-conflict environment should neither rely on the use of formal state and institution building *only* nor be reduced to a set of specialized tools and techniques. In the peace-building context, anti-terrorism also demands an exploration of less formalized ways in which the main prerequisites for and comparative advantages of groups involved in conflict-related terrorism, such as their *structural capabilities* and *ideologies*, can be dealt with.