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TSAS

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terrorism, security and society

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The Global Fight Against Terror: An Analysis of the Effectiveness of Counter-terrorism Governance

**Chris Bordeleau, Jeff J. Chalifoux,
and Karina Sangha**

Co-Directors: Daniel Hiebert, University of British Columbia
Lorne Dawson, University of Waterloo

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THE GLOBAL FIGHT AGAINST TERROR: AN EVALUATION OF COUNTER-TERRORISM GOVERNANCE

Chris Bordeleau, Jeff J. Chalifoux, and Karina Sangha

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Abbreviations and Acronyms

ACSRT	Algiers Centre for the Study and Research of Terrorism
AFSJ	Area of Freedom, Security, and Justice (European Union)
ASEAN	Association of Southeast Asian Nations
ATA	Anti-Terrorism Assistance (United States)
AU	African Union
BCT	US State Department Bureau of Counter-Terrorism (United States)
BCTP	Bali Counter-Terrorism Process
CCP	Communist Party of the Philippines
CLEC	Jakarta Centre for Law Enforcement Cooperation
COIN	Counter Insurgency (Indonesia)
COTER	European Union Counter-Terrorism Committee
CPPNM	Convention on the Physical Protection of Nuclear Material
CT	Counter-Terrorism
CTC	Counter-Terrorism Committee (United Nations Security Council)
CTE	Counter-Terrorism Engagement (United States)
CTED	CTC Executive Directorate (United Nations Security Council)
CTF	Counter-Terrorism Financing
CTG	CT Group (Club of Berne)
CTITF	Counter-Terrorism Implementation Task Force (United Nations)
CTTF	Counter-Terrorism Task Force (Asia-Pacific Economic Cooperation Forum)
CVE	Countering Violent Extremism (United States)
DDR	Disarmament, Demobilization, and Reintegration
DFAIT	Department of Foreign Affairs and International Trade (DFAIT)
EU	European Union
EUCTS	European Union Counter-Terrorism Strategy
FATF	Financial Action Task Force
FDCT	Framework Decision on Combating Terrorism (European Union)
FIU	Financial Intelligence Unit
FPDA	Five Power Defence Arrangements
FTF	Foreign Terrorist Fighter
FY	Fiscal Year
G6	Group of Six for coordination of European law enforcement
GCTF	Global Counter-Terrorism Forum
GICNT	Global Initiative to Combat Nuclear Terrorism
GTD	Global Terrorism Database
GTRI	Global Threat Reduction Initiative (United States)
GWOT	Global War on Terror

IAEA	International Atomic Energy Agency
IFTS	Informal Funds Transfer Systems
IGAD	Inter-governmental Authority on Development (Africa)
INFCIRC/225	Physical Protection of Nuclear Material and Nuclear Facilities
Interpol	International Criminal Police Organization
ISIL	Islamic State of Iraq and the Levant
ITDB	Incident and Trafficking Database (International Atomic Energy Agency)
JHA	Justice and Home Affairs Pillar (European Union)
JTAC	Joint Terrorism Centre (United Kingdom)
MILF	Moro Islamic Liberation Front (Philippines)
NATO	North Atlantic Treaty Organization
NCTC	National Counter-Terrorism Center (United States)
NPA	New People's Army (Philippines)
NPTC	National Plan to Address Terrorism and its Consequences (Philippines)
NTC	Nuclear Terrorism Convention
PIA	Preliminary Implementation Assessment
PNR	Passenger Name Records System (European Union and United States)
RDD	Radiological Dispersal Device
RDWTI	RAND Database of Worldwide Terrorism Incidents
RRG	Religious Rehabilitation Group (Singapore)
RSI	Regional Strategic Initiative (United States)
SEARCCT	Southeast Asian Regional Centre for Counter Terrorism
SIGINT	Signals Intelligence
SitCen	European Union Situation Centre
SLD	Second Line of Defence Program (United States)
SWIFT	Society for Worldwide Interbank Financial Telecommunication
TECHINT	Technical Intelligence
TFTP	Terrorist Finance Tracking Program (United States and SWIFT)
TIP	Terrorist Interdiction Program
TPB	Terrorism Prevention Branch (UNODC)
TWG	Terrorism Working Group (European Union)
UN	United Nations
UNCCT	United Nations Counter-Terrorism Centre
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Social, and Cultural Organization
UNGCTS	United Nations Global Counter-Terrorism Strategy (General Assembly)
UNODC	United Nations Office on Drugs and Crime
WINS	World Institute for Nuclear Security
WMD	Weapons of Mass Destruction



INTRODUCTION

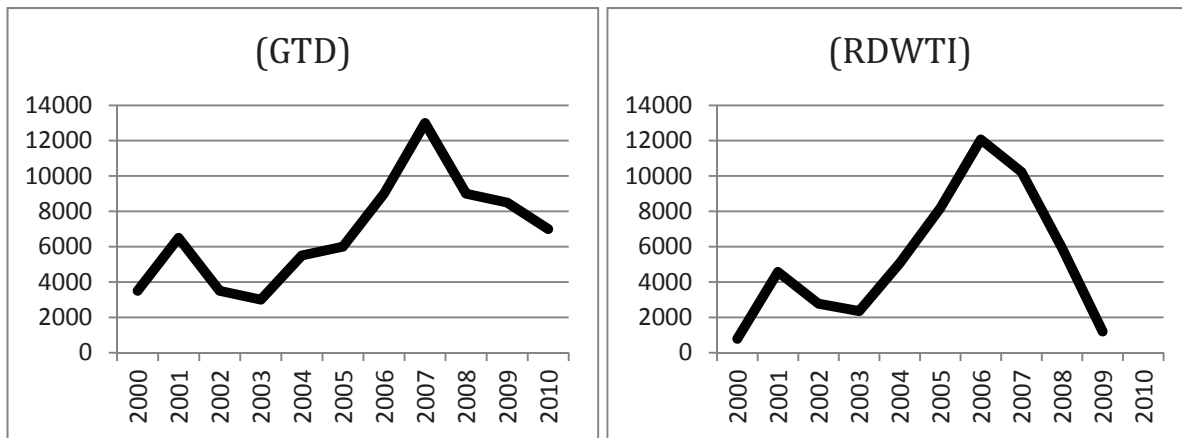
Since September 11, 2001 (9/11), terrorism has been at the forefront of international security concerns. Broadly defined, terrorism refers to the intentional attack of civilians by non-state actors in order to bring about widespread fear and, in turn, compel a group of people, a government, or an organization to take or abstain from particular acts (Nye 2003, 5; UN General Assembly 2002, annex II, art. 2.1). To be sure, terrorism is not new. This form of political violence has been employed for thousands of years, and multilateral instruments against it have existed since the late 1960s (Crelinsten 2009, 2; Council on Foreign Relations 2013, para. 1). However, while terrorism itself is not a novel concept, the shocking scale of the 9/11 attacks indicated that the terrorist threat has changed, necessitating a new, more concerted response.

Modern forms of terrorism are far more threatening, at least in theory, than previous variants of terrorist activity. As global communications, finance, and transit systems have become increasingly interconnected, it has become easier for terrorists to establish connections with like-minded individuals, mobilize resources, and coordinate their efforts. In short, as the world has globalized, so too has terrorism (Romaniuk 2010, 2).

The epitome of global terrorism is al-Qaeda. Formerly a fairly centralized entity, this group has evolved into a decentralized and far-reaching social movement consisting of autonomous, cooperative cells in North America, Southeast Asia, and other countries in the Middle East. Driven by a desire to free all Muslim countries from Western influence, al-Qaeda's goals logically extend beyond any single state, but even more locally-focused terrorist groups have benefited from the ease with which funds, weapons, and other goods move across borders. For example, in the early 2000s, the Liberation Tigers of Tamil Eelam managed to secure substantial amounts of funding from diaspora communities located in Western countries and used this money to purchase weapons in the international black market (Human Rights Watch 2006; Romaniuk 2010, 3). Examples like these abound in the literature, indicating that even domestically-oriented terrorist groups are shaped by and have an impact on the global community.



FIGURE 1.1 GLOBAL TERRORISM FATALITIES



Sources: The Global Terrorism Database and the RAND Database of World Terrorism Incidents

The increasingly global nature of terrorism requires a coordinated international response. Since the destructive attacks of 9/11, global counter-terrorism (CT) efforts have proliferated, giving rise to a comprehensive and multilevel system of CT governance that has had some successes. Indeed, as CT governance has increased, the threat of global terrorism appears to have declined. Based on data pulled from the Global Terrorism Database (GTD) and the RAND Database of Worldwide Terrorism Incidents (RDWTI), which are widely recognized as two of the most authoritative open-source databases for terrorism statistics, the graphs shown in Figure 1.1 indicate that there has been a decline in fatalities from terrorist attacks in recent years.¹

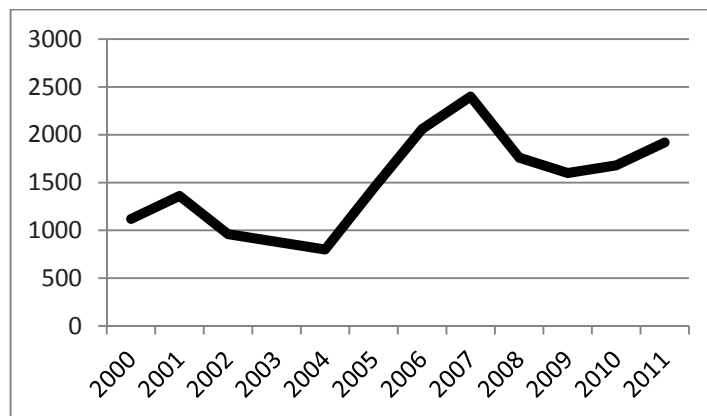
Alongside the decline in fatalities, the strength of al-Qaeda seems to be waning. The ability of al-Qaeda to carry out attacks that match the scale and destruction of 9/11 has declined as CT governance has increased and US/NATO military operations have dispersed the organization and targeted its leading members (Carle 2008; Zakaria 2010). Formerly a powerful organization that trained as many as 20,000 fighters in training camps in Afghanistan, the core group has now shrunk to about 400 fighters, and its appeal among Muslims has declined dramatically (Muel-ler and Stewart 2012, 91; Zakaria 2010, para. 4; Ignatius 2012, para. 8). Moreover, while some

¹ Although both graphs point to a downward trend in fatalities, it will also be immediately clear that each presents different data, with the numbers recorded in the GTD graph being higher than those contained in the RDWTI graph. The GTD and the RDWTI employ nearly identical definitions of terrorism, which are akin to that articulated at the beginning of this paper. The differences between their data are due, in part, to the fact that the RDWTI's current terrorism incident coverage does not include information from 2009 for countries in the Middle East, Africa, and Asia. The differences can also be accounted for by the fact that each organization relies on different data sources.

scholars note the diffusion of the al-Qaeda network as a sign of the movement's adaptability and transnational strength, others are quick to note that its recently formed affiliates and allies remain fundamentally local in their focus (Carle 2008, para. 6; La Free 2012, 40). They may have embraced the al-Qaeda name, but they have not taken on its global fight and, consequently, do not pose the same threat that the core group once did.

And yet, despite its seeming decline, terrorism remains a threat that requires global attention. Although terrorist attacks worldwide dropped in 2008 and 2009, data drawn from the GTD indicates the beginning of an upward trend in 2010 and 2011 (see Figure 1.2). Most of this activity is concentrated in a few specific countries, most notably Iraq, Pakistan, Afghanistan, India, Yemen, Somalia, Nigeria, Russia, and the Philippines, but this does not make it any less of a concern. Even if the terrorist groups operating within these countries have a distinctly local focus, this does not nullify the global nature of terrorism. Their targets may be local, but, in most cases, their supplies and funding will move across borders, requiring global cooperation to effectively counter their activities. Further, simply because more globally oriented groups such as al-Qaeda have declined, this does not imply that they will remain weakened in the future without continued international pressure. The ideology of al-Qaeda remains attractive and even the domestically focused groups that have recently adopted its name have begun to display the core group's anti-Western sentiments (Cronin 2006, 33-34).

FIGURE 1.2 INCIDENTS OF TERRORISM



Source: Global Terrorism Database



Ultimately, CT continues to be a necessary and important area of global security governance. The goal of this paper is to provide recommendations for improving the existing system of CT governance with reference to five issue areas: (1) the diffusion of CT norms; (2) preventing the rise of terrorism; (3) intelligence and policing coordination; (4) countering terrorist financing; and (5) preventing nuclear terrorism. These five areas have been at the heart of CT governance since 9/11 and, although they are discussed separately in this paper, there is certainly a degree of overlap between them. Each of these areas will be discussed in turn, with attention being paid to why each is important in the fight against terrorism; the key governance efforts that are currently being undertaken in each area; how effective current governance efforts have been; and what actions should be taken to improve governance moving forward. The degree to which successes in each of these areas have actually contributed to a reduction in terrorist activity will be discussed where there is sufficient data to do so. However, given the limited amount of publicly available information regarding the actual disruption or elimination of terrorist activity, most of our discussions of effectiveness will focus on the particular issue areas themselves, emphasizing how successful each has been in realizing its general goals.

Before proceeding, it seems wise to return to the definition of terrorism articulated at the outset of this paper, which describes terrorism as the deliberate attack of civilians by non-state actors in order to bring about widespread fear and, in turn, compel a group of people, a government, or an organization to take or abstain from particular acts. Although most elements of this definition are widely accepted by academics and political actors, its strict application to non-state actors, regardless of their motives, is controversial. As will be discussed in the next section, members of the international community have agreed to a general definition of terrorism, but there is disagreement as to whom this definition applies. Some actors argue that a comprehensive definition of terrorism should include the activities of state militaries outside of war (UN General Assembly 2011, annex I, sect. B, para. 10). While there is merit to this argument, the system of CT governance that occupies the focus of this paper is not concerned with acts of state terrorism. Driven by the leading states in the international system, which typically omit state activities from their definitions of terrorism, the five governance areas mentioned above are concerned with a

non-state threat. Thus, the application of our definition of terrorism to state actors is not relevant for the purposes of this paper.

Other actors hold that not all non-state actors who carry out acts in line with the definition above are guilty of terrorism. On this view, terrorism does not include the legitimate struggle of peoples under foreign occupation (UN General Assembly 2011, annex I, sect. B, para. 10). However, this motive-based approach to terrorism is problematic. Not only can it be argued that no cause justifies terrorism, but this approach also opens itself up to selective definitions that are shaped by one's ideological slant (Crelinsten 2009, 5). Moreover, as evidenced by the series of CT conventions passed by the United Nations General Assembly in the 1990s, the focus of the international community has not been the motives of terrorists, but the acts they carry out. As a result, this paper takes a behavioural approach to defining terrorism, focusing on what terrorists do, rather than why they do it, and allowing for the inclusion of all acts that satisfy the definition above.

SECTION 1: THE DIFFUSION OF COUNTER-TERRORISM NORMS

The existing CT governance regime is based on a normative framework that has been developed through intense debate among members of the international community. As the world's foremost international organization, the United Nations (UN) has provided the main venue in which this debate has taken place and has played a key role in reinforcing norms relating to CT governance and encouraging their diffusion through its agencies and bodies (Barnett and Finnemore 2007, 47).

Perhaps not surprisingly, normative debates about any issue are most intense when there is a shift, shock, or challenge in world politics that destabilizes existing standards (Barnett and Finnemore 2007, 51). The attacks of September 11, 2001 disrupted previous understandings of what CT should look like and how it should be carried out, prompting a subsequent reshaping of the normative framework surrounding this area of governance. This section will begin with a brief discussion of the UN's approach to CT prior to 9/11 before ultimately turning to a discussion of its more recent efforts. This section will then explore how well the norms relating to CT



have diffused beyond the UN to other levels of government, focusing specifically on the regional and national levels. Finally, this section will conclude with a discussion of the general problems that have arisen in global CT. Given the broad focus of this section, specific recommendations for improvement will not be provided. Rather, the purpose here is to identify general problems with CT governance that will reappear in later sections and for which specific recommendations will then be provided.

Counter-Terrorism Norms at the Global Level

Throughout the latter half of the 20th century, the UN General Assembly, acting through its Sixth Committee (Legal), shaped the normative framework surrounding CT. The highly visible attack on Israeli athletes at the Munich Olympics in 1972 brought terrorism to the forefront of international attention, and it became clear that the UN would need to respond in some way (Romaniuk 2010, 37). Because Cold War divisions prevented the Security Council from reaching any consensus on the issue, Secretary-General Kurt Waldheim took steps to put terrorism on the General Assembly's agenda.

Once debate within the Assembly began, it quickly became clear that member states could not reach a mutually acceptable definition of terrorism. While Western states sought to limit the definition to non-state actors, many states throughout Asia, Africa, and the Middle East wished to expand the definition to also include states and their militaries (Romaniuk 2010, 38). Some countries also wished to leave the door open for terrorism as a legitimate expression of self-determination, while others maintained that harming citizens to achieve political change is never justifiable (Romaniuk 2010, 38-39). In all, the Assembly's early experience with terrorism made comprehensive action on the subject seem very unlikely.

In order to move forward on the issue, the Assembly sidestepped the issue of a definition altogether and approached terrorism in a piecemeal fashion that condemned specific terrorist *methods* rather than particular actors or motivations (Romaniuk 2010, 43). This methods-based or behavioural approach proved to be tolerable to all sides of the debate and ultimately resulted in the development of ten legal conventions on terrorism leading up to 9/11 (see Figure 2.1). As



a whole, these conventions established a comprehensive set of norms and legal requirements surrounding CT, and although they carry no compliance or enforcement mechanisms, they have arguably played a profound role in shaping states' responses to terrorist activity (Boulden 2007, 428; Kramer and Yetiv 2007, 423).

Despite its initial shortcomings, the Security Council also eventually made some progress in the fight against terror leading up to 9/11. As previously mentioned, the Security Council was a fairly ineffective body for addressing terrorism throughout the Cold War, and once this period of stalemate ended, the situation did not immediately improve. When the Council did respond to acts of terror, it was to impose sanctions on those states that had supported or harboured terrorists, resulting in a strategy that was reactive and punitive in nature.

FIGURE 2.1 PRE-9/11 INTERNATIONAL LEGAL CONVENTIONS ON TERRORISM

1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft
1970 Convention for the Suppression of Unlawful Seizure of Aircraft
1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation
1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons
1979 International Convention against the Taking of Hostages
1980 Convention on the Physical Protection of Nuclear Material
1988 Convention for the Suppression of Unlawful Acts against the Safety of Marine Navigation
1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection
1997 International Convention for the Suppression of Terrorist Bombings
1999 International Convention for the Suppression of the Financing of Terrorism

However, after a series of bombings on US embassies in East Africa in 1999, the Council's reaction to terrorism began to change. As usual, the Council moved quickly to condemn the bombings and to impose sanctions against those responsible through the adoption of Resolution 1267 (1999), but this resolution also created the 1267 Committee to monitor the implementation of the sanctions. With the passing of Resolution 1267, the Council's approach to CT had shifted from being punitive and reactive, to emphasizing monitoring and enforcement.

This trend continued with the passing of Resolution 1269 (1999), which called upon member



states to implement all international legal conventions concerning terrorism; to work to suppress terrorist activity within their borders; and to deny safe haven to those involved in terrorism (UN Security Council 1999; para. 4; Boulden 2007, 430). Resolution 1269 also condemned all forms of terrorist activity, marking the first time the Council had issued a blanket condemnation of terrorism as a whole (Romaniuk 2010, 55). Terrorism was now considered a matter of concern for international peace and security *in and of itself*, regardless of individual circumstances (Boulden 2007, 430).

With this in mind, terrorism was already firmly on the Council's agenda when 9/11 took place. These attacks would prove to be a watershed event, providing the Council with yet another impetus to change its approach to CT (Boulden, 2007; Kramer and Yetiv 2007; Romaniuk 2010). Resolution 1368 was passed unanimously within 24 hours of 9/11 and strongly condemned the attacks which had taken place. Additionally, the Council passed Resolution 1373 (2001) less than three weeks later, which was truly unprecedented in its content. Passed under Chapter VII of the UN Charter, this resolution contained a series of binding commitments on all UN member states, compelling states to prohibit support for terrorism, deny terrorists financing, freeze the assets of terrorists, deny safe haven to terrorists, and tighten border controls (UN Security Council 2001, para. 1). It also called upon states to increase information sharing and work together to prevent terrorists from acquiring arms and weapons of mass destruction (UN Security Council 2001, para. 3). In short, this resolution was unique in its comprehensive and binding nature, revealing a high level of concern with compliance and enforcement.

Moreover, Resolution 1373 sought to monitor not only compliance with the resolution, but also *progress* toward its implementation (Kramer and Yetiv 2007, 414). Member states were required to submit reports to the newly created Counter-Terrorism Committee (CTC) within 90 days of the resolution's passing. These reports would enable the Council, through the CTC, to coordinate the CT efforts of various international, regional, and sub-regional organizations. They would also allow the CTC to facilitate the delivery of technical assistance to states struggling to implement CT mandates. There was an implicit recognition here that one of the key reasons for non-compliance among states is a lack of capacity and, consequently, that improving capacity

should be a primary focus of CT efforts. By 2004, a consensus had emerged within the Council that the CTC should be further strengthened with additional resources and authority. In March 2004, the Council created the CTC Executive Directorate (CTED), providing the CTC with additional professional staff and augmenting its capacity to support member state implementation (Kramer and Yetiv 2007, 422).

Taken together, the CTC and CTED were the UN's first attempt at an institutionalized response to global CT. Scholars such as Kramer and Yetiv (2007) have argued that this new approach to CT has been more effective than previous efforts by the UN. Not only have these bodies served as legitimizing forces for the global CT effort and helped to coordinate the activities of various actors, but they have also played an enormous role in developing and strengthening international norms (Kramer and Yetiv 2007, 423).

In addition to the Security Council, the General Assembly has also made significant contributions to CT governance norms in the post-9/11 period, most notably through its Global Counter-Terrorism Strategy (UNGCTS). Passed unanimously in 2006, the UNGCTS helped unite all member states and disparate UN entities under a single, common strategy. The adoption of this strategy was motivated, in part, by a concern among many states that the Security Council had overstepped its mandate in the area of CT, imposing its will on member states through the passing of binding resolutions (Romaniuk 2010, 90; Rosand 2009, 2). Many states were also concerned with the Council's emphasis on law enforcement and hard security measures and wished to expand the normative CT framework to include efforts to address the underlying social, economic, and political conditions that may contribute to terrorism (Rosand 2009, 1). The resulting UNGCTS emphasizes four pillars of CT: (1) addressing the conditions that give rise to terrorism; (2) preventing and combating terrorism; (3) building state capacity to effectively address terrorism; and (4) ensuring respect for human rights and the rule of law in counter-terrorism initiatives (United Nations General Assembly 2006). Although the UNGCTS has been critiqued for being overly broad and anodyne, its emphasis on these four general areas has profoundly shaped the normative CT framework and guided efforts at all levels of government, making it one of the most important documents in CT to date (Millar 2010, 3).



Having explored the evolution of CT norms through the various conventions, resolutions, and strategies developed within the UN, we can now explore how well these norms have diffused to other actors in the CT governance system. The following two parts of this section will discuss this diffusion with reference to regional and national organizations, respectively.

Counter-Terrorism Norms at the Regional Level

In exploring the diffusion of CT norms at the regional level, it seems wise to begin with the European Union (EU), which is often viewed as the regional organization *par excellence*. Given the level of integration between EU member states and the significant resources of the European Union, it is not surprising that the EU has the most developed regional strategy for CT (Rosand et al. 2008, 13). The EU has developed numerous counterterrorism-related measures and has placed a premium on close cooperation with the UN. The EU Counterterrorism Committee (COTER) regularly invites relevant UN bodies such as CTED to attend its meetings in order to offer its perspective or introduce items to the agenda (Rosand et al. 2008, 14). The EU has also been one of the strongest proponents of the UNGCTS and has modeled its own CT strategy, the European Union Counter-Terrorism Strategy (EUCTS), to closely mirror the priorities set out in the General Assembly's strategy.

The goals of the EUCTS are divided into four categories: prevention, protection, pursuit, and response. Under "prevention," the EU seeks to address the factors that give rise to terrorism, including a lack of human rights and good governance, both domestically and abroad (Council of the European Union 2005, 9). Towards this end, the EU has developed a comprehensive strategy for combating radicalization at home and has established a CT capacity-building fund in order to provide monetary and technical assistance to countries in the Global South (Rosand et al. 2008, 14). The category of "protection" aims to reduce the impact of terrorist attacks and includes such measures as improving the security of infrastructure and increasing border security (Council of the European Union 2005, 10). "Pursuit" refers to measures that would limit terrorists' ability to carry out attacks, such as denying terrorist funding and arresting suspected terrorists, while still respecting human rights and international law (Council of the European Union 2005, 12). Finally,



since the risk of terrorism cannot be entirely eliminated, the category of “response” emphasizes that an effective response to an attack is just as important as efforts to prevent it, necessitating cooperation in the areas of policing and intelligence (Council of the European Union 2005, 15). Ultimately, it would seem that the EU has done an excellent job of incorporating global CT norms into its CT strategies.

The case of the African Union (AU) provides a sharp contrast to that of the EU. Within the AU, CT efforts have been complicated by the fact that member states are unable to agree as to the urgency or importance of CT efforts. Faced with a lack of resources and numerous other, more pressing problems, such as HIV/AIDS, poverty, and internal conflict, many of these countries simply do not prioritize CT efforts. As a result, the implementation of CT norms among AU member states has lagged, with countries arguing over the best way to preserve Africa’s focus on development while implementing global CT mechanisms (Rosand et al. 2008, 10). The AU has struggled to even adopt an official stance regarding the UNGCTS.

That being said, many of the principles of the UNGCTS enjoy broad support throughout Africa, and the AU has maintained a “broad-based normative framework” on terrorism since its 1999 CT convention (Rosand et al. 2008, 10). Given the AU’s focus on development, it is not surprising that capacity-building has been a particular focus of the AU’s CT efforts. Its 2004 CT Plan of Action was geared specifically toward “reducing the hospitable environment for terrorists to recruit and thrive and...dealing with the prevalence of poverty, economic duress, interlocking conflicts, poor governance, and criminal networks, which are often exploited by terrorists” (Rosand et al. 2008, 10). The Plan also created the Algiers Centre for the Study and Research of Terrorism (ACSRT), which works to enhance cooperation and improve the CT capabilities of its member states. The ACSRT seeks to accomplish this by managing an integrated network of “regional economic communities” (Rosand et al. 2008, 11), which allows it to set targets for reform or improvement, while delegating the legwork to these communities. In theory, this strategy is more efficient than simultaneously coordinating capacity-building across all 54 member states of the AU, though its effectiveness has been limited by a lack of resources (Rosand et al. 2008, 11).



Counter-Terrorism Norms at the National Level

Western countries have generally been very receptive to the principles and norms contained in the UNGCTS. Canada, for example, has adopted a strategy, entitled *Building Resilience Against Terrorism*, which embraces nearly all of the normative principles contained in the UNGCTS. Like the UNGCTS and the EUCTS, the Canadian strategy has four pillars. Briefly, these pillars focus on preventing individuals from engaging in terrorism, detecting the activities of individuals and organizations that may pose a threat, denying terrorists the means to carry out attacks, and responding proportionately to terrorist activities (Public Safety Canada 2011, 13). While these pillars are not identical to those contained in the UNGCTS, their content is certainly similar. For example, *Building Resilience Against Terrorism's* prevention pillar expresses the Government's view that, in order to effectively counter terrorism, "a culture of openness must exist between citizens and government" (Public Safety Canada 2011, 14). This reflects many of the norms and principles expressed in the UNGCTS' first pillar, which looks to regional and sub-regional entities to promote a deeper understanding of cultural and religious communities, foster connections to such groups, and empower them (Rosand et al. 2008, 6). Moreover, Canada's strategy stresses that CT efforts must be pursued in accordance with human rights and the rule of law (Public Safety Canada 2011, 10). In short, norms and principles relating to prevention, empowerment, and human rights appear to be alive and well in Canada's CT strategy.

The importance of delivering capacity-building assistance to developing countries is less visible in the text of Canada's strategy. "Annex C" states that the Department of Foreign Affairs and International Trade (DFAIT) and the Canadian military will coordinate their efforts in each of the four pillars with countries around the world. With respect to prevention, the Strategy states that DFAIT will work with "international partners" to counter extremism and that the military will cooperate with governments and non-governmental organizations to stabilize fragile states (Public Safety Canada 2011, 35). Though fairly vague in its articulation, Canada's CT strategy does appear to recognize the importance of monetary and technical assistance.

In contrast to the experience of Canada and many other Western countries, the diffusion of



CT norms to other parts of the world has been incomplete. Consider the case of Indonesia. After 9/11, Indonesia came under intense international pressure to take action against radical Islamist groups within its borders. However, given the repressive security measures of the pre-1998 Suharto regime, the Indonesian government and civil society groups were hesitant about increased security measures (Hasan n.d., 21). This hesitation quickly disappeared after the 2002 Bali bombings that were carried out by Jemaah Islamiyah and killed 202 people (Beech 2010, para. 3).

Since 2002, the government of Indonesia has attempted to strike a balance between “hard” and “soft” approaches to terrorism. Their strategic framework, Counter Insurgency (COIN), recognizes that a strictly military solution to terrorism is simply not feasible, while focusing attention on the political, economic, social, and psychological factors that give rise to terrorism (Hasan n.d., 22). In fact, the Indonesian government has tended to treat terrorists not as criminals, but as “ideologically confused souls” (Beech 2010, para. 5). The rehabilitation of suspects has often been supplemented with socioeconomic incentives and other payments designed to improve individuals’ socioeconomic conditions. Those who co-operate with Densus (Detachment) 88, the national CT unit, have sometimes had their children’s school tuition paid for by the government or employment arranged for their wives to increase family income (Beech 2010, para. 5). These initiatives often take place alongside dialogue-focused programs that are designed to de-radicalize inmates. For example, Muslim scholars or priests are often brought in to discuss theology with the inmates in an attempt to help them become peaceful members of society (Beech 2010, para. 6). All of these efforts indicate strong adherence to the UNGCTS’ emphasis on addressing the factors that give rise to terrorism.

In addition, COIN also focuses on how to strengthen local populations against radical ideologies. This specifically highlights the role of civil society in CT, which is a key component of the UNGCTS. Indonesian civil society is called upon to assist in disseminating a peaceful and more moderate narrative of Islam at the “grass roots level” (Hasan n.d., 16).

However, while some elements of Indonesia’s CT strategy align with the normative CT framework, others do not. Specifically, Densus 88 has come under fire in recent months for al-



leged human rights abuses, with video footage showing officers from the national CT unit torturing suspected terrorists (Dewan 2013). The Indonesian government maintains that upholding human rights and the rule of law is important to the country, but so long as such abuses continue to occur, one can argue that these particular CT norms have not diffused to Indonesia (Dewan 2013, para. 9).

Factors Inhibiting Counter-Terrorism Norm Diffusion

Overall, though the diffusion of CT norms has been fairly impressive, noticeable gaps remain. States, regional organizations, and even multilateral organizations outside of the UN do not always comply with the normative CT framework, either in principle or in practice. Three key factors appear to have limited the diffusion of CT norms. First, the international community's inability to agree on a precise definition of terrorism has hindered the global application of this normative framework. Second, a perceived lack of legitimacy surrounding CT has also made many political actors reluctant to become involved in CT. Specifically, there is a perception that terrorism only threatens Western countries and that global CT has been pushed by the West on other countries in order to ensure its own security. And finally, a lack of capacity has rendered many states unable to effectively implement CT. These problems will be discussed frequently throughout this paper and specific recommendations to address these issues will be offered in later sections.

Definition

As previously mentioned, the international community has been unable to agree to a precise definition of terrorism. While the various legal conventions on terrorism, international customary law, the Geneva Conventions, and the Rome Statutes enable an operational definition of terrorism, a more comprehensive definition would carry more normative force (United Nations 2004, 51). The proposed Comprehensive Convention on International Terrorism is the only international treaty to date that aims to criminalize all forms of international terrorism. This document has been before the General Assembly Sixth Committee since 2000 (Saul 2005, 77). As of 2002, the



definition of terrorism contained in the Comprehensive Convention read as follows (Saul 2005, 77):

Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally causes; death or serious bodily injury to any person; serious damage to public or private property, including a place of public use, a State or government facility, a public transportation system, an infrastructure facility or the environment; or damage to property, places, facilities, or systems referred to in paragraph 1(b) of this article, resulting or likely to result in major economic loss, when the purpose of the conduct, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or abstain from doing any act.

While this definition is not controversial in itself, debate has arisen over whether it should apply to the armed forces of a state or to self-determination movements. This debate has been the deciding factor in the General Assembly's failure to pass the Comprehensive Convention. According to the Report of the United Nations High Level Panel on Threats, Challenges, and Changes, this lack of agreement has undermined the normative and moral stance against terrorism, as well as the UN's image (United Nations 2004, 51).

Nonetheless, it is important to note that, while the lack of an agreed upon definition is described as a problem by members of the international community, in practice, it does not appear to have hindered action in any of the CT governance areas discussed in this paper.

Legitimacy

The diffusion of CT norms has also been disrupted by the perceived lack of legitimacy surrounding CT governance. As mentioned above, there has been a perception among many states that global CT efforts are driven primarily by Western countries and that, although measures adopted by the UN have the stamp of approval of the broader international community, these efforts are aimed primarily at protecting Western interests. It has often been suggested that the UN and other international organizations do little more than mirror the interests of the most powerful states in the world (Barnett and Finnemore 2007, 47).

There is certainly a grain of truth to this argument. Although terrorist attacks were being



carried out in other parts of the world prior to 9/11, it was not until terrorists successfully targeted the United States (US) that terrorism came to be viewed as a global threat, prompting the creation of a far more comprehensive system of governance than had previously existed. And yet, while the existing governance system has been driven by Western countries, it has certainly been shaped and moulded by others, a fact that is evidenced particularly well by the inclusion of development and human rights concerns in the UNGCTS. Nonetheless, the CT framework has been met with notable resistance in certain parts of the world.

For example, countries throughout Southeast Asia, such as Indonesia, have been resistant to what they see as an “increasingly intrusive and West-dominated global agenda” and have often been reluctant to work with Western countries in CT efforts or to fully implement CT norms, associating CT with the US “War on Terror” and its associated militarism and anti-Muslim sentiments (Ogilvie-White 2006, 14). Even countries that have experienced terrorist attacks continue to perceive the terrorist threat as primarily a Western problem. Kenya, for instance, has suffered two severe terrorist attacks in recent decades: the 1998 US embassy bombing in Nairobi and the 2002 bombings in Mombasa. These attacks did target foreign citizens and interests, but the majority of those killed were Kenyan citizens (Rosand 2007, 5). These terrorist attacks had a negative effect on Kenya’s economy, and yet the country has maintained that Islamist terrorism is largely a Western concern, and is therefore less urgent than other problems, such as violent street crime (Rosand 2007, 5).

Thus, in a very real sense, there remains a very negative image of CT as intrusive, overly militaristic, and Western-centric, which has inhibited the global implementation of CT.

Lack of Capacity

In many parts of the world, regional organizations and states are paying little more than lip service to CT. This is occurring most often in Africa, Southeast Asia, and the Middle East, where the threat is arguably the greatest (Millar 2010, 4). This reluctance to pursue CT gives terrorists room to breathe. Africa is particularly attractive because weak states provide them with a chance to disappear, and poor, disenfranchised populations are ripe for recruitment. The continent also



offers numerous sources of funding, such as the exploitation of natural resources.

The failure or lack of CT in these parts of the world tends to result from countries lacking the political will or the resources to implement CT. But perhaps more importantly, it is often the case that developing countries lack the institutions necessary to provide even basic legal and security services. Thus, developing strategies to cope with this problem has been a primary component of post-9/11 CT efforts, especially at the UN level. As indicated above, facilitating capacity-building was one of the key objectives of the CTC when it was created, and when it was found that the CTC was ill-equipped for this task, it was expanded to include the CTED. CTED's staff have travelled to many countries around the world and received numerous reports. Furthermore, the recently created UN Counter-Terrorism Centre (UNCCT), which is responsible for strengthening the implementation of the UNGCTS, also plays a crucial role in building the capacity of member states, focusing specifically on coordinating the provision of assistance among regional organizations.

Obviously, efforts to improve the capacity of member states are many. However, these improvements do not happen quickly; strengthening a state is a lengthy and difficult process. Further, capacity-building would arguably be improved if it were more closely integrated with broader development efforts. This may be particularly true in Africa, where some of the weakest states, such as Somalia, are currently harbouring some of the most prominent terrorist groups on the continent. It is difficult, if not impossible to infuse security measures, such as stronger policing and intelligence services, into a country that lacks even the most basic institutions of government. Doing so may also bring further negative consequences. For example, should the police be strengthened in a country with rampant corruption such as Sierra Leone? It is not hard to imagine a scenario in which increased CT mandates unleash a new wave of violence and repression by state security forces or give rise to a new internal conflict. In short, more specific capacity-building measures may have to wait until more general economic, social, and political development can occur. The importance of development efforts in CT governance are explored in the next section.



SECTION 2: PREVENTING THE RISE OF TERRORISM

Terrorism is now viewed as a highly pervasive threat, not simply because it appears to be global in reach, but also because the potential environments in which it is likely to arise seem so plentiful. The result of this perception is that states have begun to place far more emphasis on *preventing* terrorism in order to relieve some of the pressure on law enforcement and security efforts (Millar 2010, 2). However, preventing terrorism requires an understanding of what motivates this form of political violence in the first place. This section focuses on the factors that are conducive to terrorism and the governance regime that has emerged to counter them. In essence, while there has been plenty of discussion as to the importance of preventing terrorist activity, efforts have tended to focus more on capacity-building and superficial counter-radicalization policies than on understanding and addressing the factors that give rise to terrorism. Moving forward, greater attention should be paid to researching and understanding the factors that are conducive to terrorist activity and developing policies and programs that more effectively address these factors.

Factors Conducive to Terrorism

Countries in the Global South often argue that poverty, political oppression, social and economic marginalization, lack of self-determination, and foreign occupation are the “root causes” of terrorism (Rosand 2007, 2). In the North, however, politicians tend to dismiss the possibility that there is a direct causal relationship between any of these factors and the use of terrorist violence. They argue that by placing emphasis on these factors, we imply that terrorism can only be successfully addressed once socioeconomic and political grievances are removed on a global scale (Rosand, 2007, 2). They also tend to look unfavourably on these claims as a justification for terrorism, though it is worth mentioning that the UNGCTS takes care to emphasize that, although these factors may explain terrorism, they are by no means a justification for it (Rosand 2007, 2). Overall, a “root causes” explanation of terrorism has produced far more dissent than it has action.



Indeed, there is arguably something very misleading about the term “root cause.” Such a concept seems to imply a simple relationship between terrorism and its causes. Realistically, however, the relationship between terrorism and its causes is unlikely to be a simple and mechanical cause-and-effect relationship. Crelinsten (2009, 197) argues that it is better to think of terrorism as “resulting from a process of interaction between different parties.” He defines terrorism as “a communicative tool of persuasion” and argues that it makes more sense to focus on what factors compel a person or entity to adopt terrorism over some other method of affecting change (Crelinsten, 2009, 197). Thus, what should be discussed and studied are the *indirect risk factors* that are conducive to the spread of terrorism, not root causes.

According to Crelinsten (2009, 197), what are often assumed to be “causes” of terrorism are actually either facilitating factors (i.e. preconditions) or triggering factors (i.e. precipitants). In general, it seems that terrorism should not necessarily be viewed as a reaction to “low market opportunities” but rather as “a response to political conditions and long-standing feelings (either perceived or real) of indignity and frustration” (Rosand, 2007, 3). In fact, empirical research has not provided a direct correlation between low socioeconomic status and the incidence of terrorism. Al-Qaeda members, for instance, appear to join the group because of ties of kinship and friendship, and not for reasons relating to poverty or inequality (Rosand 2007, 3). Furthermore, despite arguments to the contrary, empirical research has found that there is no direct link between regime type and the incidence of terrorism (Rosand 2007, 3). It may seem logical to assume that authoritarian regimes, being highly repressive and lacking in the provision of human rights, would be more likely to facilitate terrorism. Instead, studies have shown that terrorism is lowest when a regime is completely authoritarian or completely democratic; terrorism is at its peak when in transition between the two (see Figure 3.1) (Rosand 2007, 4; Callaway and Harrelson-Stevens 2006, 684). In short, factors such as poverty or regime type may create the preconditions that are conducive to terrorism, but they do not incite people to terrorism.



FIGURE 3.1 TERRORISM AND REGIME TYPE

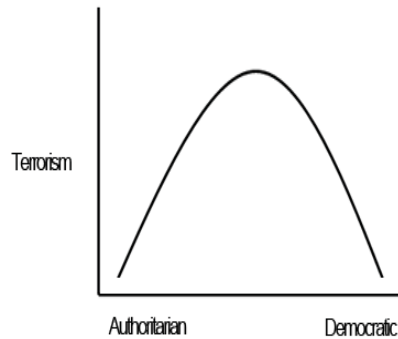


Image based on data provided in Rosand, 2007; Callaway and Harrelson-Stevens, 2006.

The *triggers* of terrorism are often violations of human rights, such as the denial of political rights and civil liberties. Specifically, according to Callaway and Harrelson-Stephens (2006), when violations evolve from preventing participation in government (denying political rights) to physically harming the citizenry, terrorism is far more likely to occur. Human rights literature shows a clear connection between political rights and security rights. In other words, the more democratic a state is, the more likely it is to respect the security of individuals. When security rights are violated, it creates an incentive to resort to terrorism in order to effect change. However, the relationship is not linear. Under the most repressive conditions, terrorism becomes very unlikely. Under the Khmer Rouge, for example, Cambodians had very little opportunity to resist. By way of contrast, the Irish Republican Army in Northern Ireland operated in a relatively more open society, making it easier to maintain the movement (Callaway and Harrelson-Stephens 2006, 683-684).

With this in mind, promoting social and political rights, or perhaps human rights in general, should reduce the disparities and grievances that fuel radicalization and recruitment to terrorism. Unfortunately, developing countries often lack the resources or capacity to implement the reforms needed to make these improvements. As a result, a broad approach to CT that incorporates addressing the risk factors of terrorism requires mobilizing a wide range of agencies and actors that were not previously implicated in CT and may often require the creation of new



agencies (Romaniuk and Fink 2012, 6). This has been demonstrated particularly well in the governance efforts that have taken place in this area of CT, to which we will now turn our attention.

Existing Governance Efforts

As was mentioned in Section Two, addressing the factors that are conducive to terrorism is a key component of the normative CT framework that has been established by the UN, requiring the inclusion of a much broader range of actors in CT efforts. The UNGCTS provides a framework upon which the actions of all UN agencies can be coordinated and brought in line with CT goals. Although the General Assembly, through the UNGCTS, has recognized that the primary responsibility for implementing CT rests with individual states, it has not ignored its role in facilitating the kind of co-operation that would enhance member states' abilities to implement CT and improve the global effort. It has also adopted the position that, with major capacity shortcomings and vulnerabilities to terrorism in many parts of the world, nearly all arms of the UN have some role to play in global CT (Rosand 2009, 1). Obviously, given the number of specialized agencies the UN currently maintains, coordination is a massive undertaking.

On that note, the UN Counter-Terrorism Implementation Task Force (CTITF) was created in 2005 to coordinate the activities of the increasing number of UN agencies that are involved in work relevant to CT (Rosand 2009, 1). The CTITF is comprised of 26 member "entities," with six observers (UNCTITF n.d.). These member entities cooperate to generate policy through eight working groups that focus on broad themes within CT such as preventing and resolving conflict, countering the use of the Internet for terrorist purposes, and tackling the financing of terrorism (CTITF n.d.). Perhaps most importantly, the activities of the CTITF have enabled some cooperation with UN agencies that have been reluctant to engage in CT in the past, such as the United Nations Educational, Social, and Cultural Organization (UNESCO) and the United Nations Development Programme (UNDP). These agencies have specialized knowledge relating to the underlying causes of terrorism, making their participation highly valuable.

UNESCO participates in two working groups relating to counter-radicalization and recruitment to terror. Its main contributions to the global effort have been programs that promote



interreligious and cultural dialogue, as well as educational, religious, and cultural institutions that protect people from being radicalized or recruited to terrorism (Millar 2010, 5). One of UNESCO's more interesting programs was the development of a code of conduct for scientists to help deter the use of their research for terrorist purposes (UNESCO 2012).

Although the UNDP is still fairly reluctant to be associated with CT, fearing that it will harm its ability to engage in its primary mission, many of its programs nonetheless contribute to CT efforts. The UNDP has maintained a long-term presence in almost all developing countries and has long supported member states in constructive engagement with disaffected groups that are prone to violence (Millar 2010, 5). The UNDP usually engages in this function through partnerships with member states, placing heavy emphasis on the role of civil society (Millar 2010, 5). Through its support of state engagement with civil society and other private stakeholders to address grievances, the UNDP would seem to be uniquely qualified to address the relationship between terrorism and the factors that facilitate its rise.

At the regional level, the EU has attempted to introduce a broader CT strategy that includes the prevention of terrorism. The EU Plan of Action on Combating Terrorism states that identifying and addressing the factors that "favour support for terrorism and recruitment into terrorism" is one of the EU's key objectives (De Cesari 2006, 219). The EU is also one of few regional organizations to develop a comprehensive strategy for combating radicalization and recruitment to terrorism (Rosand et al. 2008, 14). Chief among its objectives are countering extremism and promoting security, justice, and democracy (Council of the European Union 2007, 1).

In keeping with the UNGCTS' emphasis on civil society involvement, the EU seeks to develop relationships with civil society to achieve its objectives. For example, a UK proposal sought to create a network of civil society groups that could provide more moderate, mainstream narratives to counter extremism and radicalization (Council of the European Union 2007, 13).

Through their strategy, the EU has also undertaken initiatives to promote equal opportunity and potentially alleviate some of the conditions that invite terrorism (Council of the European Union 2007, 13). For example, the Tempus program, which entered its fourth phase in 2007, has



supported the reform and modernization of higher education systems in various parts of the world, including Eastern Europe, North Africa, and the Middle East (Council of the European Union 2007, 13). Other EU programs have sought to address the development of appropriate work skills for young adults and ensure respect for democratic values and human rights (Council of the European Union 2007, 15). In general, many EU programs are aimed at promoting social cohesion through intercultural dialogue, reinforcing citizenship rights, and human rights education, as a means of reducing the social and political inequalities that seem to contribute to terrorism.

In contrast to that of the EU, the AU Plan of Action is premised on the need to strengthen the capacity of African countries, with special emphasis on cooperation and coordination between member states (Sturman 2002, 104). The Preamble of the Plan recognizes that severe poverty and deprivation provide a breeding ground and a safe haven for terrorism (Sturman 2002, 104). It also recognizes that few African countries are able to achieve this on their own. For this reason, one of the AU's biggest concerns has been the establishment of a capacity-building fund to enable technical assistance to AU member states (Kanu 2006, 116). However, a serious gap exists between the AU's aspirations and actual progress (Romaniuk 2010, 116).

CT efforts at the sub-regional level in Africa appear to have achieved greater success. According to Romaniuk (2010), in the Horn of Africa, the Inter-governmental Authority on Development (IGAD) has adopted an Implementation Plan to Counter Terrorism. With help from the Netherlands and Denmark, IGAD was able to establish a capacity-building program to support CT efforts. This program is fully staffed by local experts from the sub-region, and supported by the Institute for Security Studies. Since 2006, the program has coordinated capacity-building assistance with several partners and donors and has sought stronger involvement with the UN. Similarly, other sub-regional organizations in Africa, such as the East African Community, the Southern African Development Community, and the Economic Community of West African States have all taken steps to improve their capacity through partnerships with international organizations, most notably the CTED, but their efforts have been met with mixed success (116-117).



The ways in which national governments have chosen to respond to the risk factors of terrorism are too numerous to discuss in full detail. However, there are some general themes that appear to have cropped up across the various initiatives that national governments have chosen to endorse. For example, many countries have entered into cooperation with regional entities and civil society organizations to promote and fund programs in developing countries aimed at countering risk factors to terrorism. These programs have often included promoting political participation, civil rights, the rule of law, and sustainable and equitable economic and social development (CTITF n.d., 13). The Netherlands budgets €2 million each year for promoting activities aimed at countering extremism internationally or promoting legal frameworks for combating violent ideologies and supporting local police and judicial systems in developing countries (CTITF n.d.,14). The United Kingdom (UK) also maintains a global program aimed at assisting foreign governments to improve education, civil rights, the rule of law, and equality (CTITF n.d., 14).

Despite the fact that the link between socio-economic development and terrorism has been largely dismissed, many national governments nonetheless maintain that economic and social inequalities do fuel discontent and create conditions that support terrorism. For example, the US has initiated programs designed to address the economic needs of marginalized populations before violent extremists can influence these people and shape their views. This program has been tailored to the unique social and economic needs of each group (CTITF n.d., 12). In Thailand, a recent regulation called for the creation of a “special development zone” in areas of instability as a part of the country’s counter-terrorism strategy (CTITF n.d., 13). This zone addresses aspects of the economic, social, cultural, health, educational, and other needs of the targeted populations.

And finally, one of the more innovative programs has appeared in Saudi Arabia, where terrorist detainees are being put through a rehabilitation program that resembles the kind of disarmament, demobilization, and reintegration (DDR) programs that are found in post-conflict societies. The al Ria’ya (Care) program transfers detainees who qualify for the program to a specially designed facility, where they are provided with psychological counselling, religious education, and the opportunity to engage in dialogue with the program’s organizers (CTITF n.d., 18). Since 2004, more than 4000 detainees have gone through the program, and the graduates



have been reintegrated into mainstream society even more successfully than ordinary criminals (CTITF n.d., 18).

Ways Forward in Preventing the Rise of Terrorism

Without a doubt, there have been some positive developments in this area. The move towards a more comprehensive CT strategy that emphasizes addressing the risk factors to terrorism is a step in the right direction - even if it has not been translated fully into practice. And to be sure, the counter-radicalization programs that are being realized in many parts of the world do make positive contributions to global CT by providing a counterpoint to extremist and violent ideologies and by attempting to curb the influence of these ideologies. With regard to capacity-building, the extra resources and knowledge being provided to developing countries should help them reduce the incidence of terrorism and protect their own interests, while also helping eliminate safe havens for terrorists. However, there has been a tendency to overemphasize capacity-building and counter-radicalization to the detriment of efforts that seek to reduce the factors that predispose individuals to terrorism. In short, a great deal of effort has been expended trying to prevent people from turning to terrorism, while ignoring the factors that may make them prone to do so in the first place.

With this in mind, a clear distinction must be made between strategies that seek to improve the CT capacity of states, and those that seek to address the risk factors of terrorism. The two are by no means synonymous. In this area, capacity-building refers to strengthening the capabilities of a state to bring them into line with current CT practices. While increasing the capacity of states may aid the global CT effort, it cannot necessarily be considered prevention. Addressing the factors that facilitate that rise of terrorism goes well beyond simply strengthening security apparatuses or legal frameworks to include a range of activities designed to improve the provision of basic human rights, political rights, civil liberties, and to a lesser extent, improve individuals' socioeconomic status.

Moving forward, two key improvements can be made to this area of CT governance. First, moving beyond capacity building and counter-radicalization, more programs need to be devoted



to addressing risk factors to terrorism. Admittedly, capacity-building and counter-radicalization are essential components of CT efforts, but diverting some attention away from these issues and on to the risk factors will arguably compensate for some of the shortcomings that have appeared so far and improve the global CT effort. Second, we need to enhance our knowledge of the factors that facilitate the rise of terrorism. The information that has been presented in this section is still relatively new. Many of the findings remain contested, meaning that more research needs to be conducted in order to alleviate some of this disagreement and provide policy-makers with the information they need to develop effective programs that address the factors that may be conducive to terrorism.

SECTION 3: INTELLIGENCE AND POLICING COORDINATION

The contemporary terrorist threat, at times termed the “new terrorism” with its international/transnational orientation, has underscored the need for states to coordinate their responses to and sharing of knowledge on terrorist actors (Crenshaw 2011, 51-54). Sun-tzu wrote that “intelligence is of the essence in warfare” for “he who knows the enemy and himself will never in a hundred battles be at risk” (Sun-Tzu 1993, 90, 96). Lowenthal expands on the relevance of intelligence by listing four reasons for its existence: “to avoid strategic surprise; to provide long-term expertise; to support the policy process; and to maintain the secrecy of information, needs, and methods” (Lowenthal 2009, 2).

Intelligence acts in support of what may be considered the “on the ground” efforts of law enforcement (i.e. those that focus on securing borders and maintaining the safety of the community), providing officials with information about the “likelihood and probable extent of future attacks” (O’Connell 2008, 458). Arguably, aspects of policing and law enforcement embody one of the most visible aspects of CT, and their varying characters across states highlight imbedded differences in how terrorism should be addressed within one’s own borders. The tensions, effects, and reformulations that result are instructive in finding better ways of understanding how best to mitigate risk not only within one’s own state, but also in other states, giving extremists fewer places to multiply and find quarter. In some cases, policing bodies also carry out counter-



insurgency operations, at times taking paramilitary forms, against terrorists/extremists in the post-9/11 landscape, thereby moving law enforcement into a grey area. These aspects make policing and law enforcement governance a fascinating and deeply important component of CT.

Before the World Trade Center attacks of 2001, intelligence and policing capabilities occupied a sizable portion of the domestic counter-terrorism effort, so when efforts in CT globalized after 2001, it was only natural for these two areas to become a sizable part of global CT governance. However, the level of global CT coordination in these two fields was fragmented and unfocused in the pre-2001 period. This was partially a result of the fact that, outside of the US, al-Qaeda was not viewed as a pressing threat; rather, in other parts of the world, most notably Europe, domestic terrorist actors took precedence (Svendsen 2010, 44-45). Following 9/11, the transnational nature of the “new” international variant of terrorism began to take hold, which led to a sizable resource investment by the US in pursuing what became known as the Global War on Terror (GWOT). Aldrich (2009, 125), with reference to intelligence coordination, goes further by stating that the recent move towards “‘need to share’, often with more than one partner, reflect wider pressures that go beyond co-operation against terrorism,” as states have begun to realize that many of their opponents (terrorists, drug smugglers, people traffickers, proliferators, and warlords) are becoming transnational.

This post-2001 shift towards increased global CT cooperation and governance in the areas of intelligence and policing will be examined in an effort to ascertain what has and has not been successful after more than a decade of enhanced policy attention. Specifically, this section will focus on two core elements. First, the current state of CT intelligence and policing in the global, multilateral, and bilateral contexts will be discussed. Second, a reflection on the issues raised in the first element will facilitate the synthesis of possible ways forward in this area of CT governance. Ultimately, intelligence and policing coordination in the area of CT has become increasingly structured on a global scale, but it has occurred at different paces and taken unique forms according to the regions in which it resides. Consequently, global efforts at homogenization have not been fully realized, but there has been progress towards an increased level of cooperation and transfer in CT knowledge among actors at various levels of government in intelligence and



policing environments. Despite this progress, the effect of enhanced governance on terrorist activity has been difficult to judge in some regions, though coordinated efforts as a whole have forced international terrorism to fragment into a more disjointed entity. Whether this is a positive outcome in global CT governance remains up for debate.

Existing Governance Efforts

Governance at the Global Level

Attention to CT policing and intelligence governance on the international stage did not meaningfully coalesce within international institutions until the 1990s, but the real watershed moment for mobilizing efforts within international organizations such as the UN came in 2001 with those fateful attacks on the US (Kramer and Yetiv 2007, 412-413). As mentioned in Section Two, UN Security Council Resolution 1373 established the CTC, which was later strengthened with the establishment of the CTED in 2004. These resolutions marked the first attempt by the Security Council to coordinate and harmonize CT efforts among member states (Kramer and Yetiv 2007, 422-423).

For intelligence and policing, the CTC/CTED have been important in providing a broader venue for the dissemination of technical expertise and capacities to member states. Messmer and Yordan (2011) point out that the CTC/CTED have made positive progress by pursuing a direct partnership with states. They identify the establishment of a “Technical Assistance Matrix” to help weaker states connect with donor states for assistance and the development of Preliminary Implementation Assessments (PIAs), which provide common evaluations and suggestions for enhancing compliance, as examples of this progress (Messmer and Yordan 2011, 848-851). In addition, the CTC/CTED’s encouragement of inter-state or regional cooperation complements a similar effort in the UNGCTS. As Millar and Rosand (2009, 183) observe, the “text of the Strategy is deliberately ambiguous in many places” in an effort to move away from a one-size-fits-all approach and provide regions with latitude towards determining how best to implement the Strategy, which increases the likelihood that there will be concrete advances on the ground.



Aside from these positive steps at the UN, there are some noteworthy caveats that restrain global CT intelligence and policing from being a clear cut success. One instance stems from the hesitancy, or in some cases hostility, of some states in complying or working with the CTC/CTED. As a body under the auspices of the Security Council, there is a fear among many states that “their work might become unduly politicized,” prompting them to prefer a more representative body to facilitate capacity building (Millar and Rosand 2009, 193). Also, with specific regards to intelligence and the multilateral arrangements in Resolution 1373, Svendsen notes that “practical interconnectedness may work more on a bilateral or trilateral basis, following a “hub-and spokes” model, which is reflective of the inherent protectionism of intelligence services (Svendsen 2010, 41). Not only does protectionism and suspicion affect the transmission of CT intelligence and policing know-how, but it can also have an impact on all other policy issues that are addressed at this level of governance.

Beyond CTC/CTED, another key UN body that deserves attention in regards to CT intelligence and policing coordination is the UN Office on Drugs and Crime (UNODC) and its Terrorism Prevention Branch (TPB). The UNODC focuses on providing assistance to states, such as legislative drafting aid and the training of criminal justice professionals, along with the development and maintenance of the domestic legal apparatus for addressing acts of terrorism (Millar and Rosand 2009, 197).

Interpol, a partner of the UN, has also taken action in regards to CT intelligence and policing coordination. Interpol has worked to compile an up-to-date global database on transnational criminals and terrorists. One of its programs is MIND/FIND, which allows local law enforcement officials to check all passports against either the stored database or the networked database at each country’s points of entry, helping to avoid errors of discretion and chance (Enders and Sandler 2011, 266-267). Despite the program’s successful returns from Interpol’s “terrorist-fighting collective action (arrests),” adoption of the system by members has been a slow process, with only 53 of 190 member states having adopted the system as of 2009 (Enders and Sandler 2011, 266, 279). It has only been recently that adoption has gained momentum, with 125 adoptees in 2012 (Interpol 2013, 19). Similar issues with participation are observed by Millar and Rosand



(2009, 195), who point out that only 119 states have reported instances to Interpol's database on lost and stolen travel documents, equalling one-third of the estimated 35 million lost documents worldwide, and not all competent authorities have access to the database.

In the Fall of 2014, these UN actors and partners received renewed and expanded directives by way of UN Security Council Resolution 2178 (2014), which resulted from a heightened concern within the international community of Foreign Terrorist Fighters (FTF) and their role in bolstering terrorist organizations in the Iraqi and Syrian conflicts. Of particular concern at the time of writing is the rise of the Islamic State of Iraq and Levant (ISIL), an al-Qaeda splinter group that has gained a critical amount of influence in Iraq and Syria. Resolution 2178 (2014) calls on member states to enhance efforts to counter FTFs through expanded information-sharing; sharing and adopting best practices; developing a greater understanding of patterns in FTF travel; and acting cooperatively when undertaking national CT measures (UN Security Council 2014, para. 11). The Resolution encourages the existing 1267 Committee and the associated Analytical Support and Sanctions Monitoring Team to focus their attention on the threat posed by FTFs within ISIL and other groups associated with al-Qaeda and specifically requests that they coordinate their efforts with other UN bodies, most notably CTED and the CTITF (UN Security Council 2014, paras. 20-23). Other portions of the Resolution also encourage bilateral assistance and support on policing and intelligence matters (UN Security Council 2014, paras. 3, 14).

As the most recent addition to the framework for global CT, Resolution 2178 sets out fresh goals for cooperation. Some critics are concerned that this resolution may empower states with more legitimacy in persecuting certain internal groups as terrorists (Roach and Cheung 2014). It is still too early to tell what wider effect this addition to global CT governance may have and whether it will effectively address the FTF phenomenon, but as one commentator has observed, this resolution does further reinforce the trend towards a governance model based on UN Security Council leadership (Goldman 2014, para. 13), a path that says more about a changed US approach than about improving governance in CT policing and intelligence cooperation.

Beyond the UN, global CT governance, particularly in policing and the rule of law, has



begun to coalesce within a relatively new organization that was established in 2011: the Global Counter-Terrorism Forum (GCTF). With a membership of 29 states and the EU, the GCTF aims to be “pragmatic, action orientated, informal and civilian-led” and has already contributed \$100 million towards rule of law capacity building and developed sixteen preferred practices on CT for criminal justice officials, which will be used for eventual training programs (Rosand and Shore 2012, 18).

Although small when compared to UN bodies, the GCTF’s membership is quite diverse and the leadership in its working groups and committees are quite inclusive, with states such as Turkey, the United Arab Emirates (UAE), and Indonesia in leadership roles. Additionally, as part of the GCTF, the UAE has established the International Centre of Excellence in Countering Violent Extremism that will consist of an epistemic community of experts developing programs and initiatives based on soft or non-kinetic approaches, such as “sport and cultural diplomacy..., denunciation of radicalism in prisons, and supporting terror victims” (Salama 2013, 5-9).

One of the GCTF’s most recent efforts, the Marrakech Memorandum, aims to address the rise of FTFs. The Memorandum, which was introduced in 2014, provides a set of best practices for states in preventing, detecting, and intervening against violent extremism (Global Counter-Terrorism Forum, 2014). The Forum has also gained an increased degree of recognition in being identified as a key partner in delivering the aforementioned UNSC Resolution 2178’s call for enhanced global CT governance on FTFs (UN Security Council 2014, para. 17).

It may still be too early to tell how successful the GCTF has been in facilitating practical capacity building in law enforcement and countering violent extremism (CVE), but its informal and inclusive leadership framework are unique to CT intelligence and policing governance at the global level, which is a notable development in itself.

Governance at the Regional and Exclusive Organizational Levels

This sub-section will focus on CT governance in intelligence and policing within regional and exclusive organizations. The term “exclusive organization” is being used to characterize multilateral frameworks that are less open to additional members, preferring to work with like-



mindful and relatively trustworthy partners, which is reflective of the purpose of these alliances.

Examples of exclusive alliances can be seen in the UK/USA (or Five-Eyes) alliance (UK, US, Canada, Australia, and New Zealand) and Alliance Base (UK, France, Germany, Canada, US, and Australia), both of which deal in intelligence cooperation. The UKUSA arrangement is characterized as a hub-and-spokes liaison in intelligence, primarily in signals intelligence (SIGINT). The UK and the US act as the hubs due to their high capabilities, and their auxiliary partners are beneficial in mitigating pressures and difficulties that exist bilaterally between the hubs (Svendsen 2010, 3, 15, 172). The bilateral relationship between the UK and the US will be discussed in greater detail below.

Alliance Base, located in France, “analyzes the transnational movement of terrorist suspects and develops operations to catch or spy on them” (Svendsen 2010, 24). This alliance is unique due to its focus on planning operations among countries to act on intelligence rather than sharing it (Svendsen 2010, 24). As Aldrich notes (2009, 131), Alliance Base is an effective multilateral platform due to the less regulated environment in France and because obstacles related to legalities and sensitive information are overcome by “allocating lead officers from different countries to each operation.” A noted success of its work was the arrest and imprisonment of Christian Ganczarski and Ahmed Medhi, both suspected al-Qaeda operatives (Aldrich 2009, 131).

There also exists a great deal of activity in CT intelligence and policing governance at the regional level. The following will specifically look at developments in Europe and Southeast Asia/Asia-Pacific to highlight the contrasting characteristics of a well-established, formal institutional environment and one that is much more informal and fragmented, respectively.

Europe has been characterized by the US as “an intelligence partner and also an intelligence target” (Aldrich 2009, 136). Many of the terrorist suspects tracked by the FBI have originated from intelligence obtained from its European partners, but Europe has also witnessed an increase in home-grown terrorism over the past decade. As a result, Europe was jolted into action after 9/11. However, attention to building European governance in the years since has not always been consistent, which can be traced to the split among EU members on the War in Iraq and the sur-



facing of more domestic concerns (Bossong 2012, 527). Moreover, the growing implementation gap of the EU's official Action Plan on Combating Terrorism has underscored the difficulty in sustaining the speed at which security policy has been created (Bossong 2012, 527). In addressing the latter issue, the EU has created peer reviews to facilitate compliance, enhance the exchange of information, and foster a common understanding among members, but they have fallen short of creating CT convergence within policy and institutionally (Bossong 2012, 520). Despite such challenges, there is evidence to suggest some successful convergence of state CT intelligence and policing in Europe. One example is the creation and diffusion of "fusion centres", which help to facilitate the "flexible and streamlined use of threat assessments, intelligence and police information" across actors (Bossong 2012, 529). In short, CT intelligence and policing governance in Europe has improved since 9/11, but it could be more efficiently coordinated.

A deeper examination of the CT intelligence and policing scaffolding on the continent shows the growth of a complex crowding of the institutional map, leading Bures (2012, 515) to conclude that "more does not necessarily mean better when it comes to fighting terrorism in Europe". This map is split between formal and informal arrangements. On the formal side of the map, the passage of the Lisbon Treaty has improved accountability and legitimacy, but arrangements suffer from a lack of trust by member states' agencies and in their operational powers (Bures 2012, 511). While the informal arrangements are seen as having "superior output" in practical CT intelligence and policing capabilities, they suffer from a lack of transparency and legitimacy and have a higher potential for "groupthink" (Bures 2012, 511).

The EU is the primary actor on the formal side of European CT intelligence and policing governance and many of the CT arrangements fall under the Council of the EU and the Area of Freedom, Security and Justice (AFSJ), which is guided by measures in the Framework Decision on Combating Terrorism (FDCT) (Bossong 2012, 525; den Boer 2012, 19). Additional formal developments include: adopting the European Arrest Warrant (2002), facilitating the arrest and transfer of suspects across borders; adopting the European Evidence Warrant (2008) that facilitates the sharing of documents among members for faster criminal proceedings; enhancing the easy exchange of information between law enforcement and border authorities on those involved



in serious crimes, including alerts to warrants and stolen identification through the Schengen Information System (SIS II); and, the regulation of joint investigation teams among two or more members, over a limited period, for combating terrorism (den Boer and Wiegand 2012, 20, 22; European Commission 2013). These initiatives, warrants, and the FDCT are still some distance from being harmonized within the EU, as it is left up for states to decide on the how and when of implementation. This has resulted in some states adopting laws not covered by the supranational laws of the FDCT (den Boer and Wiegand, 44-49).

On the agency level, there are some noteworthy actors in the EU CT framework. Under the Council there is the Terrorism Working Group (TWG), the EU CT Coordinator, and the EU Situation Centre (SitCen), while under the AFSJ there are Europol and Eurojust. The TWG exchanges information on related incidents. After 9/11 it also monitored the implementation of the EU CT measures in member states, but due to national government turnover and self-reporting requirements, the group has been unable to sustain expert discussion and accurate evaluations (Bossong 2012, 526, 531). After the Madrid bombings in 2004, the EU CT Coordinator was created to enhance the implementation of EU CT measures across member states (den Boer and Wiegand 2012, 41-42). But, as den Boer and Wiegand (2012, 41-42) caution, this position lacks any legislative power or budget and, because it interacts directly with member states, there is a potential of hampering the Commission's CT coordination efforts. In the case of SitCen, this body acts as a provider of strategic analysis on the terrorist threat for member states through the selective sharing of intelligence from foreign and internal services; however, it does not have serious capabilities in intelligence and CT in itself, which means it focuses more on diplomatic and preventive reporting (den Boer and Wiegand 2012, 40; Aldrich 2009, 126).

Europol, as the regional coordinating body in policing, had created a CT Task Force with the expansive mandate to collect and analyze relevant intelligence, create threat assessments, and assist state police; in 2003 it was absorbed into another branch of Europol only to resurface in 2004 after the Madrid attacks (Aldrich 2009, 127). Because its CT Task Force only works on cases when requested by states, it remains a "fifth wheel," causing Aldrich (2009, 127-128) to conclude that it "is mostly symbolic".



Finally, Eurojust, another EU body, is mandated “to stimulate and improve the co-ordination of investigations and prosecutions between competent authorities in the Member States” (den Boer and Wiegand 2012, 36, 38). It also has a Terrorism Team that holds regular strategic meetings for building a centre of expertise (den Boer and Wiegand 2012, 36, 38). It would seem that Eurojust has been more successful at facilitating the involvement of member states to engage on CT legal topics than Europol has been on issues relating to policing.

The realm of the informal arrangements in European CT governance in the intelligence and policing fields offer some exceptional contrasts to the formal experiences. After the 2004 bombings in Madrid, and the London bombings the following year, growth in informal CT governance activity underwent a marked increase (Aldrich 2009, 126). One of the best examples of an informal CT arrangement in Europe is the Club of Berne. The membership, which includes the heads of the security and intelligence services from EU member states, Norway, and Switzerland, hold meetings on a regular basis on security topics, and after 9/11 it created the functional CT Group (CTG), which includes the US as an observer (Aldrich 2009, 126). The CTG has promoted practical cooperation on certain projects, such as joint training between more and less experienced states, and even though it stresses its independence from the EU, since 2004 the CTG has become increasingly active in facilitating coordination between members and the EU (Aldrich 2009, 126-127).

A second informal arrangement is the G6, which focuses on the coordination of law enforcement actors in Europe. Members in the G6 include France, Germany, Italy, Poland, Spain, and the UK, all of whom were frustrated with the Justice and Home Affairs (JHA) pillar that existed prior to the Lisbon Treaty and decided to discuss matters of internal security such as terrorism, organized crime, and migration on their own (Bures 2012, 503). Together, they have been able to establish a shared database of individuals suspected of connections to terrorist organizations and on the theft or loss of weapons and explosives (Bures 2012, 503). Additionally, they have created multilateral police support teams and a project for the joint analysis of terrorists on the Internet (Bures 2012, 503).



In addressing the success of these informal venues, Bures (2012, 506-507) notes the accumulation of trust among states' CT officials, their adaptability to new situations and demands, specialization and division of labour, and the expansion of ownership to relevant actors by including non-EU states, with US inclusion bringing the biggest advantages. But, even so, informal arrangements are not without some important drawbacks. As was mentioned earlier, the main drawbacks are the overcrowding of the regional landscape in CT governance and the deficits in transparency and legitimacy in these bodies. Other negative effects include: a discrediting of the EU decision-making process, fear that informal members will dictate the direction of EU policies, and the promotion of the idea that the EU is not an "action organization" and that policy is shaped by outside influences (Bures 2012, 510-511).

In short, though not without challenges, the CT intelligence and policing scaffolding that has arisen since 9/11 within Europe has been extensive and has even remained largely multilateral when it has developed outside of the supranational bodies of the EU as informal arrangements. The third part of this section will discuss some possible ways forward within European intelligence and policing coordination, but before arriving there, the European relationship with the US, which was mentioned earlier, deserves examination.

Different conceptions of CT, with relevance to intelligence and policing, existed between the US and Europe in the lead-up to 9/11 and remain today, but with a few changes. Europe is very much focused on addressing terrorism through law enforcement and intelligence in contrast to the early US military expeditionary tendency, and Europe places a heavy emphasis on the rule of law being respected by security services and the protection of civil liberties, while the US has been perceived as being more willing to obscure these limits (Porter and Bendiek 2012, 498-499). The early half of the decade after 9/11 reinforced these perceptions and saw a testing of the transatlantic relationship, which was rooted in differences over the War in Iraq, tensions over extraordinary renditions, and torture, not to mention the divisions these issues created among European members themselves (Svendsen 2010, 73).

Despite these challenges, increased cooperation was not derailed. Notable improvements



were seen in the establishment of liaisons between Europol and the FBI, and fusion centres in states on both sides of the Atlantic were created as nodes for easy intelligence exchange (Kaunert 2010, 55; Aldrich 2009, 129-130). In addition, Kaunert notes that EU competencies in policing, criminalizing terror, and extradition helped create political consensus, which was important in facilitating US-EU CT relations and breaking traditional bilateral relations (Kaunert 2010, 50). During the Obama administration, there has been a convergence of strategies (prevention/counter-radicalization), norms, the rule of law, and privacy towards the EU approach, which has reinforced the health of the transatlantic community (Porter and Bendiek 2012, 500). Another positive development in transatlantic cooperation came about in the new 2011 Passenger Name Records (PNR) agreement, which marked significant concessions by the US to allay EU concerns over a loss of their robust conception of privacy (Porter and Bendiek 2012, 502-503). Nonetheless, even though convergence is occurring in US-EU relations, a lack of unity in the EU could complicate bilateral relations with the US (Porter and Bendiek 2012, 505-506). The feedback dynamic between these internal and external levels of cooperation highlights the complexities in ensuring effective governance in European CT intelligence and policing.

A region of contrasting CT policing and intelligence governance can be found in the Asia-Pacific, specifically Southeast Asia, where the regional institutionalization of policing and intelligence coordination is nowhere near as developed as that found in Europe. In the Association of Southeast Asian Nations (ASEAN), efforts for cooperation have resulted in the Southeast Asian Regional Centre for CT (SEARCCT) to improve capabilities and provide for the placement of police liaisons in each country, which has reportedly resulted in numerous arrests and foiled attacks (Tan 2011, 220). However, because CT in this region has been framed as an internal security issue, emphasis has been placed on domestic efforts rather than comprehensive regional solutions. As a result, Southeast Asia's approach to CT governance has been "patchy" and primarily bilateral instead of regional (Emmers 2009, 160, 171).

Despite the challenges in ASEAN's mechanisms for implementation and compliance, a common stance on CT has been facilitated through dialogue between regional members (Emmers 2009, 173-174). Moreover, one positive arrangement in the region is the Bali CT Process



(BCTP). With twenty-five members, including actors from outside of the region (the US, France, and the UN), the BCTP has sought a pragmatic approach to CT through cooperation in “law enforcement, information sharing and strengthening legal frameworks” (Millar and Rosand 2007, 190-191). Ultimately, intelligence and policing arrangements in Asia-Pacific CT governance are certainly not as extensive or as formal at the regional level as those that exist in Europe. Rather, cooperative efforts are more embedded at the bilateral level in the Asia-Pacific. Bilateral CT governance in this region will be examined in greater detail below.

Governance at the Bilateral and National Levels

The last area of CT intelligence and policing governance to be examined is bilateral arrangements, with some brief forays into various national approaches. First, the US-UK arrangement will be examined because it is considered to be one of the best instances of international intelligence cooperation. It is “the most ‘globalized’, ‘homogenized’, and ‘internationally standardized’ liaisons,” making it a “model of international intelligence and law enforcement cooperation” (Svendsen 2010, xix). The rest of the cases to be explored are all in Southeast Asia, which is noteworthy for the previously mentioned contrasts to governance frameworks elsewhere. However, these countries also possess a few other important characteristics, including: a significant regional Muslim population; the regional presence of Jemaah Islamiyah, an al-Qaeda affiliate; and increasing terrorist activity, with several attacks having occurred since 2001 (Sukma 2011, 21-22). While the US-UK arrangement highlights the dominant Western approach in CT cooperation, the other states explored generally wish to forge their own approach, separate from that of the West, with a notable preference for bilateral arrangements.

US-UK cooperation exists in a sphere of its own, outside of the previously mentioned transatlantic activity found in the US-EU arrangements and coalescing in a much deeper bilateral relationship of formidable intelligence apparatuses. Both of these states find benefits in maintaining and strengthening this partnership. For the US, benefits are mostly derived from qualitative rationales. Specifically, the US values the UK’s analytical worldview, which is not as regionally focused as its other allies (Svendsen 2010, 6-7). In the case of the UK, as a middle power, gaining



privileged access to the primacy of US “intelligence power,” especially its vast technical intelligence (TECHINT), allows it to “punch above its weight” (Svendsen 2010, 6). Before 9/11, each partner had different conceptions of terrorist threats. While the US was focused on foreign entities such as al-Qaeda, the UK was more domestically focused, but after 9/11 there was a “harmonizing of agendas” (Svendsen 2010, 44-46). Additionally, the use of fusion centres, such as the UK Joint Terrorism Analysis Centre (JTAC) and the National Counter-Terrorism Center (NCTC) in the US, have helped ensure greater connectivity among the partners (Svendsen 2010, 46, 56). However, this increased liaison has not been free from drawbacks.

When coordinating intelligence and policing efforts with the US, one inevitably runs into a large hurdle: the sheer size of the American intelligence community. With seventeen agencies, it is easy to see how foreign counterparts in the area of CT intelligence and policing may have difficulty deciding which agency to connect with (Svendsen 2010, 24). American configurations in the security and intelligence sector have been strongly influenced by the failures to prevent the attacks of 2001 and the faults within the intelligence community regarding the existence of weapons of mass destruction in Iraq (Lowenthal 2009, 298). However, the lessons that were taken from these events to create the reformed community failed to take an adequate read of the opposing lessons of each event, which explains the problems that still exist (Lowenthal 2009, 310-311).

Considering the above, in terms of US-UK intelligence liaisons, the events surrounding Iraq raised the importance of learning from the effects that groupthink and the inclusion of dubious sources into the shared intelligence pool can have and thereby the challenges that are inherent in deep bilateral arrangements. The weakest point in one of the best liaisons in the world may be in its fundamental nature: its bilateral identity. According to Svendsen (2010, 169-170), the relationship has been strained as each state approaches CT in a different way, with the UK taking a soft/proportional policing approach and the US adopting a more heavy-handed strike mentality. Tensions have also arisen between the two states over extraordinary renditions and Iraq tensions (Svendsen 2010, 169-170). Strains to the relationship were eventually overcome, but the lessons for avoiding groupthink and tensions over appropriate CT approaches should not be forgotten.



Turning our attention to bilateral CT governance among states in Southeast Asia and the Asia-Pacific, the focus of this examination will be on the bilateral interactions of Indonesia, the Philippines, and Singapore. These three cases offer distinct approaches, interactions, and experiences with relation to CT in the region and will prove insightful for contrasting what has already been discussed. Additionally, they are all connected by the threat the al-Qaeda-affiliated Jemaah Islamiyah presents to their internal security (Aljunied 2011, 654).

However, it is instructive to first outline the US assistance in the region relating to intelligence and policing in order to illustrate the pressure from one of the primary facilitators of the Western formal/legalistic model of CT governance. In fiscal year (FY) 2013 actual funding globally for US foreign CT programs was \$138.9 million (USD) and a requested budget of \$211.9 million is set for FY 2015 (US Department of State 2014, 168). Based on the FY 2013 actual enduring budgets, these programs include: the Anti-Terrorism Assistance program (ATA), which provides training and equipment to build capacities in friendly states; the Countering Violent Extremism (CVE) program (a subset of ATA), which supports counter-radicalization efforts; the Terrorist Interdiction Program (TIP), which includes technical and training assistance for upgrading immigration and border control technologies in partner states; Counter-Terrorism Engagement (CTE), which helps support key bilateral, regional, and multilateral efforts; and Counter-Terrorism Financing (CTF support) (US Department of State 2014, 112-113, 168). This information provides some perspective on the amount of US resources that are pushing the global CT governance agenda, especially in the East Asia and Pacific region.

In Indonesia, bilateral relations with the US, the main engine behind regional CT efforts, were initially fraught with tensions relating to anti-Americanism and a perception that terrorism was a Western threat that did not concern Indonesia. According to Murphy (2010), resentment towards America can be traced back to the 1990s and issues arising over East Timor. Following 9/11, Indonesians began perceiving “the US as a source of unrelenting and unwarranted pressure” (Murphy 2010, 366-370). The invasion of Afghanistan and the declaration of Indonesia as the second front in the GWOT were perceived as an American war on Islam, while officials such as then Vice-President Hamah Haz denied terrorists even existed in their country. The 2002 Bali



attacks changed the domestic attitude towards terrorists, but relations did not substantially improve until US aid efforts during the 2004 Indian Ocean Tsunami and a shift by the US towards treating Indonesia as a partner, which has led to negotiations for a comprehensive partnership on the road to rapprochement (Murphy 2010, 366-376).

Recent US assistance to Indonesia in CT policing and intelligence has taken the form of: \$6.7 million being earmarked in 2011 for the country's elite CT unit, Densus (Detachment) 88; 140 joint military exercises; a 2010 Defence Framework Agreement; the funding of 30 patrol boats for the Indonesian Maritime Police; and \$56 million for coastal radar systems (Murphy 2010, 377-378). This cooperation has helped decrease piracy within Indonesia's territory and increase surveillance in the "terrorist transit triangle," referring to the border regions between Indonesia, Malaysia, and Singapore (Murphy 2010, 378). The government has also established two intelligence universities to increase professionalism in its services, and Densus 88 has been free from the levels of inefficiency that have existed within the national police (Tan 2011, 218-219). However, Densus 88 has not been devoid of criticism. In a debate over increased funding of the unit, politicians have raised concerns over the transparency of foreign support, the use of funds, and the potential for more money to make the unit arrogant and increase the jealousy of regular police forces (BBC Monitoring International Reports 2010, 6-12). There have also been recent incidents of torture and unlawful killings that have resulted in public condemnation and are allegedly increasing sympathy for the extremist cause (Japan Times 2013, 1-7).

In terms of soft power alternatives, Sukma (2011, 34) explains that in Indonesia a majority of Muslims in the population are moderates who reject terrorism as a form of *jihād*. This mentality in Indonesia is likely a result of civil society organizations reinforcing such conceptions about terrorism. As Aljunied (2011, 657-658) points out, moderate and traditionalist organizations such as Muhammadiyah and Nahdlatul Ulama, which has 50 million followers, have provided support for local democratic frameworks, national CT efforts, and have publicly criticised extremists' interpretations of Islam.

Regionally, cooperation has also occurred between Indonesia and the Philippines through



boosted cooperation, which has recently been seen in intelligence exchange and information sharing during 2011, in addition to updating the Border Patrol and Border Crossing Agreement, and agreeing on increasing joint exercises (BBC Monitoring International Reports 2011, 1-5). Australia has also become an important partner, setting up the Jakarta Centre for Law Enforcement Cooperation (CLEC) and funding Densus 88 (Tan 2011, 218; Japan Times 2013, 10).

In an effort to address the factors that give rise to extremism, in 2002 the Philippines adopted a comprehensive strategy called the National Plan to Address Terrorism and its Consequences (NPTC), but its projects were plagued by corruption and a lack of resources (Tan 2011, 227). As a result, there was an emphasis on hard power military measures in the early 2000s, but by 2005 efforts were made towards developing a more comprehensive strategy through the Anti-Terrorism Council; however, issues remain (Tan 2011, 227-228). Government tactics and the adoption of US CT approaches have also worked against resolution of the extremist threat and, interestingly, the peace process with internal insurgencies. Long established home-grown rebel groups, such as the Moro Islamic Liberation Front (MILF), the communist National Democratic Front (NDF), and the New People's Army (NPA), have been designated terrorist organizations by the US and EU under the GWOT, encouraging hawks in the Philippine government to undertake an "all out war" on them (Santos 2010, 138-139). With both groups' terrorist listings, the result has been the suspension of the peace processes and increased violence on both sides (Santos 2010, 142-143 and 145-146). Western efforts to fund intelligence and policing initiatives against these organizations represent a clash of CT approaches that has had deleterious fallout.

With regards to Singapore, bilateral CT cooperation has undertaken a more intensified dimension with Pacific partners (the US, Japan, and Australia) than any of its neighbours have cared to pursue. Singapore has played a unique role in establishing a cooperative regional security network with these three countries, based off of its traditional balance of power approach and desire to facilitate regional and international political and economic cooperation (Tan 2007, 196). Japan and Australia have managed to provide more assistance to the region than the US because both are more regionally accepted (Tan 2007, 205). Japan has been useful in providing technical assistance to the littoral states, and Australia has facilitated financial assistance (Tan 2007, 205).



Additionally, Japan has facilitated cooperation through the Japanese Coast Guard and conducted joint exercises with Singapore and its neighbours, which has increased security and strategic cooperation and significantly broadened their bilateral relations (Tan 2007, 200-201). Relations with Australia include: an agreement for Singapore's Armed Forces to use Australian basing and training facilities; the establishment of the Singaporean Police Force's first memorandum of understanding with another country on transnational crime, thereby increasing information sharing and joint operations; and improved CT cooperation in the Five Power Defence Arrangements (FPDA) (Tan 2007, 202-204). Furthermore, Singapore itself has provided logistical support and training to Malaysia, Indonesia, and the Philippines on explosive detection, post-blast investigation, and areas of airport security (Aljunied 2011, 661).

Internally, Singapore has created a "multiplicity of mirror intelligence organizations [to ensure] 'no stone is left unturned'," with relation to terrorism, and has tightened its border controls (Aljunied 2011, 661). On the civil society side, the Islamic Religious Council of Singapore (MUIS), comprised of religious clergy, helps denounce and marginalize terrorist ideologies, while the government-sponsored Religious Rehabilitation Group (RRG), through moderate and traditionalist Muslim scholars, helps to reintegrate captive terrorists and educate their families, in addition to the public at large (Aljunied 2011, 659). In reference to such programs in Singapore, Tan (2013, 223-224) explains that even though only one third of the 70 militants captured since 2001 have been released as of 2007, this soft approach manages to avoid alienating the Muslim community while also looking to build legitimacy of the state within the community.

These three cases display a diverse range of interactions and approaches to the governance of CT in intelligence and policing cooperation in Southeast Asia. The soft power CT approaches in Singapore and Indonesia differ from the hard power measures of the Philippines, and the latter have arguably been far less successful than the former. In the area of bilateral cooperation, a reluctance to adopt a US-centric CT approach, or to be being seen as working too closely with the US, has resulted in some states resorting to Pacific partnerships with countries such as Japan and Australia (Tan 2007, 205). Overall, these cases provide informative lessons on the dangers of hard power policing and military measures and reveal that more than one CT governance model



may exist. In the development of intelligence and policing coordination, one global centralized approach may, in fact, not be appropriate for dissemination in every region.

Ways Forward in Counter-Terrorism Intelligence and Policing Coordination

Over the first decade of the twenty-first century, CT governance in intelligence and policing has evolved into a diverse and complex forest of frameworks and approaches. The sheer amount of resources and attention devoted to CT has resulted in a degree of enhanced cooperation in information exchange and capacity building among states, institutions, and civil society that is much deeper than what had previously existed. However, challenges have arisen over the management of the cooperation frameworks, how they interact with other frameworks, as well as the degree to which they are responsive and applicable to local situations.

As time has passed, governance structures have undergone adaptations in response to the changing nature of terrorism. As global efforts against terrorism have increased, the threat has become more fragmented. Nonetheless, even though international extremism is not the force it used to be, this does not imply that we should avoid examining the problems associated with current efforts. As stated by Andrew Silke, “just because [the state] wins does not mean that the policies used have been extremely effective” (Silke 2011, 5-6). It is important to understand the inefficiencies and problems with current frameworks of cooperation in order to ensure that the next wave of terrorism can be confronted more effectively and that we are in a better position to address the new trans-national threats of the twenty-first century.

European Union institutions have been at the forefront in fostering CT governance within the continent; however, practical cooperation and harmonization are still challenges within formal arrangements. One key way forward rests in improving evaluative mechanisms to gauge the progress of member states in adopting EU CT governance policies and practices so as to identify where cooperative assistance may be best applied to ensure compliance and harmonization. Practical examples of such ways forward could be through peer reviews, a process that is imperative in light of the lightning pace of growth in CT governance, as they introduce evaluative standards on members’ accession to European benchmarks. Peer reviews at the EU level could be



improved by narrowing their focus, introducing greater publicity, and introducing standardization (Bossong 2012, 533). Additionally, instituting better ways to integrate efforts by formal and informal structures on the continent, while increasing transparency for enhanced social, legal, and democratic legitimacy, would address critical deficiencies in CT governance (Bures 2012, 509).

With reference to Southeast Asia and the Asia-Pacific, the establishment of a permanent executive CT directorate in the region to connect states more effectively with UN strategies and addressing fears of politicization by the UN Security Council are ways forward that hold promising potential (Millar and Rosand 2007, 192-193). It is also instructive to keep in mind the importance of soft power approaches, as seen in Southeast Asia, which are spurred by indigenous civil society and encouraged by state initiatives, including the establishment of rehabilitation programs for extremists and their families.

It is also important to maintain a local knowledge base for evaluating intelligence and policing efforts, understanding “indigenous and localized roots,” terrorists groups, and the circumstances in which soft power approaches are likely to work (Santos 2010, 140, 145, 150). Both the EU and Southeast Asia underline the importance of regions in CT policing and intelligence cooperation, for “regional organizations are closer to what is occurring in their regions and have a basic obligation to strengthen the capacity of their constituent States” (Woo 2005, 97). In moving forward with the governance of intelligence and policing on terrorism, it is important to be cognisant that an effective approach used in one region is not necessarily applicable to another.

In terms of CT intelligence and policing more generally, this section has addressed contrasting approaches that have encountered varying rates of success in facilitating cooperation and improving states’ abilities to deal with extremists. Some ways forward include the need for a debate on how states deal with CT cooperation and how norm convergence can occur through the establishment of public-political dialogue over controversies of cooperation in areas such as privacy and judicial redress (Porter and Bendiek 2012, 507-08). Furthermore, bilateral frameworks in intelligence cooperation, such as the US-UK arrangement and those throughout Southeast Asia,



should be expanded to include other members. A more inclusive approach to intelligence and policing introduces mutual burden sharing, greater “synergistic ‘added value,’” and helps to mitigate the difficulties and pressures inherent in bilateral partnerships (Svendson 2010, 172-173).

In law enforcement, information exchange is a critical part of the toolbox in addressing both the terrorist threat and the growing nature of transnational crime. Vertical patterns of sharing intelligence with local police forces is important, especially for their ability to act as key facilitators in developing cooperative arrangements with the private sector (O’Connell 2008, 460-463). Operating on the front lines, local police act as natural intermediaries between authorities in CT and both civil society and private actors. Local police provide critical information to CT officials at all levels, and they send information back to these sectors of society to build understanding and trust. Although much movement has occurred in terms of CT intelligence and policing cooperation, more efficient and inclusive approaches of cooperation are still to be fully realized.

More inclusive approaches require regional and global levels of governance to understand the benefit of grassroots tailored solutions and responses to organized extremist violence. As addressed, harsh policing measures, such as crackdown initiatives and zero-tolerance measures have been shown to backfire or mislead society into thinking that such investments will allow terrorists to be caught before an act. It has been argued that “policing models advocated by international/external actors have been inappropriate as well as unsustainable” (Greener 2012, 189). In the case of cooperation to build local capacity by providing foreign trainers, there is a lack of understanding of and connection to the community, providing an overemphasis on building technical skills, rather than “community service and crime prevention” (Greener 2012, 189).

The tug and pull between home-grown prescriptions and their effective fusion to external approaches to CT remains an ongoing debate in policy circles. Over the course of this debate, the issues that are raised will continue to provide valuable food for thought for those within and outside the frameworks of CT governance as they continue to take on the task of disseminating law enforcement capacity building initiatives at both the global and regional levels.



SECTION 4: COUNTERING TERRORIST FINANCING

Countering terrorist financing has been widely perceived as one of the most important tools in the global fight against terrorism (Biersteker and Eckert 2008a, 1; Clunan 2006, 569). In the aftermath of 9/11, President Bush immediately declared that disrupting terrorist financing would play a key role in opposing the global terrorist threat, and one of the first steps taken by the US was to freeze the assets of al-Qaeda (Taylor 2007, 6-7). Since then, efforts to suppress terrorist financing have proliferated at all levels of government, giving rise to one of the most impressive examples of international cooperation to date.

The logic underlying the disruption of terrorist financing is simple: terrorist organizations vary in their structure and mandate, but all require money in order to operate. Although a sizeable portion of their funding is put towards carrying out attacks, most terrorist expenses relate to the development and maintenance of specific cells and networks, with significant resources being devoted to recruitment, training, travel, the distribution of propaganda, political activities, and the procurement of weapons (Financial Action Task Force 2008, 7-10; Rudner 2006, 35; Biersteker and Eckert 2008a, 7; Clunan 2006, 570). Given terrorists' reliance on money, disrupting their ability to raise and move funds may prevent or limit the scale of their activities.

Attempts to track and disrupt terrorism financing can also serve an important intelligence function. By following the flow of funds, it becomes possible to discern which individuals were involved in a particular attack and to gain a better sense as to the internal structure of particular terrorist organizations and the potential links between them (Biersteker and Eckert 2008a, 1-2). For example, after 9/11, information drawn from the formal financial sector was key in helping law enforcement establish links between the plane hijackers and other individuals involved in the attacks (Council on Foreign Relations, 2007, para. 10, Biersteker and Eckert 2008a, 1-2).

This section will discuss and evaluate governance efforts relating to the tracking and disruption of terrorist financing, highlighting the strengths and weaknesses of the current regime, as well as ways it can be improved. Although international cooperation in this area has been impressive, compliance among both public and private actors needs improvement. Moreover, while



there have been notable successes in disrupting terrorist financing through the formal financial sector, little has been done to stem the movement of terrorist funds through more informal channels. In order to be truly effective, governance efforts must devote more attention to these areas.

The Raising and Movement of Terrorist Funds

Before proceeding to an analysis of existing governance efforts, we need to first understand the main sources of terrorist financing and the methods used by terrorists to move their money. Although the means used by terrorists to raise and move their funds are as diverse as terrorist organizations themselves, the literature has identified a number of key methods that fall within each of these categories.

Terrorist Financing

Terrorist groups have traditionally relied heavily on states for funding and support. However, due to increased pressure by the international community since the early 1990s and the desire of states such as Libya, Iran, Syria, and Sudan to reduce their international isolation, state sponsorship of terrorism has declined significantly (Clunan 2006, 574; Bantekas 2003, 316).² As a result, terrorists have been forced to resort to private financing sources. These sources are typically grouped into two categories: legitimate and criminal (Bantekas 2003, 316; Financial Action Task Force 2008, 11; UN Security Council 2012, 16).

Terrorists draw funding from a variety of legitimate sources, including charitable organizations, businesses, and self-financing. Charities are attractive targets for terrorist abuse because they are trusted by the general public and often have access to considerable amounts of money (Financial Action Task Force 2008, 11). Further, since many of these organizations are global in nature, they provide terrorists and their supporters with a relatively unsuspecting venue through which to move funds across borders (Financial Action Task Force 2004, 9). Charities may be operated by individuals who willingly divert funds to terrorist operations, but they can also be

² International pressure to this effect can be seen in UN Security Council Resolutions 748 (1992), 1044 (1996), and 1189 (1998). Resolution 748 was directed at Libya and was passed in response to the country's involvement in the Lockerbie bombing. Similarly, Resolution 1044 was focused on the activities of the Sudanese government, demanding the country cease its support for the terrorists who had attempted to murder the Egyptian president while he was in Ethiopia. Resolution 1189 was passed in response to the US embassy bombings in Tanzania and Kenya but was more general in its application, stressing the responsibility of *all* states to oppose terrorist activity. For more information on these and related resolutions, see Bantekas (2003, 316).



the innocent victims of terrorist exploitation. Consider the case of Irfan Naseer, Irfan Khalid, and Ashik Ali, who were convicted in February 2013 for plotting a bombing campaign in Britain. Radicalized by online materials and trained by al-Qaeda affiliates in Pakistan, these individuals raised over £20,000 for their efforts by posing as collectors from Muslim Aid, a charity that works to alleviate worldwide poverty (Press Association 2012, para. 4; Laville 2013, paras. 2-5). Naseer, Khalid, and Ali obtained a one-day license from the charity to carry out their work but ended up collecting funds over an extended period of time. In the end, they remitted £1,584 to Muslim Aid and used the remaining funds to prepare for their attack (Press Association 2012, para. 12).

Businesses can be another legitimate source of terrorist financing. Although some businesses are established solely for the purpose of raising funds for terrorism, it is far more common for otherwise legitimate businesses to divert portions of their profits to support terrorist activity (Financial Action Task Force 2008, 13). The diversion of funds from legitimate businesses is generally more common in businesses that deal heavily in cash, since it is easier for individuals to misrepresent the relation between the profits reported and the actual amount of sales (Financial Action Task Force 2008, 13).

Finally, most terrorist groups are at least partly self-funded, drawing on finances earned by their members and support networks through otherwise legitimate means, such as employment, investments, and social benefits (UN Security Council 2012, 16). Although these funds are likely not sufficient for maintaining the operations of large terrorist organizations, smaller terrorist groups are often able to support their activities exclusively through self-funding mechanisms (Financial Action Task Force 2008, 14).

In contrast to legitimate sources of financing, terrorists also engage in criminal activities to fund their efforts. Recent data on terrorist fundraising point to an increased reliance on organized crime, such as drug trafficking and kidnapping for ransom (UN Security Council 2012, 16). Drug trafficking has long been a viable source of funding for terrorists. The Shining Path in Peru, the Revolutionary Armed Forces of Colombia, the Taliban, and al-Qaeda all rely heavily on narcotics trafficking to raise money for their efforts (Bantekas 2003, 318; Romaniuk 2010, 3).



Kidnapping foreign nationals for ransom is a more recent development in terrorist financing. Although this tactic has been employed for thousands of years by various actors, its regular use by terrorists to fund their efforts is fairly novel (Cohen 2012, 3). This tactic is frequently used by al-Qaeda in the Arabian Peninsula, al-Qaeda in the Islamic Maghreb, Tehrik-e Taliban Pakistan, and the Philippines-based Abu Sayyaf Group, allowing these groups to amass large sums of money (Cohen 2012, 3-4). Indeed, the US government estimates that terrorists have managed to collect approximately \$120 million in ransom payments since 2004 (Cohen 2012, 4).

Alongside this rise in organized crime, terrorists continue to depend on more low-level criminal activities to fund their efforts. Such activities include, but are not limited to, credit card and cheque fraud, the stealing and reselling of goods, and the collection of fraudulent welfare payments (deKieffer 2008, 155; Financial Action Task Force 2008, 17-18). The 2004 Madrid train bombings and the 2005 London subway and bus bombings were financed largely through activities of this sort, including the sale of fake passports (Council on Foreign Relations 2007, para. 60). These two examples are particularly interesting because they reveal that, while the money used to finance terrorist attacks often moves across borders, there are cases where funds are being raised and used locally. This seems to be a growing trend, especially as governance efforts have made the trans-border movement of terrorist funds more difficult, and points to the vital role that can be played by local law enforcement agencies in stemming terrorist financing.

Ultimately, terrorists have numerous methods of fundraising available to them. These groups are highly adaptable and have managed to find new, lucrative methods of funding as others have become less accessible. Such adaptability can also be seen in the way terrorists move their money, which we will now explore in greater detail.

The Movement of Terrorist Funds

Terrorists move their money in four main ways. The first is through the formal financial sector, which includes financial institutions and other regulated financial service providers (Financial Action Task Force 2008, 21). The formal financial sector can provide terrorists with a quick and easy way to transfer funds all over the world and was widely used by terrorist groups,



including al-Qaeda, prior to 9/11. Indeed, most of the funds used to carry out the attacks of September 11, 2001 were transferred through well-established financial institutions (Biersteker and Eckert 2008a, 4). However, as international initiatives have increasingly sought to regulate the formal sector and limit its use for illicit purposes, terrorists have begun resorting to more informal means to move their money, including cash couriers, the movement of goods, and informal funds transfer systems.

The use of cash couriers amounts to the physical movement of cash either within a country or across borders. The movement of cash is much harder to detect and trace than transfers through the financial system, making it an attractive option for terrorists. The physical movement of cash for both legitimate and illegitimate purposes occurs frequently throughout Africa and the Middle East, where electronic banking systems are poorly developed and policing and intelligence institutions are often ill-equipped to identify and track suspicious activity (Financial Action Task Force 2008, 23). Even in cases where large sums of cash are interdicted, it can be difficult to determine the source and intended destination of the funds (Financial Action Task Force 2008, 24). As a result, the interdiction of cash couriers may limit terrorist financing, but it does not provide law enforcement with the information they need to make arrests and prevent future terrorist activity.

The physical movement of goods can have similar benefits for terrorists. In these cases, goods that have been purchased or stolen are transferred to other individuals who can sell the goods and obtain the amount of money that the goods represent (Passas and Maimbo 2008, 176). Money remains outside of the formal financial system and, as a result, is difficult to detect. According to Douglas Farah (2008), there is strong evidence to suggest that terrorist groups, such as al-Qaeda and Hezbollah, have used gemstones to move their money since the early 1990s. Gemstones are ideal for moving money because they maintain their value over time; they are fairly small and easy to transport; and they can be easily converted back into cash. These groups have gained access to gemstones in weak states that are ridden with corruption, such as Sierra Leone and Liberia. In many countries throughout Africa, gemstones are mined in areas outside of government control, making it fairly easy for terrorist groups to purchase the stones and remain



largely unnoticed by law enforcement and intelligence institutions (Farah 2008, 193-94).

Finally, terrorists may move their funds through the use of informal funds transfer systems (IFTS). In cases of IFTS, operators work with their clients and with one another to facilitate the rapid movement of funds within or across borders in a manner that is difficult for regulators and law enforcement to detect. The general features of this system are depicted in Figure 5.1. Client A pays the amount to be transferred to Client B, plus a fee, to Operator A. Operator A then contacts Operator B who pays Client B (Vaccani 2010, 3). The two operators then settle the transaction amongst themselves at a later date.

FIGURE 5.1 INFORMAL FUNDS TRANSFER SYSTEMS

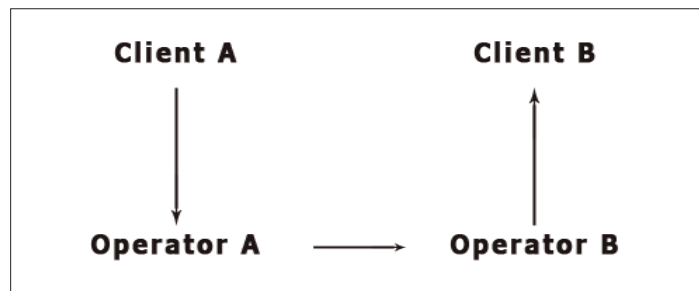


Image based on information provided in Vaccani 2010.

IFTS are common in Asia, Africa, and South America, and although most systems fit with the general structure outlined above, this model has been tailored to suit the needs of particular communities, giving rise to IFTS that go by different names, such as *hawala* (India, Afghanistan, and the Arabic Peninsula), *hundi* (Bangladesh), and *padala* (Philippines) (Vaccani 2010, 4; Passas and Maimbo 2008, 176). Despite their use by terrorist organizations, the majority of funds that pass through IFTS are legitimate. IFTS provide individuals who do not have access to formal financial institutions with much needed financial services and, as a result, can serve a very important function in developing economies (Vaccani 2010, 4-5). Efforts to mitigate the use of IFTS and other informal mechanisms by terrorists must be tailored so as to avoid disruption to their legitimate use.

There are numerous methods available to terrorists to raise and move their funds, a fact that is both impressive and daunting. Having laid out these methods in detail, we can now turn our



attention to the governance efforts that have been established to counter their use.

Existing Governance Efforts

Governance efforts intended to disrupt terrorist financing have increased dramatically in recent years, incorporating both public and private actors at all levels of government. Governance efforts in this area have generally included the use of targeted economic sanctions against individuals and entities suspected of supporting or engaging in terrorist activity; measures designed to safeguard financial institutions, businesses, and charities from abuse; capacity-building assistance to help states prevent and suppress terrorist financing; and the sharing of financial intelligence.

Global efforts to this effect began prior to 9/11, most notably with the unanimous passing of UN Security Council Resolution 1267 on October 15, 1999. Passed under Chapter VII of the UN Charter, this resolution bound all states to freeze the assets of any individual or entity associated with the Taliban due to its support of Osama bin Laden (UN Security Council 1999, paras. 2-4). The resolution created the Sanctions Committee to designate the assets that were to be frozen and to monitor states' implementation of the sanctions regime (UN Security Council 1999, para. 6). Resolution 1333 (2000) supplemented the financial sanctions with an arms embargo and expanded the sanctions regime to include Osama bin Laden and al-Qaeda (UN Security Council 1999, paras. 5-8). Despite the binding nature of these resolutions, the implementation of the sanctions regime was weak prior to 9/11 (Romaniuk 2010, 54).

Another notable development prior to 9/11 was the adoption of the International Convention for the Suppression of the Financing of Terrorism on December 9, 1999. Terrorism financing is defined by the Convention as the intentional and unlawful provision or collection of funds with the intention or knowledge that they will be used, in whole or in part, to carry out terrorist activity, and the ratification process requires states to criminalize this act under domestic law (UN General Assembly 1999, art. 2, 4). The Convention also encourages states to work together to investigate, track, and punish terrorist financing through intelligence sharing and extradition agreements (UN General Assembly 1999, art. 4, 12). At the time of 9/11, only four countries - Bo-



tswana, Sri Lanka, Uzbekistan and the UK - had ratified the treaty (UN Treaty Collection Database 2013b).

After 9/11, attention to countering terrorist financing increased significantly. As discussed in earlier sections, Resolution 1373 (2001, para. 1, sect. a), which was passed by the Security Council in the immediate aftermath of 9/11, bound all members states to take action “to prevent and suppress the financing of terrorist acts.” More specifically, the resolution required all member states to criminalize terrorist financing and to promptly freeze the funds, financial assets, and economic resources of any individual associated with terrorist activity. Resolution 1373 also called upon states to sign and ratify the Convention for the Suppression of the Financing of Terrorism, which prompted a notable increase in the number of signatories and parties to the Treaty. As of April, 14, 2013, 182 states have ratified the Convention and, consequently, taken action at the national level to criminalize terrorist financing (UN Treaty Collection Database 2013).

The establishment of the CTC through Resolution 1373 and the subsequent creation of the CTED in 2004 have been important for the coordination of monetary and technical assistance to states lacking the capacity to implement the provisions of this resolution. In the area of countering terrorist financing, the CTC and CTED have facilitated assistance in legislative drafting, the regulation of the banking sector, and the formation of financial intelligence units to more than 60 countries (Biersteker, Eckert, and Romaniuk 2008, 237). The CTC has also provided training in the area of countering terrorist financing to 71 countries and has hosted numerous, well-attended workshops on the topic (Biersteker, Eckert, and Romaniuk 2008, 237).

The sanctions regime established by Resolution 1267 has also proven more effective in the post-9/11 era. Fourteen subsequent Security Council resolutions have strengthened the regime. The unanimous adoption of Resolutions 1988 (2011) and 1989 (2011) resulted in the division of the al-Qaeda and Taliban sanctions regime, assigning responsibility for the latter to a new committee (al-Qaeda Sanctions Committee n.d., para. 3). Pursuant to Resolution 1390 (2002), the Sanctions Committee - now appropriately termed the al-Qaeda Sanctions Committee - is responsible for maintaining a publicly available list of individuals and entities subject to the sanc-



tions regime (al-Qaeda Sanctions Committee n.d., para. 6). As it stands, there are currently 227 individuals on the list and 64 associated entities (al-Qaeda Sanctions Committee 2013, sect. II). Other measures, including the establishment of an expert Monitoring Team to closely evaluate the regime and suggest improvements based on the changing nature of the terrorist threat; the triennial review of all individuals and entities on the al-Qaeda Sanctions List; the publication of narrative summaries indicating the reasons for each listing; and the introduction of the Ombudsperson mechanism to stand as an impartial reviewer of de-listing requests have significantly increased the transparency and flexibility of the regime in recent years (UN Security Council 2012, 7-11).

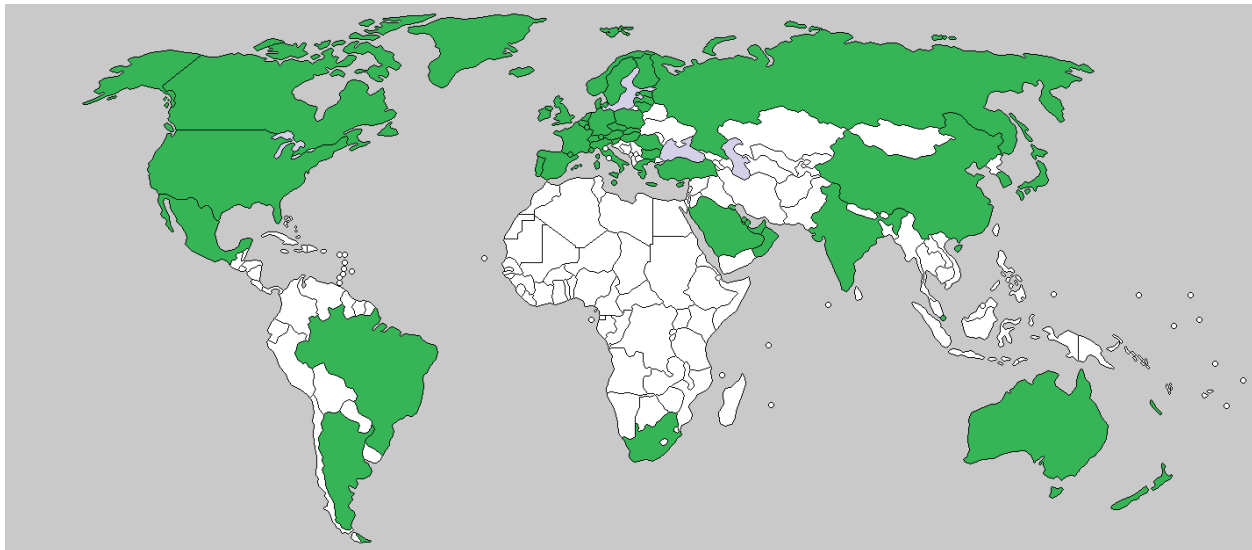
And yet, despite these improvements, the Monitoring Team points to significant problems with compliance. Very few states have actually implemented sanctions against the individuals and entities on the Sanctions List and even fewer regularly contribute to the List either in the form of additions or deletions (UN Security Council 2012, 12-14). Although it has managed to freeze the assets of some terrorists and their supporters, the purpose of the Committee and its associated Sanctions List has become mostly symbolic, alerting the international community to potential terrorist threats and encouraging prompt action in a manner that individual states deem appropriate (Council on Foreign Relations, 2007, para. 71; UN Security Council 2012, 13).

A far more successful initiative at the global level has been the Financial Action Task Force (FATF). This intergovernmental body is comprised of 36 members, including 34 states and two regional organizations: the European Commission and the Gulf Cooperation Council (see Figure 5.2). The FATF was created in 1989 by the G7 to combat money laundering. After 9/11, it added “countering the financing of terrorism” to its mandate. Between October 2001 and 2005, the FATF developed nine special recommendations to help governments prevent and disrupt terrorist financing, and these recommendations quickly became the global benchmark against which to measure states’ commitment to this area (Council on Foreign Relations 2013, para. 35; Romaniuk 2010, 134). The FATF’s recommendations reflect what is contained in the Convention on Terrorism Financing and Resolutions 1267 and 1373, but they also provide some notable additions. For example, Special Recommendation VI calls on all states to impose licensing and registration requirements on IFTS and to subject them to



the same regulations as other financial institutions (Financial Action Task Force 2008, 3). Other recommendations encourage states to require financial institutions to include information as to the source of all transfers; regulate businesses and charitable organizations to prevent them from being exploited by terrorists; and prevent the cross-border movement of cash through the development of declaration or disclosure systems (Financial Action Task Force 2008, 3). In February 2012, the FATF strengthened its recommendations by integrating its anti-money laundering controls with its measures designed to counter terrorist financing. The hope is that the combination of the two will help states better counter terrorist financing and its increasing ties to corruption and organized crime (Council on Foreign Relations 2013, para. 35).

FIGURE 5.2 MEMBERS OF THE FINANCIAL ACTION TASK FORCE



Source: "FATF Members and Observers": <http://www.fatf-gafi.org/pages/aboutus/membersandobservers/>

Although the FATF lacks the ability to penalize its members, it has been able to use naming and shaming techniques to ensure maximum compliance with its recommendations (Council on Foreign Relations 2013, para. 35). The successes of the FATF have also prompted the development of regional offshoots in Central Asia, the Caribbean, Europe, Eurasia, Eastern and Southern Africa, South America, West Africa, and the Middle East and North Africa (Biersteker, Eckert, and Romaniuk 2008, 240). These affiliates work directly with the FATF and assist their members in implementing its recommendations. Since many states are more willing to cooperate with



regional organizations than with international organizations, these regional affiliates have been a very positive development and have managed to ensure high levels of compliance with the FATF's recommendations among their members (Council on Foreign Relations 2013, para. 36).

Another legacy of the FATF has been the increased establishment of Financial Intelligence Units (FIUs) within individual states. Though the nature of these units varies from country to country, they are generally responsible for collecting information on suspicious financial activity and disclosing this information to the appropriate law enforcement authorities. Since terrorist financing activities often crosses borders, there needs to be international coordination among these units in order for their efforts to be effective (Council on Foreign Relations 2013, para. 37). This kind of coordination has been promoted through the Egmont Group of Financial Intelligence Units. Established in 1995, the Egmont Group provides an informal medium through which its 130 member FIUs can communicate and set the groundwork for more formal cooperation, such as the sharing of financial intelligence and the provision of technical or monetary assistance (Biersteker, Eckert, and Romaniuk 2008, 236). While it is difficult to speak definitively as to the effectiveness of individual FIUs given the covert nature of their operations, there have been cases where these units have contributed to the suppression of financing and the arrest of terrorists. For example, in August 2006, the British FIU played a pivotal role in disrupting an attempted bombing by an al-Qaeda associate (Levitt 2007, para. 2). In contrast, one can reasonably deduce that in countries where terrorist financing activities are quite prevalent, FIUs are fairly weak or non-existent.

Before concluding our discussion of existing governance efforts, the importance of cooperation between public and private actors in this area of counter-terrorism must be stressed. In order for efforts in this area to work, private financial institutions must be willing to freeze assets, collect information regarding suspicious transactions, and implement measures to prevent the use of their systems by terrorists (Council on Foreign Relations, 2007, para. 72). Fortunately, some of the world's largest private financial institutions have demonstrated a willingness to cooperate in this regard through the formation of the Wolfsberg Group. Established in 2000 by eleven global banks, the Wolfsberg Group develops best practices for private financial institutions in counter-



ing money laundering and terrorist financing (Romaniuk 2010, 134).

Cooperation between private financial institutions and the public sector can also be seen in the partnership between the US and the Society for Worldwide Interbank Financial Telecommunication (SWIFT). SWIFT is a global network that links more than 10,000 financial institutions and allows them to share information about financial transfers in a safe and secure environment (SWIFT, n.d.). Following 9/11, the US government secretly established the Terrorist Finance Tracking Program (TFTP) with SWIFT, allowing it to issue requests for information on individuals suspected of terrorist activity. This program was brought to light in 2006 and concerns were immediately raised as whether it violated financial privacy laws (Kierkegaard 2011, 453). Since SWIFT is headquartered in Belgium, a member of the EU, it became necessary for the US to convince the EU as to the necessity of this program. The two parties ultimately signed an agreement in 2009 that allowed for the continued existence of the partnership and established additional safeguards to protect individual privacy rights. Although this program remains controversial, individuals within the US government point to it as an “extraordinarily useful intelligence program” that has prevented many terrorist attacks (Council on Foreign Relations 2007, paras. 54-58). However, as with financial intelligence units, most of the TFTP’s efforts are covert, leaving us with little basis upon which to evaluate such bold statements.

Despite the apparent willingness of private financial institutions to cooperate with public actors, there are issues with compliance. Not all banks are able or willing to prevent the use of their systems by terrorists. The cost to the banking system to monitor suspicious activity and implement the regulations called for by the FATF is very large and may be beyond the reach of smaller institutions, especially those located in developing countries (UN Security Council 2012, 21). Even well-established banks may not comply, preferring to reap the benefits of terrorists’ use of their systems. For example, in recent years, HSBC, one of the members of the Wolfsberg Group, has come under fire for helping drug traffickers launder money that may have funded terrorist activity (Mazur 2013, para. 1). Given the key role these institutions play, their non-compliance can be incredibly detrimental to governance efforts in this area.



Ultimately, efforts to counter terrorist financing have increased significantly since 9/11. This discussion of governance efforts has certainly not been exhaustive, but it has outlined some of the most notable initiatives in this area. Having examined these efforts, we can now evaluate them in greater detail and provide recommendations for potential improvements.

Ways Forward in Countering Terrorist Financing

Governance in this area has produced mixed results. Nearly all states have ratified the Convention on Terrorist Financing; global compliance with the FATF's recommendations has been very high; the number of FIUs worldwide has increased significantly; private financial institutions have demonstrated a willingness to work with states; and a number of bodies have helped states comply with these measures. This high level of cooperation has contributed to a more secure global financial system and has provided law enforcement with valuable intelligence through which to track and suppress terrorist activity (Council on Foreign Relations 2007, para. 54). Moreover, various reports indicate that efforts to disrupt terrorist financing in the post-9/11 period have contributed to a noticeable weakening of the al-Qaeda core. Primarily US-driven efforts have frozen most of this group's assets and limited its ability to raise and move funds, which, in turn, has prevented it from providing generous financial support to its affiliates (Biersteker and Eckert 2008b, 289; Council on Foreign Relations 2007, para. 60).

Alongside these successes, problems remain. Despite high levels of global cooperation, compliance with existing agreements has been very superficial (Clunan 2006, 579; Biersteker, Eckert, and Romaniuk 2008, 240; UN Security Council 2012, 12). Most public and private actors have established the appropriate legal and administrative mechanisms to counter terrorist financing, but few have actually implemented or enforced these mechanisms, lacking either the capacity or will to do so. Most successes in this area of counter-terrorism have been driven by Western efforts and have focused on areas or groups that are of concern to these countries (Clunan 2006, 580). As a result, terrorist groups that have received less international attention, such as those that are more domestically-focused, still have been able to amass large sums of money by operating in weak, non-compliant states where the raising and movement of funds remains fairly easy (Cohen



2012, 3).

Closely tied to this, most of the successes in this area of counter-terrorism have been restricted to the formal financial sector, leaving informal methods, such as cash couriering, the transfer of value through goods, and IFTS relatively untouched. To be sure, as indicated above, the FATF has encouraged states to regulate IFTS and prevent the physical movement of cash, but little action has been taken by states in these areas. For the most part, informal mechanisms and their connection to terrorist activity are poorly understood. Most informal measures are prevalent in parts of the world where the West has a limited intelligence presence and state-level policing and intelligence communities are poorly developed (Farah 2008, 200). Not only has this lack of information arguably made it easier for terrorists to move their funds without detection, but it has also made it difficult to develop appropriate regulations.

With this in mind, future efforts can be improved in two key ways. First, greater attention must be paid to informal methods of moving funds. Specifically, more information is required as to how these systems work in particular socio-economic environments and how widely they are being used by terrorists, allowing regulators to shape and direct their efforts accordingly (Biersteker and Eckert 2008a, 5; Farah 2008, 202). Much of this information will need to be collected through intelligence efforts, as well as through consultations between governments and those who run legitimate cash couriering and IFTS services. Indeed, in developing recommendations relating to cash couriering and IFTS, close attention must be paid to the vital role these mechanisms play in many societies, often serving as the only financial services available to citizens. This is not to imply that these informal mechanisms should not be regulated; regulations simply need to be formed in such a way that limits disruption to innocent individuals and prevents the movement of these systems further underground (Biersteker and Eckert 2008b, 299). Generally speaking, states are encouraged to require IFTS to register before carrying out their activities and to keep accurate records as to their transactions, making it easier for state actors to monitor their activities (Biersteker and Eckert 2008b, 299). Cash couriers can be managed primarily through strong policing and intelligence systems and the development of border controls relating to the movement of cash. These measures can also play a key role in disrupting the movement of terror-



ist funds in the form of goods, as well as other criminal activities that are used to raise and move terrorist funds.

Second, capacity-building efforts in this area must continue. In order for states to effectively counter the raising and movement of terrorist funds, they must have effective legal, intelligence, and policing infrastructure. The fact that many states are still lacking these capabilities does not necessarily mean that current capacity-building efforts have failed. As was discussed in the previous section, capacity-building and broader development efforts are often long-term investments that may not immediately produce tangible results. In the meantime, more powerful countries should continue to work directly with those that are less capable, particularly in the realm of intelligence. Such efforts will likely be mutually beneficial for both parties, allowing for the establishment of more data points in the global financial intelligence network and a greater understanding of the problem to be tackled (Council on Foreign Relations 2007, para. 61).

SECTION 5: COMBATING NUCLEAR TERRORISM

During the Cold War, fears of nuclear catastrophe were widespread. The Cuban Missile Crisis of 1962 brought the world to the brink of nuclear devastation, and as nuclear weapons subsequently proliferated, the chances of destruction only grew. In the aftermath of the Cold War, the potential for nuclear catastrophe remains, but the threat has changed. The use of nuclear weapons by state actors continues to be a salient fear, especially given Iran's developing nuclear program and North Korea's recent provocations, but so too is the acquisition and use of nuclear weapons by terrorist groups.

Fears of nuclear terrorism began to surface as early as 1946, but it was not until the collapse of the Soviet Union that they became particularly pronounced (Mueller 2010, 162). Concerns over the security of nuclear materials in former Soviet countries were repeatedly legitimized throughout the 1990s by the discovery of poorly protected nuclear facilities and numerous attempts by individuals to steal, smuggle, and sell nuclear and radiological materials (Allison 2004, 71-74). The insecurity of nuclear materials also coincided with a growing interest among terrorist groups in acquiring nuclear weapons. Under the leadership of Osama bin Laden, al-Qaeda attempted



to purchase nuclear materials in Sudan and Saudi Arabia between 1993 and 1994, and in 1998, Ayman al-Zawahiri's Egyptian Islamic Jihad was incorporated into the organization, bringing with it notable expertise in nuclear weapons development (Mowatt-Larssen 2010, paras. 4-11). The Chechens in Russia made similar attempts to acquire nuclear and radiological materials and even managed to build a radiological dispersal device (RDD) consisting of cesium-137 and dynamite in late 1995, though the weapon was never actually detonated (Allison 2004, 31).

The attacks of September 11, 2001 augmented existing fears of nuclear terrorism, revealing the destructive potential of the terrorist threat and transforming what was formerly "a theoretical possibility into a felt danger" (Keller 2002, para. 7). The growing link between nuclear materials and both weak and rogue states has also been a cause for concern in the post-9/11 period, with many scholars worrying about the vulnerability of nuclear facilities in weak states to terrorist theft or attack and the potential for rogue states, such as North Korea and Iran, to provide terrorists with nuclear materials (Crelinsten 2007, 27).

As with the other aspects of terrorism discussed in this paper, the threat of nuclear terrorism has given rise to a comprehensive system of governance designed to prevent or limit the scale of a nuclear or radiological attack. This section will describe and evaluate this system and provide recommendations for improvement. In essence, while states have taken action in recent years to address the threat of nuclear terrorism, this system of governance suffers from a lack of buy-in from all states, including those that are most likely to share nuclear technologies with terrorist groups and those that are the most vulnerable to theft or attack. In order to be effective, efforts must be taken to strengthen this governance regime and encourage compliance among all states through both diplomatic pressure and continued capacity-building assistance.

Assessing the Threat of Nuclear Terrorism

On February 23, 1998, Osama bin Laden stated in an interview with *Time Magazine* that "Acquiring [nuclear weapons] for the defence of Muslims is a religious duty" (Yusufzai 1999, para. 2). This assertion is often held up as evidence of terrorists' desire to launch a nuclear attack and is used to promote further efforts by the international community to secure nuclear materials.



However, such assertions say very little about how terrorists could launch a nuclear attack and whether this is actually a probable occurrence that warrants a comprehensive system of governance. As a result, before elaborating on governance efforts in this area, it would seem pertinent to first describe and assess the threat of nuclear terrorism, addressing potential concerns as to whether this is an area of CT that is actually deserving of international attention.

Generally speaking, there are two ways that a terrorist could carry out a nuclear or radiological attack. First, terrorists could attack a nuclear power plant. Al-Qaeda training manuals have described nuclear plants as potential targets, and documents released by Wikileaks reveal that al-Qaeda operatives have plotted to attack these facilities in the past (Council on Foreign Relations 2006, para. 1; Watt 2011, para. 2). There are currently 437 nuclear power plants in the world, and another 548 are being proposed, planned, or built (International Atomic Energy Agency 2013; World Nuclear Association 2013). Many of these plants are poorly secured, including those located in developed countries. Indeed, a number of reports have pointed to the poor security of American nuclear plants, noting, in particular, inadequate training of the private security forces that are hired to guard these facilities (Faddis 2010, paras. 9-14; Allison 2004, 46). If a group of terrorists managed to overcome these security forces and infiltrate a plant, they could cause the reactor to meltdown simply by draining the pools that hold the reactor's spent fuel, allowing for the combustion of this radioactive waste and a potentially catastrophic release of radiation (Allison 2004, 55).

Second, terrorists could launch an attack using a nuclear or radiological weapon. In theory, terrorists could receive a weapon from a like-minded state, though it seems fairly unlikely that a state would actually give or sell such a weapon to a terrorist group. Not only would it be possible for the group to use the weapon against the selling state, but there is also a strong chance that the weapon would be traced back to its original source, putting the state at risk of being attacked or sanctioned by other members of the international community (Mueller 2010, 163-64). Similarly, it seems unlikely that state actors would willingly give terrorists the necessary materials to build a bomb themselves. To be sure, this logic does not completely rule out the possibility of state-assisted nuclear terrorism. State officials do not always make rational, predictable deci-



sions, especially in times of desperation. If North Korea fails to achieve its desired response from the international community following its nuclear threats and provocations, it could resort to a nuclear attack or provide terrorist organizations with the means to do so. State-assisted nuclear terrorism of this sort is certainly not likely, but it is also not impossible.

Terrorists could also steal a weapon or the materials needed to build a weapon. The former would be incredibly difficult given the protections that typically surround states' nuclear weapons production and storage sites and the security features that are built into such weapons (Mueller 2010, 166). A far more probable scenario is a group of terrorists acquiring nuclear or radiological materials through theft or purchase on the black market and then building a weapon themselves. This scenario may seem outlandish, but both data and anecdotal evidence reveal that theft and trafficking of nuclear and radiological materials does occur. Following the collapse of the Soviet Union, some reports indicated that enough material to make 20 nuclear bombs was lost, and plenty more was left behind in poorly guarded or unprotected sites (Allison 2004, 10). Attempts to smuggle and sell weapons-grade uranium and plutonium, as well as radioactive isotopes such as cesium and iridium, have occurred fairly regularly throughout former Soviet countries since the early 1990s, particularly in Georgia (Butler 2012, paras. 4-5). Concerns have also arisen in other parts of the world where nuclear reactors remain poorly secured and terrorist activity is on the rise. Notable in this regard are countries in Southeast Asia, such as Indonesia and the Philippines, which operate reactors, have limited procedures for protecting and accounting for their nuclear and radiological materials, and have experienced a rise in Islamic terrorism (Ogilvie-White 2006, 2-3).

Figure 6.1 shows the number of incidents involving the unauthorized possession and movement of nuclear and radiological materials, as well as attempts to sell or purchase these materials, between 1993 and 2012. Drawn from the International Atomic Energy Agency (IAEA)'s Incident and Trafficking Database (ITDB), this graph reveals a notable decrease in the number of incidents since the early 1990s, reporting only about fourteen incidents worldwide in 2012. This is certainly an encouraging development, but given the destructive potential of nuclear materials, even fourteen incidents is too many. Moreover, these numbers are likely understated since they only



include incidents reported by the ITDB's 120 state participants.

FIGURE 6.1 INCIDENTS OF UNAUTHORIZED POSSESSION AND RELATED CRIMINAL ACTIVITIES

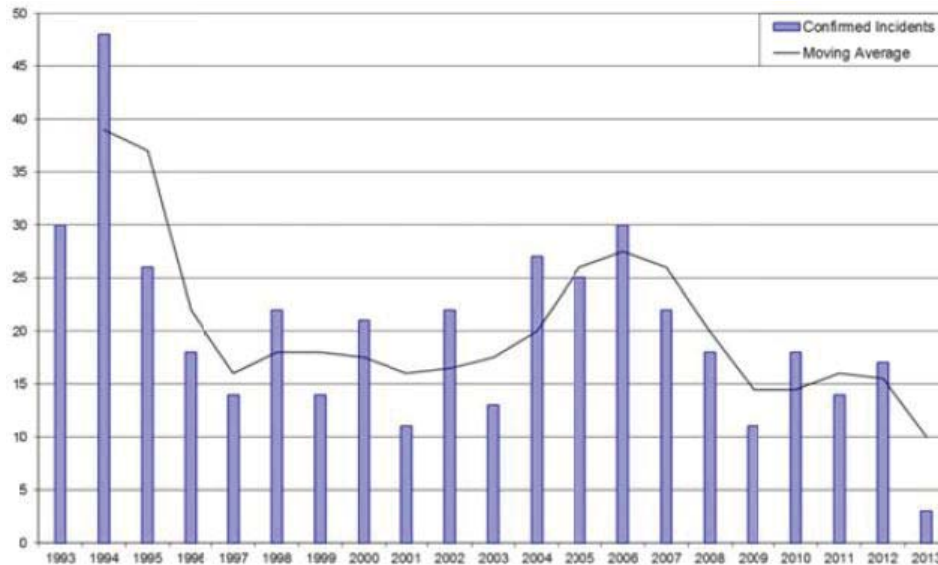


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Having obtained nuclear or radiological materials, terrorists could then make a nuclear weapon or an RDD. Although the former scenario is unlikely, the chances of it occurring have increased as the technical know-how required to build a nuclear weapon has become more widespread. Scientific articles detailing the construction of nuclear weapons are available online, and blueprints of complete fission bombs are reportedly available on the black market (Allison 2004, 97; Traynor 2008, para. 1). Some nuclear scientists have also demonstrated a willingness to share their expertise with others for the right price, as evidenced by the network of Pakistani nuclear scientist Abdul Qadeer Khan, which spread nuclear technology and know-how to North Korea, Libya, and Iran. Moreover, while building a sophisticated bomb would require an individual with significant skills and experience, elementary nuclear weapons can arguably be built by individuals with the equivalent of an undergraduate science degree (Allison 2004, 97). As a result, while difficult, building an effective nuclear weapon is not necessarily beyond the reach of terrorists.

Nonetheless, far more likely than the construction of a nuclear weapon by a terrorist group



is the construction of an RDD or “dirty bomb.” RDDs are comprised of conventional explosives combined with radiological material, making them fairly simple to develop. Given the widespread availability of radioactive materials in everyday life, ranging from medical materials to watches and clocks, controlling the spread of these materials is nearly impossible, making the development and detonation of an RDD seem almost inevitable (Allison 2004, 8). Fortunately, RDDs do not cause nuclear explosions, but they can release radiological materials and contaminate surrounding areas. Such contamination will not immediately kill as many individuals as a nuclear explosion, but it can potentially give rise to serious, long-term health problems among those affected.

If terrorists managed to construct a nuclear bomb or an RDD, they would then need to transport it to the site of detonation, potentially across state borders. The movement of a small nuclear weapon or RDD need not be a complicated process. The US alone receives more than 50,000 cargo containers from around the world each day, and it is not possible for border guards to inspect every container (Flynn 2003, para. 7; Allison 2004, 107). The same arguably holds for other countries across the globe. When combined with the means used by professional smugglers to deliver drugs, weapons, and other illicit goods, there are many ways by which terrorists could transport small nuclear or radiological devices into a country without detection.

To be sure, few of the scenarios outlined above are particularly probable. The development and detonation of an RDD by terrorists is far more likely to occur than a nuclear terrorist attack, but only one terrorist group is known to have developed such a weapon, namely the Chechens mentioned at the outset of this section, and even that weapon was never detonated. The absence of a nuclear or radiological attack could be the product of effective governance in this area, but it could also speak to the seeming difficulties associated with constructing and detonating these weapons. Nonetheless, although a nuclear or radiological terrorist attack is not probable, the preceding has shown that it certainly is possible, and given the devastation that could follow from such an attack, preventive action must be taken. Even John Mueller (2010, 193), who consistently argues that the fears of nuclear terrorism are overblown, recognizes the desirability of cost-effective measures to further reduce the likelihood of this already unlikely event. Beginning in the



early 1990s, such measures began to take shape, giving rise to a comprehensive system of governance in this area.

Existing Governance Efforts

Governance efforts designed to counter the threat of nuclear terrorism are based on six multilateral instruments: UN Security Council Resolution 1373; UN Security Council Resolution 1540; the Convention on the Physical Protection of Nuclear Material and its amendment; the International Convention for the Suppression of Acts of Nuclear Terrorism; the Physical Protection of Nuclear Material and Nuclear Facilities; and the IAEA Code of Conduct on the Safety and Security of Radioactive Sources (Boureston and Ogilvie-White 2010, 3; Nilsson 2012, 18-19; Stoiber 2012, 23-28). Let us examine each of these in turn.

Resolution 1373 (2001) has already been discussed extensively throughout this paper. Passed in the aftermath of 9/11, Resolution 1373's key contribution to this area of CT governance was to encourage all states to become parties to the international conventions and protocols relating to CT, which, at the time of its passing, included the Convention on the Physical Protection of Nuclear Material mentioned above (Boureston and Ogilvie-White 2010, 3). Paragraphs 3 and 4 of the resolution also explicitly mention the potential for terrorists to acquire and use nuclear weapons and call on states to work together to counter this threat (Turpen 2009, 4).

The Security Council elaborated more fully on states' commitments in this area in Resolution 1540. Passed unanimously in 2004, this resolution legally requires all states to establish and enforce domestic controls to prevent any non-state actor from manufacturing, acquiring, transferring, or using weapons of mass destruction (WMD) (UN Security Council 2004, para. 2). Towards this end, states are required to prevent the proliferation of WMD by developing and implementing measures to account for and secure weapons and materials; establishing border controls; ensuring the proper training of law enforcement; and developing appropriate import and export controls (UN Security Council 2004, para. 3). Resolution 1540 also established the "1540 Committee" to monitor its implementation and to facilitate capacity-building assistance to states struggling to meet the resolution's requirements. The importance of this committee was affirmed



in 2011 when its mandate was extended to 2021 (1540 Committee n.d., para. 5).

Although Resolution 1540 is widely viewed as the most important element of the global regime against nuclear terrorism, its provisions have not been widely implemented (Boureston and Ogilvie-White 2010, 3; Council on Foreign Relations 2013, para. 42). Some states question the legitimacy of the resolution, expressing reservations about the ability of the Security Council to impose binding obligations on all UN members, while others are simply not capable of meeting the resolution's requirements (Boureston and Ogilvie-White 2010, 3). Problems of implementation are exacerbated by the fact that the 1540 Committee does not have the authority or the tools to verify and enforce the resolution's provisions (Council on Foreign Relations 2013, para. 42). Further, while the Committee has helped facilitate capacity-building assistance to some requesting states, its role is limited in this regard since many states view such assistance as an attempt by the West to influence their domestic policies (Boureston and Ogilvie-White 2010, 6). In essence, Resolution 1540 is significant in its content, but its widespread adoption is far from being achieved.

Turning our attention away from the Security Council, one of the earliest multilateral instruments to focus on securing nuclear materials and preventing their acquisition by non-state actors was the Convention on the Physical Protection of Nuclear Material (CPPNM). In force since 1987, the CPPNM provides requirements for the protection of nuclear materials that are used for peaceful purposes, focusing on safeguarding these materials during international transport. Specifically, the CPPNM requires states to ensure the protection of nuclear materials during transport by following the procedures set out in Annex. I. This Annex divides nuclear materials into three categories based on their potency and describes how each should be stored during transport (UN General Assembly 1979, 132). The CPPNM also lists a number of crimes, including the theft of nuclear materials, which must be made punishable under domestic law (UN General Assembly 1979, 128). These regulations are legally binding on all parties to the CPPNM, which, as of October 2012, numbered at 148 states (International Atomic Energy Agency 2012).

In 2005, the CPPNM was strengthened through an amendment that expands the scope of the



convention to cover the protection of nuclear materials at the domestic level (Stoiber 2012, 25). This amendment also promotes cooperation among states to recover lost nuclear materials and to reduce the effects of radiological sabotage (Boureston and Ogilvie-White 2010, 4). However, despite its improvements of the CPPNM, the amendment must be approved by two-thirds of the 148 parties to the convention before it enters into force. In eight years, this has still not occurred.

Generally, the impact of the CPPNM and its amendment appears to have been fairly limited. Given the focus of the former on international transport, states are obligated to take few efforts at the domestic level to secure nuclear materials, and this situation will not change until the amendment comes into force. Like Resolution 1540, there are also few means available to monitor and enforce state compliance with the requirements of CPPNM. States are not obligated to submit reports to an international organization, nor are there well-defined standards according to which a state's security measures can be evaluated by others (Boureston and Ogilvie-White 2010, 6). As with other instruments, many states also lack the resources and capacity to meet the requirements of the CPPNM, which only further reduces levels of compliance.

Another notable international convention in this area is the International Convention for the Suppression of Acts of Nuclear Terrorism, also known as the Nuclear Terrorism Convention (NTC). The NTC was adopted in 2005 and came into force in July of 2007. Its key contribution to this area of CT governance is its detailed inclusion of crimes relating to damage of nuclear facilities and the unlawful possession and use of radiological materials. In this sense, the NTC extended the focus of the regime beyond terrorists' potential use of nuclear weapons to also include possible attacks on nuclear facilities and the development and detonation of RDDs (Boureston and Ogilvie-White 2010, 3; Khripunov and Stoiber 2012, 5). The NTC requires states to criminalize these offences in domestic law and encourages them to work with one another and the IAEA to "prevent, detect, and respond" to cases of nuclear terrorism (Boureston and Ogilvie-White 2010, 3).

Despite these positive developments, the NTC, like the other instruments already discussed, suffers from a notable lack of compliance. Eight years have passed since the NTC was adopted



and only 85 states have ratified this treaty (UN Treaty Collection Database 2013a). Among the states that have not ratified the treaty are those that may be willing to sell materials to terrorists, such as North Korea, Pakistan, and Iran, and those whose nuclear facilities are particularly vulnerable to theft or attack, such as Indonesia and the Philippines (UN Treaty Collection Database 2013a). Even the US, the leader in global CT efforts, has yet to ratify the treaty, which does little to signal the importance of this treaty to other members of the international community (UN Treaty Collection Database, 2013a; Boureston and Ogilvie-White 2010, 3)

Moving beyond international conventions, the final two instruments that underpin this governance regime are standards or best practices relating to the security of nuclear and radiological materials that have been developed by the IAEA. The Physical Protection of Nuclear Material and Nuclear Facilities (INFCIRC/225) provides a set of recommendations for effectively securing nuclear materials, both domestically and in international transit, that were first published by the IAEA in 1972 (Stoiber 2012, 25-26). The Code of Conduct on the Safety and Security of Radioactive Sources was developed between 1999 and 2003 and focuses more specifically on securing radioactive materials. Both instruments outline what states should do to protect their nuclear and radiological materials and how specifically they should go about doing this. As a result, these instruments move beyond the vague recommendations contained in the resolutions and conventions discussed above and actually provide states with a set of useful guiding principles. However, while these instruments are useful for states, they are also voluntary and non-binding. Few states have taken meaningful action to actually implement the IAEA's recommendations, and the organization is provided with little to no means beyond voluntary member surveys to monitor and encourage compliance (Boureston and Ogilvie-White 2010, 5).

Beyond these general instruments, the governance regime against nuclear terrorism is also comprised of more practical programs and initiatives that aim to complement and reinforce the efforts already being carried out under the preceding six instruments. These programs can be broadly divided into two areas: (1) efforts to prevent terrorists from acquiring nuclear weapons or materials; and (2) efforts to secure borders and prevent the use of nuclear and radiological weapons by terrorists if they are acquired. Most of these initiatives are driven by Western states



and consist of the provision of monetary and technical assistance to states struggling to satisfy the requirements and recommendations set out above. We will now explore some of these initiatives in greater detail.

Securing Nuclear and Radiological Materials

One of the key programs designed to secure nuclear and radiological materials has been the Global Threat Reduction Initiative (GTRI). The GTRI was established by the US in 2004 to remove vulnerable nuclear and radiological materials at civilian sites around the world (National Nuclear Security Administration 2013, paras. 1-2). Since its creation, the GTRI has managed to shutdown 88 vulnerable research reactors producing highly enriched uranium; remove enough highly enriched uranium and plutonium to create more than 140 nuclear bombs; and secured more than 1500 radiological sites (National Nuclear Security Administration 2013, para. 5). While many of these efforts were concentrated in countries of the former Soviet Union, others took place in a number of Western countries, including Canada, Japan, and the UK (National Nuclear Security Administration 2013, para. 7).

Beyond the GTRI, most programs in this area focus on capacity-building efforts. For example, the IAEA Nuclear Security Program provides states with various forms of support intended to increase their abilities to secure their nuclear and radiological materials. Such support ranges from legislative assistance, helping states implement effective regulations in this area, to training programs for individuals working in nuclear facilities (Khripunov and Stoiber 2012, 6; Boureston and Ogilvie-White 2010, 6). Overall, the IAEA has a number of strengths as a provider of capacity-building assistance, not the least of which is its large team of scientists and experts, and many states have turned to it for support due to it being fairly well regarded in the international community (Boureston and Ogilvie-White 2010, 6).

Another notable capacity-building program is the Global Initiative to Combat Nuclear Terrorism (GICNT). The GICNT was established by Russia and the US in 2006 to “expand and accelerate efforts to combat nuclear terrorism” and called on all like-minded states to join (Boureston and Ogilvie-White 2010, 7). Though the mandate of the organization was initially intended to



extend beyond capacity-building measures, this has quickly become its focus. Comprised of both public and private actors, the GICNT aims to facilitate technical and monetary assistance, as well as information-sharing, between members and has had a number of notable successes in this regard (Council on Foreign Relations 2013, para. 45).

The importance of including members of the private sector in efforts to counter nuclear terrorism has also been reflected in the creation of the World Institute for Nuclear Security (WINS). As was stated in the preceding section, while the state plays a key role in establishing regulations relating to the prevention and suppression of terrorist activity, the effectiveness of these regulations often depends on compliance and support from the private sector. In the case of nuclear terrorism, the relevant private actors are those who work in and operate nuclear facilities. WINS was established in 2008 to provide an international forum for these individuals to meet, exchange ideas, and decide on best practices within the industry (Khripunov and Stoiber 2012, 13). A key focus of WINS is ensuring that private entities that make or use nuclear materials implement proper security mechanisms at all levels, drawing heavily on the IAEA standards outlined above (Khripunov and Stoiber 2012, 13). As noted by Boureston and Ogilvie-White (2010, 8), it is likely too soon to tell if WINS will be successful in achieving its objectives, but it is certainly a positive development.

Securing State Borders

In addition to securing nuclear and radiological materials, state actors have also begun taking measures to secure borders, preventing the movement of nuclear or radiological weapons across borders by terrorists if they are ultimately acquired. A notable attempt to secure borders around the world has been launched by the US through its Second Line of Defence (SLD) program. Through the SLD program, the US works with other countries around the world to strengthen their radiation detection equipment at border crossing, seaports, and airports (National Nuclear Security Administration 2011, para. 5). Once again, while most of the US; efforts are focused on countries in the former Soviet Union, it has also begun implementing detection equipment in countries outside of this region, including China, Pakistan, Malaysia, and numer-



ous countries throughout South America (National Nuclear Security Administration 2011, para. 8). The ultimate goal of the SLD program is to establish detecting equipment at nearly 650 sites around the world by 2018, and it appears to be well on its way to achieving that goal (National Nuclear Security Administration 2011, para. 7).

Beyond the SLD program, capacity-building assistance in ensuring secure borders is provided by a number of bodies, many of which were discussed in Section Four. With specific reference to efforts to counter nuclear terrorism, the IAEA, through its Nuclear Security Program, has been notable for providing states with assistance in securing their borders and training law enforcement officers (Khripunov and Stoiber 2012, 6).

Ways Forward in Countering Nuclear Terrorism

Overall, there have been a number of successes in this area of CT governance. A comprehensive governance regime surrounding the issue of nuclear terrorism has emerged, establishing guiding principles and best practices to effectively counter the threat. The evolving nature of the regime can be seen in its recent expansion to focus more attention on securing radiological materials and preventing damage to nuclear facilities, as well as in the recent inclusion of the private sector in discussions on the issue. On a more practical note, efforts led primarily by the US and the IAEA have been fairly effective at securing nuclear and radiological materials around the world, particularly in the Soviet Union, and this rise in security is correlated with a reduction in the unauthorized possession and smuggling of these materials (see Figure 6.1). Finally, though it cannot be entirely attributed to recent governance efforts, the fact remains that a nuclear or radiological attack has never been carried out. Nonetheless, despite these successes, problems remain. Specifically, this governance regime suffers from a lack of state buy-in and a lack of strong monitoring and enforcement mechanisms (Boureston and Ogilvie-White 2010, 7).

Most of the resolutions, conventions, initiatives, and programs described above have not been widely implemented, adopted, or joined by states. As a result, many nuclear facilities, and the materials within them, remain poorly secured and at risk of theft or attack. The key successes in securing nuclear and radiological materials have been largely a product of Western efforts,



and while these efforts have accomplished a great deal, action is required on the part of all states in order to sustain what has been done.

In many cases, states simply lack the capacity to participate in efforts to counter nuclear terrorism. In this sense, one logical way forward is to continue capacity-building efforts, many of which have already proven to be fairly successful. However, just as often, states are not complying because they do not view nuclear terrorism as a threat worth protecting against, or, worse, they view the broader governance regime as a vehicle through which to promote Western interests. The latter problem has arguably been exacerbated by the fact that many Western countries, including the US, have not readily embraced all of the governance instruments discussed above, indicating that the regime is not important or that there is a double-standard at play. With this in mind, efforts moving forward need to focus on garnering international acceptance for this governance regime (Boureston and Ogilvie-White 2010, 14). This should be pursued not only through diplomatic pressure and dialogue, but also through the practice of leading by example. As argued by Boureston and Ogilvie-White (2010, 14-15), if Western states show that they are willing to embrace the standards and recommendations set out in the six key instruments, and do so in a transparent manner, this may signal to other states that nuclear terrorism is actually an issue worth protecting against and not simply another attempt to promote Western interests.

Beyond seeking greater compliance with the governance regime, attention should also be placed on assigning greater authority for the monitoring and enforcement of the regime to an international body. As it stands, each of the six key instruments within this area of CT governance lacks sufficient monitoring and enforcement mechanisms, making it very difficult to not only ensure compliance but also determine which aspects states are struggling to fulfill and, therefore, coordinate capacity-building assistance. Many authors argue that this role should be taken on by the IAEA (Boureston and Ogilvie-White 2010, 11; Khripunov and Stoiber 2012, 7). The IAEA, through INFCIRC/225 and the Code of Conduct on the Safety and Security of Radioactive Sources, has already established extensive recommendations in this area that could serve as binding standards. The IAEA could then conduct reviews of state compliance with these standards then either direct capacity-building assistance accordingly or apply punitive measures (Boureston



and Ogilvie-White 2010, 11). Of course, given the lack of support for the governance regime, few states are likely to endorse this recommendation. Nonetheless, although this recommendation may not be feasible in the short-term, it may be possible in the future if greater acceptance of the overall regime is achieved (Boureston and Ogilvie-White 2010, 14).

CONCLUSION

Since the attacks of September 11, 2001, the number of resolutions, conventions, programs, and actors involved in CT has increased significantly, indicating the importance of this area of governance to a wide-range of public and private actors in the international community. This paper has focused its attention on five areas within the overarching CT governance regime: the diffusion of CT norms; preventing the rise of terrorism; intelligence and policing coordination; countering terrorist financing; and preventing nuclear terrorism. Within each of the preceding sections, we have discussed why each of these issue areas is important in the broader fight against terror, the efforts that are currently being carried out within each, how effective these governance areas have been in achieving their goals, and how they can be improved moving forward. Generally, CT governance seems to have been fairly affective, especially when one considers the recent decline in al-Qaeda, the epitome of the global terrorist threat. Nonetheless, terrorism remains a pertinent threat in many parts of the world and there is certainly room for improvement within the CT governance regime.

As argued in Section Two, the diffusion of CT norms, two of the biggest problems in CT governance have been the seeming lack of legitimacy of the overall regime and a lack of capacity on the part of many states to carry out the implementation of CT. Many states continue to perceive CT as a primarily Western problem and, as such, have been reluctant to devote resources to it. This has been particularly true in Africa, where CT has not constituted a threat on the same level as poverty, disease, or civil conflict. While these problems have been dealt with in unique ways throughout each of the preceding sections, the general ways forward for CT governance consist of continued technical and monetary assistance to states struggling to implement CT efforts and continued attempts by the Western world to promote the legitimacy of the regime.



Ultimately, we anticipate that CT will continue to occupy the attention of the international community for many years to come as terrorist cells continue to adapt and pose a threat to human security in all corners of the globe. The recommendations contained in this paper certainly do not provide a cure-all solution for the existing problems within CT, but we do hope that they shed some light on how this area of governance can be improved moving forward.



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