A RAND NOTE

Terrorism: Policy Issues for the Bush Administration

Brian Michael Jenkins

May 1989

RAND

The research described in this report was supported by The RAND Corporation using its own research funds.

The RAND Publication Series: The Report is the principal publication documenting and transmitting RAND's major research findings and final research results. The RAND Note reports other outputs of sponsored research for general distribution. Publications of The RAND Corporation do not necessarily reflect the opinions or policies of the sponsors of RAND research.

Published by The RAND Corporation
1700 Main Street, P.O. Box 2138, Santa Monica, CA 90406-2138

A RAND NOTE

N-2964-RC

Terrorism: Policy Issues for the Bush Administration

Brian Michael Jenkins

May 1989

RAND

PREFACE

"What do you think we ought to do?"

"Our research shows that . . ."

"We've read your reports. What do you think?"

"There are several options. Each has certain advantages and . . ."

"No, not options. You've studied this thing for years now. Tell us what *you* think."

"My personal opinion? That's hard."

With minor variations, this bit of dialogue has occurred on several occasions in recent months. Expressing a personal opinion is perhaps the hardest thing for a RAND researcher to do. Trained in a corporate culture to mobilize facts, to ruthlessly scrutinize all assumptions and assertions, to offer only those conclusions that derive from evidence, to present the pros and cons of every option fairly without betraying personal opinions, to avoid exhortation, the researcher believes in analysis, hard analysis, stripped of personal bias.

And yet, in many respects, the issue of terrorism transcends policy analysis and raises fundamental philosophical questions about the worth of individual human life when a person is held hostage, the existence and importance of American values as a constraint on operations even against those who are terrorists, the credibility of American diplomacy, the utility of military force, the legitimacy of assassination.

This Note touches upon these questions as it addresses the policy issues that are likely to confront the Bush administration over the coming years. Although rooted in analysis, the discussion admittedly offers a personal, subjective view—in places, it risks teaching.

The preparation of this Note was prompted by discussions that occurred during the transition from the Reagan administration, but it has its origins in a much earlier project sponsored by the Under Secretary of Defense for Policy. That project specifically addressed the military response to terrorism, i.e., retaliation, which is examined in some detail. The Note also derives from continuing conversations with State Department officials and others concerned with the hostage issue. Support for this work was provided by The RAND Corporation from its own funds.

SUMMARY

Terrorism comes in sudden bursts. It explodes upon the scene, for a brief moment seems to overshadow all other events, then quickly fades, leaving us in the dark, uncertain of its true importance, nonetheless fearful. Terrorist-provoked crises cannot easily be delegated to subordinates. They demand decisions that may involve life and death, often with little time for reflection. Responding to terrorist incidents thus becomes the responsibility of those high in government who by virtue of their rank see the world in the condensed form of the two-page summary. Hopefully, at some time between the crises, decisionmakers will have an opportunity to read through this essay in its entirety, and whether they agree or not, to consider the issues it raises. Realistic expectations and conventions of presentation, however, dictate a summary.

Those who see terrorism as a war against evil to be fought with no holds barred will be disappointed by the suggestions presented in this Note. Where terrorism stands on the national agenda is itself an issue. One of the challenges for the Bush administration will be to lower the volume of its rhetoric, which it has done already, without significantly degrading American capabilities to combat terrorism by either dismantling the coordinative machinery in government that has taken so long to construct or reducing the resources for intelligence, which is our front line against terrorism. However, reductions in military spending, which will occur in any case, will require careful reexamination of some of the military capabilities that have been created in the name of combatting terrorism.

Whether the administration views terrorism as crime or as a new mode of warfare will have important operational implications. If terrorism is considered a criminal matter, then we must be concerned with individual culpability and courtroom-quality evidence. The Department of Justice, specifically the FBI, will take the lead, even in cases tried abroad; other government actors will stand aside. The law enforcement approach has greater international acceptance but offers few realistic opportunities for bringing perpetrators to justice. Better use of intelligence information as evidence in the prosecution of terrorists who end up in custody would improve the situation, but a strictly criminal approach probably will not deter a continuing campaign of terrorism or dissuade its state sponsors.

Viewing terrorism as war means correctly identifying the "enemy"—intelligence reporting can replace courtroom evidence, but it propels us in the direction of a military response.

The use of military force as a response to terrorist provocation cannot be ruled out. Terrorist groups offer few targets for conventional military attack, however, and it may be desirable to explore the possibility of inventing new rules that allow us to legitimately wage some kind of warfare against groups instead of governments. Military force is more likely to be used in response to state-sponsored terrorism. The American raid on Libya in 1986 did not end that country's sponsorship of terrorism, but it did change the equation. Governments sponsoring terrorism now must at least consider the greater possibility of military retaliation. At the same time, their caution will make it more difficult to obtain the chain of evidence needed to identify and justify a military response.

One partial solution may be to disconnect contemplated military action from specific incidents and instead center it on campaigns of terrorism in which individual pieces of evidence may be missing but the overall pattern of activity is clear. That would also reduce the requirements of timeliness and proportionality.

Whether military force against a state sponsor of terrorism is justified in a particular case should be decided in the appropriate political forum—the Congress—and expressed in a formal declaration of war. This would put the use of military force in a proper legal framework in this country and could create considerable difficulties for the target state, even if no shots were fired. It would not oblige the United States to use military force, and if it did employ force, it would do so at a time and place of its own choosing.

The difficulties faced in conducting overt military operations make the use of covert operations a more reasonable, if not an essential element in our antiterrorism strategy. Covert operations offer certain advantages, including greater latitude, but even in these operations, certain rules must be observed. In the struggle against terrorism, we are not fighting for survival, but we are defending the principles we choose to uphold. Therefore, it is essential that we defeat the terrorists in a manner that preserves those principles. Values count. We must not simply win, we must win properly.

Covert operations may necessarily involve the use of deadly force, but assassination—although, like military force, in some instances an emotionally appealing response—should remain outside the bounds of what is legal or acceptable.

Obtaining the release of the American hostages currently held in Lebanon, some of whom have been in captivity for more than four years now, will remain one of the most difficult challenges for the Bush administration. Although public interest in the plight of the hostages has declined, and there is little pressure on the administration right now, political self-interest alone dictates continuing efforts to get them out. For want of any viable

alternatives, our efforts must continue to center on persuading Iran to use its influence with the captors. President Bush took the first step in this direction in his inaugural speech, with words clearly intended for ears in Tehran. The speech brought no response from Iran, and for the moment those opposed to any dialogue over hostages or the other issues that divide the United States and Iran seem to have the upper hand. We must be patient and realistic. Iran is still in the throes of a revolution. Although for reasons of our own national interest, Washington would like Iran's more pragmatic leaders to succeed, the situation in Tehran is far too complicated for the United States to intervene sensibly in any effort to affect its outcome.

We should, however, remain ready to pick up a dialogue. Washington will have to accept that the Iranians may choose to work through unofficial routes which allow them to explore responses without losing face and choreograph overt steps in a way that provides their leaders with domestic political advantage. Washington must be also willing to make the symbolic gestures and concede the tokens and courtesies that will help our Iranian counterparts create the internal consensus they need to put pressure on those now holding the hostages in Lebanon. Finally, we must also anticipate that those who oppose progress in resolving the differences that separate the United States and Iran will try to sabotage any agreement, possibly by instigating terrorist attacks. American policymakers will find themselves going back and forth between efforts to improve relations and responses that make clear the boundaries of U.S. tolerance.

If all efforts to work through the Iranians fail, the United States must be prepared to explore other routes, including negotiations with the captors themselves.

American policy for dealing with hostage episodes has become dangerously rigid in recent years. In the event of future hostage situations, it would be desirable to have greater room for maneuver than current policy allows.

Our principal terrorist problem lies beyond our borders. With few opportunities to operate against terrorists in any direct way, we depend heavily on international cooperation. We have tended to treat that cooperation as a moral obligation and to proclaim it an affront when our traditional allies show what we regard as substandard zeal in efforts to combat terrorism. With the defeat of most of Western Europe's major domestic terrorist groups, except for the IRA and Basque separatists, and the PLO's changing tactics and image, our allies will have fewer compelling reasons to associate themselves with highly visible positions on terrorism or efforts that cause their governments political, economic, and diplomatic difficulties. International cooperation will be increasingly difficult to sustain at

its current high level. The trick will be to preserve vital cooperation at the technical level in the absence of high-level political rhetoric. This will require treating international cooperation as a precious resource rather than a moral duty. The hectoring will have to stop. One approach might be to combine multilateral efforts to combat terrorism with multilateral efforts to combat drug trafficking—a major problem for the United States and a growing problem in Europe.

The United States may also find that it has a new political ally in its efforts to combat terrorism. For reasons of its own, the Soviet Union seems to have backed away from its wholehearted support for the various struggle movements whose arsenals have frequently included terrorist tactics. The Soviets also fear that they may increasingly become the targets of terrorist attacks abroad and at home. Therefore, they have begun to explore the possibilities of U.S.-Soviet cooperation against terrorism. Despite continuing differences, it may be possible to identify areas of mutual interest where cooperation would be possible.

Attention is shifting in Washington from combatting terrorism to the war on drugs, which is in many ways a more serious problem. Certainly drugs are the cause of more violence and deaths in this country than terrorism. Increased efforts at interdiction have not significantly impeded the flow of drugs into the country, and efforts to reduce domestic demand are likely to take years. This sobering assessment, however, should not propel us into ill-advised, high-profile American-driven campaigns to reduce narcotics production in the source countries. That will only strain diplomatic relations, provoke higher levels of political violence, and imperil political stability in the producing regions, and it could prompt a terrorist campaign that would extend into the United States itself. Our thirst for combat might be better served by recovering control of those portions of American cities that have suffered growing levels of drug-related gang violence before we end up with Beiruts and Belfasts in our own backyard.

Finally, efforts to combat terrorism must be redefined in broader terms. Despite the apparent momentum toward peace, the world remains a violent place. Some parts of it appear to have slipped into a state of permanent war. The principal American concern has been the spillover of this violence into the international arena, but this cannot be our only concern. Without falling into the classical liberal error of believing that we can eliminate terrorism by satisfying the grievances of all who might resort to terrorist tactics, we can in some cases make a difference by helping to negotiate settlements to existing conflicts, by working to restore some semblance of order in places like Lebanon, and by providing economic assistance or reducing the heavy burdens of debt that threaten to propel some of

the more fragile democracies of Latin America back into the violence of the 1970s. We can also try to contain the sheer volume of politically motivated violence by addressing the problems created by the growing availability of weapons and explosives. There are not necessarily more grievances in the world than there were twenty, fifty, or a hundred years ago, but those with grievances have readier access to guns and bombs. And that is a problem.

ACKNOWLEDGMENTS

I am indebted to Konrad Kellen, guide and critic for many years, and to Graham Fuller, whose thoughtful comments on early drafts proved so helpful. I would also like to thank those officials in the Departments of State and Defense, on the Staff of the National Security Council, and in the Central Intelligence Agency with whom I have talked about these topics at length, yet whose names I dare not mention lest they be incorrectly associated with my personal conclusions. Finally, I would like to thank Janet DeLand, whose editorial assistance compelled me at times to clarify my own arguments.

CONTENTS

PREFACE iii

SUMMARY v

ACKNOWLEDGMENTS xi

Section

I. INTRODUCTION 1

II. TERRORISM POLICY ISSUES 4
- Will Terrorism Remain a High-Priority Concern? 4
- Should Terrorism Be Seen as Crime or as War? 7
- Should Military Force Be Used? 11
- Should We Conduct Covert Operations Against Terrorists? 18
- How Do We Get the Hostages Back? 25
- Can International Cooperation Be Sustained? 34

III. TAKING ON THE DRUG TRAFFICKERS 38

IV. CAN WE ALTER THE ECOLOGY OF POLITICAL VIOLENCE? 40

I. INTRODUCTION

There is no doubt that the issue of terrorism will have to be dealt with in some way by the Bush administration. Unless the next four years differ markedly from the previous eight, several thousand terrorist incidents will occur around the world—the precise number will depend on the source of the statistics. Roughly a quarter of those incidents will be directed against American citizens or American facilities abroad. Some of them will provoke international crises, as did the bombing of the Marine headquarters in Beirut in 1983, the hijacking of TWA flight 847 in 1985, and the Libyan-inspired terrorist campaign that led to the American retaliatory bombing in 1986. Lives will have been lost or will hang in the balance. Policies will be at stake. The use of military force may be contemplated. Life-and-death decisions will have to be made.

How the President deals with such crises will have great political consequences. The handling of terrorist crises caused the last two presidents serious political damage. President Carter could neither rescue nor negotiate the release of the American hostages in Tehran, a failure that, in the eyes of many political observers, cost him the election in 1980. President Reagan's men were discovered secretly selling arms to Iran to buy freedom for American hostages in Lebanon, in clear violation of the administration's own loudly proclaimed policy, setting off a scandal that added a new word—"Irangate"—to the political lexicon. Although the Reagan administration was still capable of significant achievements in foreign policy after Irangate, it never emerged from the long shadow cast by the episode.

That thought must humble the mighty: Two leaders of the most powerful nation on earth, commanders of the world's greatest armed forces, controllers of an awesome nuclear arsenal, stumbling over a handful of militants in Tehran in one case, a band of kidnappers in Beirut in another.

From the beginning, the Reagan administration elevated terrorism to an issue of paramount importance. In part, the government's get-tough stance accurately reflected the residue of public outrage and anger that remained long after the American hostages came home from Tehran. In part, it reflected the growing volume of international terrorism in the 1980s. And in part, it reflected a conscious effort by administration officials to channel public concern about terrorism into support for its broader strategic goals.

The subsequent years brought shifts in tone and emphasis. The administration gradually abandoned its earlier assertion that international terrorism was orchestrated in Moscow. In 1981, this had been a major topic of debate in the intelligence community. The evidence assembled by intelligence agencies indicated that the Soviet Union played an important supporting role in international terrorism; however, the evidence did not support the more extravagant claim that Moscow controlled a vast international terrorist network, and indeed, subsequent spectacular attacks by Shi'ite extremists and other groups in the Middle East took terrorism in another direction. The events simply did not fit a theory that pressed international terrorism into a matrix of East-West conflict. Moreover, American accusations that the Soviets were directing terrorism became increasingly inconvenient as relations between the United States and the Soviet Union improved.

In later years, administration officials also lowered the volume of their rhetoric. After the bombing of Libya in April 1986, U.S. officials had no need to speak loudly; and after the revelations of secret weapons sales to Iran, they had every incentive to keep quiet—strident declarations would only appear hypocritical.

These shifts did not undermine the solid achievements of the Reagan administration in the struggle against terrorism. President Bush will inherit a vastly improved antiterrorist arsenal. The resources invested by the Reagan administration in intelligence collection and analysis have gradually begun to pay off. Many terrorist attacks have been thwarted. Huge rewards are available for information. The United States has extended its legal jurisdiction to cover terrorist crimes committed against American targets abroad and has demonstrated its willingness and its ability to apprehend terrorists overseas and bring them to trial in the United States. International cooperation has increased.

New government structures have been created to deal with the crises caused by terrorist incidents, although coordination among government agencies will always be a problem. The use of military force in response to terrorism is now an established precedent. Special operations capabilities have been enhanced.

Despite the progress, no one is proclaiming imminent victory. During the 1988 election campaign, neither presidential candidate saw an immediate, or even a distant, end to terrorism. Indeed, when it came to terrorism, both candidates were remarkably cautious in their language. While neither backed away from the tough stance of the Reagan administration, there was a difference in the tone of their comments. Both candidates said that they would use military force, but their rhetoric was less bellicose. There were no warnings of "swift retribution," no declarations of war on terrorism. Both men foresaw a

long struggle. Neither anticipated victory. Americans would continue to be in danger. Progress against terrorism would be slow. Asked if he thought terrorism could be eliminated, candidate Bush replied, "If we pursue our current policies and persuade more nations to join us, you will see less terrorism ten years from now."[1]

---

[1]"The Presidential Candidates on Terrorism," *TVI Report*, Vol. 8, Special Edition, 1988.

II. TERRORISM POLICY ISSUES

Although U.S. policy on terrorism seems to be firmly set and enjoys bipartisan support, the new administration will still have a number of questions to address.

WILL TERRORISM REMAIN A HIGH-PRIORITY CONCERN?

Will President Bush give terrorism the same high priority as the Reagan administration did, or will he let it sink on the agenda? Obviously, the answer will depend heavily on what terrorists do—not so much on the overall volume of their terrorist activity as on the quality of the terrorist incidents that do occur.

American perceptions of terrorism are not determined by statistics. We have an ethnocentric view of the problem. High levels of terrorist activity that do not involve American citizens are seen as just another of the world's many afflictions. However, spectacular episodes that involve American casualties or American captives command attention; if an incident makes network news, it makes the Oval Office.

Where the new administration *puts* terrorism is not merely a matter of rhetoric. The decision will have direct consequences for the conduct of American diplomacy and the maintenance of the nation's operational capabilities to combat terrorism. The arrival of a new administration, even the ascension of a vice president to the presidency, is always an occasion for bureaucratic in-fighting. The captains and lieutenants of the new team can be expected to have their own ideas about the organization and order of things. This situation applies to the question of dealing with terrorism as it does to every other issue of government. The structures that have been created to combat terrorism and the resources they now command will come under review. Battles against terrorism will be fought in which it will seem for the moment that the terrorists are Enemy Number Two—Enemy Number One will be the guys across the hall or on the other side of the river. The skirmishes have already begun.

Many critics both inside and outside of government argue that the tough U.S. stand on terrorism has been allowed to dictate the rest of American foreign policy, to the detriment of other national interests. As Jeffrey Simon, of The RAND Corporation, wrote in *Foreign Policy*, "For years Washington has allowed the natural emotional abhorrence of terrorism to supplant a rational evaluation of the terrorist danger."[1] Simon argues that placing the problem so high on the national agenda has increased our fear of terrorism, "has given

[1]Jeffrey D. Simon, "Misunderstanding Terrorism," *Foreign Policy*, No. 67, Summer 1987, pp. 104-120.

terrorists a position in international affairs far more significant than their actions or capabilities warrant," and "has strained relations with allies while elevating unfriendly governments to a stature Washington would have preferred to avoid."[2]

Many diplomats echo this complaint, pointing out that the current U.S. campaign against terrorism gets in the way of relationships that are in the nation's strategic interest to develop. American concerns about terrorism, for example, prevent progress toward improving relations with Iran and hinder relations with Syria, whose sponsorship of terrorism may be an established fact but whose cooperation is nonetheless vital to progress toward any settlement of the Middle East conflict. The involvement of the Palestine Liberation Organization (PLO) with terrorism has long prevented official contacts with the organization, when many argue the United States should have been encouraging such dialogue. That situation has now changed. With Yasir Arafat's renunciation of terrorism, American officials may now talk to PLO officials, but the Palestinians complain that terrorism is the only issue the Americans want to discuss, not the broader problems that divide Arabs and Israelis.

U.S. policies and actions against terrorism have at times provoked deep resentment in Egypt, Tunisia, Jordan, Algeria, and other Arab countries, many of which have been strong supporters of the United States and which have helped the United States to prevent or resolve crises created by terrorists. American diplomats are obliged to nag European allies that sometimes exhibit what our government regards as inadequate resolve in combatting terrorism and confronting its state sponsors. In the Third World, in addition to the issues of foreign debt, open markets, access to military bases, and human rights, there is yet another thing to ask for—cooperation against terrorism. This is not to say that American efforts to combat terrorism are not justified, or that they are not supported by understandable public concern. The question is: When policy goals conflict, should efforts to combat terrorism take precedence? Always? Sometimes?

The challenge of terrorism has also been used to support a buildup of special-operations capabilities in the military. The armed services themselves have at times resisted this development, which has largely been the project of civilians in the Pentagon allied with a handful of military mavericks and backed by Congressional leaders who are anxious to do something. Some argue, however, that in the name of combatting terrorism, we have created military capabilities with only the vaguest idea of how they are going to be used.

---

[2]Ibid.

The buildup was tolerable in an era of generous military spending. In an era of declining budgets, these new units will come under increasing attack.

In the intelligence community, terrorism has led to the development of new collection and operations capabilities. Again, in an environment of intense competition for resources, the funding now allocated to terrorism will be eyed jealously by proponents of other programs.

The way to reduce an issue to its "proper place" in Washington is to reduce its rank in the bureaucracy and to divert its resources. Some people in the Department of State, for example, would like to see the Office of Counterterrorism lowered in importance or moved to where it would have less clout in policy arguments with the Department's powerful regional bureaus. That may take place anyway, without any official change in status, as the managerial style of the new Secretary of State may not offer the Director of Counterterrorism the same direct access he had to George Shultz.

When the President speaks publicly on any issue, he addresses more than the American people at large: The bureaucracy in Washington listens carefully, too. His words, or his silence, on an issue provide the ammunition for allocating resources. To even treat terrorism as a topic represents a political decision. If the President identifies terrorism as an issue of importance, or if the new Secretary of State chooses to make a major address on the subject, as Secretary of State Shultz did on several occasions, the counterterrorism structure will be vigorously defended. If the topic is not mentioned, the miners and sappers will start tunneling under the walls.

It would be a mistake to decrease the intelligence resources devoted to the collection and analysis of information about terrorists and their actions. This investment has begun to yield results, although the payoff is often invisible. One needs only to recall the disastrous lack of good information about terrorist groups in Lebanon at the time of growing U.S. involvement in that country, or to look at the difficult but crucial task of correctly identifying the group responsible for the sabotage of Pan Am flight 103.

It would also be a mistake to reduce the bureaucratic standing of the State Department's Counterterrorism Office. If, at times, the issue of terrorism has been allowed to dominate American foreign policy, particularly in the Middle East, it is because the Secretary of State himself has chosen to elevate the issue, not because of the rank of the Counterterrorism Office or the size of its staff. Reducing the office to a level where it would have virtually no voice in the foreign policy debate would also reduce the authority of its director, who presides over the interdepartmental structure where all government measures

to combat terrorism are coordinated. That would be ill-advised. It has taken years to overcome, even incompletely, the parochial interests and inclination of individual agencies to go their own way, and to create effective machinery for sharing information and coordinating operations. Jurisdictions and responsibilities differ, and differences may also exist over the interpretation of policy. Each agency may try to preserve some measure of autonomy—the Department of State does not *command* the rest of the government. But a dozen independent and uncoordinated counterterrorism campaigns can too easily lead to the kind of problems revealed in the Irangate incident, although in that case the President himself had approved trading weapons for hostages and the relevant agencies of the Executive Branch had been informed of what was taking place.

SHOULD TERRORISM BE SEEN AS CRIME OR AS WAR?

Should we consider terrorism as a crime or as a new mode of warfare? The question is not merely one of a choice of words. These are two different concepts with entirely different operational implications. If terrorism is considered a criminal matter, we are concerned with gathering evidence, correctly determining the culpability of the individual or individuals responsible for a particular act, and apprehending and bringing the perpetrators to trial. Under this approach, an ideal outcome of the investigation into the sabotage of Pan Am flight 103 would be the identification and apprehension of those responsible for placing the bomb aboard the airliner and their trial, with no political pretensions, for the premeditated murder of 270 persons. This approach does not preclude action against other members of terrorist groups. To the extent that the participation of other terrorists in a crime as conspirators or accessories can be proved, they also can be prosecuted.

Dealing with terrorism as a criminal matter, however, presents a number of problems. Evidence is extremely difficult to gather in an international investigation where all countries might not cooperate with the investigators, and although U.S. law now extends jurisdiction to cover terrorist attacks against U.S. citizens abroad, apprehending terrorists is very difficult. It is simply not realistic to think that we can routinely identify and bring terrorists abroad to justice in the United States. Moreover, the criminal approach does not provide an entirely satisfactory response to a continuing campaign of terrorism waged by a distant group, and it may not work out against a state sponsor of terrorism. Military operations, overt or covert, that might be appropriate in a war, for example, would be inconsistent with an approach that views terrorism as a strictly criminal matter.

Some might see the precluding of military action as a distinct advantage of the criminal approach. There are circumstances in which military action would seem counterproductive. Suppose, for example, evidence obtained in the investigation of the crash of Flight 103 were to point to a state sponsor—not Libya, a vulnerable and politically convenient foe, but another country with whom the United States has even stronger incentives to avoid conflict. A military approach would push us in the direction of a military response, whereas a criminal approach would call for prosecution of the perpetrators and complaints before the international court.

If, on the other hand, we view terrorism as war, we are less concerned with individual culpability. Proximate responsibility—for example, correct identification of the terrorist group—will do. We may be less fastidious about evidence: It need not be of courtroom quality; intelligence reporting will suffice. The focus is not on the accused individual but on the correct identification of the *enemy*, which can be either a group or a government.

Different countries favor different approaches. The Israelis clearly view terrorism as a form of warfare and regularly strike back with military force to retaliate for past terrorist actions and to deter or disrupt future terrorist operations. The target of an Israeli attack may or may not be the specific group responsible for the immediately preceding terrorist act. With repeated attacks, all groups are eventually punished.

The United States has taken both approaches. In arresting Fawaz Younis, one of the hijackers of a Jordanian airliner in 1985, the United States operated within the traditional legal regime. In bombing Libya on the basis of intelligence information that identified Libya as the sponsor of terrorist attacks against the United States, the United States put terrorism in the context of war and responded accordingly.

Forcing down an Egyptian airliner carrying the hijackers of the *Achille Lauro* who had murderered an American citizen represented a combination of both approaches. The use of military force was threatened—American fighter aircraft ordered the airliner to land in Sicily—in order to bring the perpetrators of the crime to justice, which, as it turned out, was meted out by an Italian court.

Viewing terrorism as war, however, also poses many problems, particularly for the United States. Striking back militarily as frequently as the Israelis, who carried out 25 raids into Lebanon in 1988, would be difficult for the United States, both operationally and politically. If the opportunities for military response are limited, it is essential to make sure that the right party is hit; otherwise, the use of force becomes capricious. A military response, moreover, must be delivered soon after the terrorist incident that provokes it. A

criminal investigation may continue, with arrests coming years after the event, but military retaliation years after the event has little political appeal or punitive value.

American military operations conducted in response to terrorism would almost always have to be directed against a state sponsor of terrorism, when there is one, rather than an individual terrorist group. No one has yet figured out a way to declare or wage war on a group, or what the rules of engagement ought to be. Terrorist groups seldom offer lucrative targets for conventional military attack. They hold no territory, they field no visible armed forces, they have few facilities. A terrorist group's strategic assets are its state sponsors, if it has state support, and its leaders; but a deliberate campaign to liquidate specific individuals falls within the domain of assassination, a course of action that can be operationally as difficult as apprehension and which American law specifically prohibits.

Neither approach, then, offers a completely satisfactory response to terrorism, and sometimes the two approaches conflict. A criminal investigation, for example, might preclude the use of certain sources and techniques that would be part of an intelligence collection effort, as these could contaminate the evidence and make future prosecution more difficult in an American court of law, where strict standards of evidence apply. In such cases, it is necessary to ask whether the primary objective is successful prosecution of the perpetrators—a desirable but remote prospect—or rapid and correct identification of the terrorist group or state sponsor responsible for a specific act regardless of the eventual possibilities of criminal prosecution, so that we can respond appropriately, or at least base our policies upon correct information.

Portraying and treating terrorism as crime has considerable acceptance internationally, and the second half of the 1980s saw a number of successful convictions of terrorists. In the trial of Nizar Hindawi in the United Kingdom, proof of state sponsorship was provided in court, giving the British government a powerful case for imposing diplomatic and economic sanctions against Syria. To the extent that the United States is seen as taking the path of treating terrorism as war, countries that might willingly cooperate in a criminal investigation may fear being seen as allies in subsequent military operations, and this could inhibit their cooperation.

The criminal approach might be enhanced by developing the terrorist equivalent of the RICO (Racketeer-Influenced and Corrupt Organization) statute, which has proved to be a powerful weapon against organized crime. Such a statute would define terrorist criminal enterprises and make participation in certain aspects of their activities a crime. A second approach might be to outlaw a specific group, as Congress did in the Anti-Terrorism Act of

1987, which declared that the PLO and its affiliates were a terrorist organization. The Act made it a crime to receive anything of value except informational material from the PLO, to expend funds from the PLO, and to establish or maintain any office at the behest or direction of, or with funds provided by, the PLO. The law has a certain politicking quality about it, and its provisions seem to apply only to a "terrorist organization" that maintains offices in the United States, but it does offer a possible precedent. Both of these legislative options, however, raise serious constitutional issues, and neither is likely to win the United States much international support.

The criminal approach might also be improved by ensuring that terrorists who fall into custody anywhere in the world are detained for trial and are successfully prosecuted. This requires dealing with two problems: First, many countries are reluctant to hold the terrorists their own police arrest and, if given the opportunity, would quietly kick them out rather than bring them to trial. Second, if the terrorists are brought to trial, prosecution is difficult. Terrorists may be the subjects of thick dossiers, but little of the information about them is admissible in court. The intelligence services typically lose interest in a terrorist once he is in custody. Their attitude reflects the military approach—the job is ended when the enemy has been captured, his plans thwarted. And intelligence agencies are always reluctant to reveal any information for fear that it may compromise their sources or methods. They may, however, have information that, if passed on to a judge, could make it more awkward to simply release a terrorist and, if converted to evidence, could help convict him; the trick is to declassify the information and turn it into admissible evidence. This can be accomplished in a variety of ways if the various intelligence services, American and foreign, can be persuaded to consider successful prosecution as another type of intelligence operation. Here we come to the flip side of the criminal investigators' concern that the intelligence collectors might do things that will contaminate the evidence: The intelligence collectors worry that their sources and methods might be compromised if they share information with prosecutors. Ideally, intelligence specialists would work with lawyers and criminal investigators to figure out how they could transform intelligence information into admissible evidence, while at the same time protecting sensitive sources. One can always argue that it isn't worth it, that one measly terrorist, even if successfully locked up, will be replaced by another, or by ten more, and that protecting intelligence capabilities is more important than prosecution. Sometimes it is; on occasion it is not. The requirements can often be met without compromising sources. And one can also argue that successful prosecution does not amount to simply removing one terrorist from the field; it is upholding the law and providing an alternative to the use of military force.

SHOULD MILITARY FORCE BE USED?

Will the United States again employ military force against terrorists or state sponsors of terrorism? During the 1988 presidential campaign, both candidates said yes, indicating bipartisan support for the raid on Libya. Indeed, it is likely that if the administration does use military force within the next four years, such action will most likely be in response to terrorism. Whether, when, and how will depend very much on circumstances; but a number of fundamental operational, political, and even philosophical questions must be addressed before a decision to use military force is reached.

In combatting terrorism abroad, the United States faces a twofold problem. On the one hand, it confronts what has by now become "ordinary" terrorism. This is a diverse threat. A multitude of terrorist groups, for various reasons, have attacked U.S. targets in 72 countries in the past two decades. The location of the principal threat shifts with time, roughly reflecting the course of political violence in the world. This "ordinary" terrorism has little impact on U.S. policy. Local governments where the attacks have occurred tend to be cooperative in protecting foreign nationals and have vigorously pursued local terrorists. In dealing with this type of terrorism, the U.S. response is primarily defensive.

State-sponsored terrorism poses a different problem. Here the United States may confront a campaign of terrorism instigated and directed by a handful of state sponsors; at present, these sponsors are concentrated primarily in the Middle East, but other nations could be included in the future. State sponsorship provides terrorists with better intelligence, technical know-how, and increased resources. Thus, state-sponsored terrorism is a much deadlier form of violence and one that potentially could have much greater impact on U.S. policy, as did the 1983 Beirut bombing, which led to the withdrawal of the Multinational Force. For economic and political reasons, U.S. allies often are reluctant to join the battle against the state sponsors of terrorism, especially when that battle takes the form of military action. They simply do not believe that military force is an appropriate or effective means of combatting terrorism.

Military force cannot be ruled out entirely, however. There are circumstances when its use could be considered consistent with American interests. For example, military action against a state may be contemplated when there is clear evidence that a government has directed or has materially assisted in terrorist attacks directed against the United States and other remedies (diplomatic or economic sanctions) have not worked, or when a government continues to harbor terrorist groups that are operating against American targets. Whether military force is *useful* in such cases is another question.

Those who believe that force is useful in combatting terrorism have suggested that the United States should follow a policy similar to Israel's. After all, Israel has dealt with this problem for years, frequently with force. But there are some significant differences between Israel and the United States. Israel considers itself at war—more than a war, a permanent struggle. Technically it *is* still at war with some of the Arab countries that surround it. The United States does not consider itself at war. Reprisal is an integral part of Israeli military doctrine and practice; it is not a part of U.S. doctrine. Israel's terrorist adversaries and their state sponsors are adjacent to Israel's frontier. The Middle East is halfway around the world from us. Israel's public has generally supported, even demanded, strong military action against terrorists. Fortunately, foreign terrorists have not carried out attacks *in* the United States. American public support for some kind of action is strong in the immediate wake of a major terrorist incident, but it quickly evaporates. The American public overwhelmingly supported the attack on Libya, but it is not apparent that there is a sustained consensus in the United States in favor of military response to terrorism. Finally, Israel tolerates world condemnation more easily than does the United States.

In any case, the effects of Israeli policy are debatable. Israel *did* succeed in dissuading first Egypt, then Jordan and Syria, from allowing terrorists to launch attacks from their territory, but Israel has not persuaded all adjacent countries to stop sponsoring terrorist attacks against Israeli targets abroad, and the Israelis would probably admit that regular retaliation has not deterred their terrorist adversaries from continuing their campaigns. Military force is used now primarily to punish and disrupt, and to provoke.

This raises a broader question: To what extent should the United States regard Israeli counterterrorist policies as a model for its own efforts to combat international terrorism? Clearly, the two countries are allies in the fight against terrorism. We are grateful to Israel for its assistance in bringing about the release of American hostages held in Lebanon. We seek Israeli cooperation. Crises will arise in which we will work together. We admire Israel's toughmindedness, its resourcefulness, the achievements of its intelligence services (whose sources in the Middle East exceed our own), and the skills displayed by its armed forces. There is no question that Israeli views on terrorism and how to deal with it have influenced our own policies. However, we cannot allow our admiration for Israel's approach to terrorism to define our approach or dictate the broader aspects of our Middle East policy.

As pointed out previously, although we have common terrorist foes, our terrorism problem is different from that of Israel, and our political situation is very different. American and Israeli interests do not coincide in every case. It is not in our interest to view the Palestinian issue or to treat the PLO exclusively within the framework of counterterrorism, although the framework in which our current dialogue will continue is not yet clear. We differ on definition: The Israelis may regard every Palestinian attack as terrorism. We may see distinctions. We cannot endorse or be seen as a silent partner in every Israeli retaliatory raid. We have differences regarding the future of Lebanon and relations with Iran.

To say that such differences sometimes exist is not to dilute our fundamental commitment to Israel's survival, and Americans must be sensitive to the fact that the terrorism—which is carried out by Palestinian organizations—in its ultimate purpose, strikes at the core of Israel's existence. Still, it is in our interest—and, it might be argued, sometimes in Israel's interest as well—to reassert the independence of U.S. policy.

Returning to the specific issue of military force, there are a number of factors that must be considered before the United States uses military force in response to terrorism. Former Secretary of Defense Caspar Weinberger identified some of these, and some have been raised by the military itself: There must be proof of a connection between the terrorist attack or campaign and the target group or state, and we should be able to divulge that proof. Whatever is done should be defensible under international law. The level of force used must be appropriate (this is not to say that it must necessarily be proportionate to a specific terrorist attack.) The operation must be timely. It must have public support. It must have a high probability of success. And we have to be prepared for the possibility of terrorist retaliation.

These are not easy criteria, and they reflect the fact that the American military establishment traditionally, and with good reason, has been unenthusiastic about the use of the armed forces to combat terrorism, a mission fraught with operational and institutional risks. To avoid casualties and collateral damage that could alienate world and domestic public opinion, the political leadership is likely to impose operational constraints that reduce the chances of successfully accomplishing the mission and increase the risks involved.

Before military force can be used, there must also be clear understanding of what is to be achieved by its use against terrorists or their state sponsors, and whether the objectives are realistically achievable. The primary objective would be to reduce the capabilities of the terrorists or their state sponsors to continue their terrorist campaign, but this is very difficult

to do. Terrorist operations require only a handful of people, recruited from a large reservoir. They don't need much in the way of infrastructure. The so-called "terrorist training camps," mentioned frequently in the press, may consist of nothing more than a few barracks and a weapons range, and even those may exist only for some of the large organizations that field miniature armies in addition to carrying out terrorism. A terrorist "bomb factory" may be located in a garage or on the ground floor of an apartment building. Smaller organizations have nothing more than hideouts. As mentioned previously, terrorists offer few lucrative targets for conventional military attack. To destroy a state's capabilities to wage a war of terrorism would require causing more damage than the United States may be willing to inflict.

Can military force be used to kill a policy? That is, can the United States persuade state sponsors of terrorism to desist? The issue here is deterrence, and this is a more achievable objective than the elimination of terrorism. The Israelis claim that their policy of military retaliation succeeded in persuading the neighboring states to halt terrorist raids from their territory. As we see, however, it has not dissuaded all state sponsors from assisting terrorist groups, and it has little effect in a country such as Lebanon, where the central government is simply not up to the task of halting terrorist activity, despite Israeli retaliation.

Can the United States, by demonstrating that sponsoring terrorism will bring military reprisal, discourage other states from adopting terrorism as a mode of warfare? Possibly. Can the United States demonstrate resolve and commitment to would-be allies by using military force? Probably. Can the United States satisfy the domestic demand for action? Certainly, but satisfying domestic public opinion should not suffice by itself as an objective of military action.

The U.S. bombing of Libya in 1986 illustrates the difficulty of evaluating the results of military retaliation. In that case, the United States was determined to discourage continued Libyan sponsorship of terrorism and to disrupt what was perceived in Washington as a new campaign of international terrorism about to be launched against American targets around the world. There has also been considerable speculation that the attack was in fact an effort to assassinate Qadaffi. At least some U.S. government officials hoped the attack would provoke a military coup to overthrow him.

What were the results? Definitely fewer attacks were subsequently carried out by Middle Eastern groups in Western Europe. Some reports indicated that Qadaffi ordered at least a temporary suspension of terrorist activity. Alarmed by the U.S. attack, European governments took a number of steps against Libya, if only to forestall further military action

by the United States. Over a hundred Libyan diplomats were expelled, restrictions were imposed on those who remained, and security measures were increased. All this had the effect of making Western Europe a more difficult environment for terrorist operations.

Qadaffi himself lapsed into a period of depression, which was exacerbated by the death of his adopted daughter in the attack. Not surprisingly, the attack did not alter his antagonism toward the United States; however, his rhetoric did become more subdued.

Despite rumors that his political wings had been clipped by fellow army officers, three years later Qadaffi remains very much in control of the government. Furthermore, he has by no means abandoned the use of terrorism as an instrument of policy. Libyan involvement in terrorism continues.

Since the American bombing of Libya, other countries sponsoring terrorist attacks have reason to move more cautiously, to take greater care to conceal their involvement. Evidence linking terrorist actions with state sponsors will not be easy to obtain. This raises the question of what standards of proof the President should demand before ordering military actions. Some administration officials have spoken of the necessity of finding the so-called "smoking gun," implying that courtroom-quality evidence is prerequisite to military action. But that would virtually preclude any military response. Nevertheless, one may legitimately ask whether evidence that would be inadequate in a trial can justify the use of military force.

Linking military action to a specific terrorist incident may be the wrong approach. It might be preferable to assemble information that establishes conclusively a pattern of support for terrorist activity. Some pieces of evidence will inevitably be missing, but the overall picture should be clear and convincing. Whether the degree or nature of a state's involvement in terrorism justifies a military response can then be decided in an appropriate forum. A formal declaration of war, although it might be considered an antique in today's world, especially in dealing with a contemporary problem like state-sponsored terrorism, nonetheless offers an opportunity to present evidence, carefully weigh courses of action, and express the national will. While it may be argued that the U.S. Congress today would be unwilling to surrender any of the power it has appropriated with the War Powers Act by giving the President a mandate to wage war at a time and scale of his choosing, or that Congress is too fractious to permit any decisive action, this does not seem to be applicable to the case of terrorism, where public opinion has overwhelmingly favored a military response.

A formal declaration of war would create serious problems for the target state, even if no shots were fired. It would discourage investment, and it would disrupt foreign trade—for example, insurance companies would go to wartime rates. It would serve notice to foreign nationals residing in the target state that they were in a war zone. It would oblige the target state to divert additional resources to defense.

A formal notice of belligerency would not oblige the United States to use military force. Whether, when, and how to use force would remain a matter of choice. Such a notice would, however, remove two of the problems of military retaliation: the requirements for timeliness and proportionality. There would be no requirement to strike soon after an incident, while feelings ran hot, nor would there by any requirement to limit the response in accord with any single terrorist incident. Finally, a declaration of war would put any subsequent military action in a proper legal framework. It would facilitate the conduct of covert operations, and above all, it would communicate the seriousness of purpose that is appropriate to the organized taking of human life and deliberate destruction of property, which is what military action, stripped of all euphemisms, involves. At the same time, formal belligerency could create problems in U.S. bilateral relations with non-belligerents who happen to be friends of the target state.

What happens if we can identify the terrorist group responsible for an attack, but we have no convincing evidence of state involvement? This poses a problem, since we have not yet figured out how to declare or wage war on a group. This is our problem, not the problem of the terrorists, who operate in the grey area between criminal action and war, where the regime of laws and means of response are weak. One approach might be to invent new rules that formally recognize the existence of terrorist organizations whose members are dedicated to repeated terrorist attacks against Americans and others. We would have to be able to define such organizations fairly precisely by names used in operations, known leaders and membership, and identifiable histories of violent criminal actions. The new rules would enable us to relax standards of evidence and would permit the apprehension and detention of members of a terrorist organization solely on the basis of their membership, as well as the seizure or destruction of facilities, property, or any other assets occupied or used by the organization. Recognizing that terrorists are armed adversaries who have demonstrated their willingness to kill, the rules would permit the use of deadly force in conducting counterterrorist operations, but nothing close to deliberate murder. All operations would require oversight on a mission-by-mission basis to ensure that the modified requirements of evidence and rules of engagement were followed. The new rules for combatting a terrorist

group abroad would not apply to criminal investigations in the United States, where traditional rules of evidence and constitutional guarantees would prevail.

Whether the targets are terrorists or their state sponsors, military options, under any rules, are clearly limited, perhaps so limited as not to warrant special procedures or the diplomatic complications military operations would bring. It is also clear that the effects of military force are unpredictable and should not be overestimated as to what can be accomplished. Military retaliation may deter further attacks for a period of time, but it will not permanently alter behavior. It may provoke terrorists' retaliation, although not necessarily an immediate response. Unilateral military action to preempt or retaliate for a terrorist attack will almost certainly be condemned in the international community, even by those countries that secretly support military response, and it is likely to alarm U.S. allies, which in turn may either encourage or discourage greater cooperation.

Measured against the negligible or negative effects of military actions is the cost of doing nothing, which may signal fear or the inability to respond. That in turn may cause allies and friends to question the value of other American commitments, encourage terrorists and their state sponsors to continue their attacks, and inspire others to adopt terrorism as a mode of surrogate warfare.

It is ironic that in employing military force in response to terrorism, we operate on the same uncertain terrain as terrorists do in anticipating and accurately assessing the results of their attacks, and we may fall victim to the same errors. The arguments for and against military force include assertions of both short-term and long-run benefits and costs. The tangible military results are viewed as negligible. Rather, the gains or losses are evaluated in terms of symbolic, political, or psychological effects, results that are subject to varied interpretation. Freed of conventional measures of military achievement, the analysis easily gets too sophisticated; cascading consequences, positive and negative, are predicted; and overall, too much importance is attributed to a single operation.[3]

---

[3]For further discussion, see Brian Jenkins, *New Modes of Conflict*, The RAND Corporation, R-3009-DNA, 1983, and *Combatting Terrorism Becomes a War*, The RAND Corporation, P-6988, 1984. The most thoughtful exposition of the use of military force against terrorism was offered by Secretary of State George Shultz in his April 8, 1984, address before the Trilateral Commission entitled "Power and Diplomacy in the 1980s."

SHOULD WE CONDUCT COVERT OPERATIONS AGAINST TERRORISTS?

The difficulties of conducting overt military operations push us in the direction of covert operations, which offer both advantages and disadvantages. Overt military operations send a clearer message. They appear more legitimate in the eyes of the public. Greater capabilities are available, and it is easier to maintain secrecy during preparation. However, there is the risk of open failure, and even if an operation is successful, there is still the risk of American casualties and American POWs. Moreover, allied acquiescence or support may be necessary.

In contrast, covert operations are deniable; standards of proof can be lowered to a certain extent; non-U.S. personnel can be employed; and allies, who would find it politically difficult to cooperate with overt military operations, might be more willing to cooperate in covert activity. On the other hand, covert capabilities take time to develop. Reliability declines if other than U.S. personnel are employed, and there is a risk of losing control or becoming associated with operations on behalf of local political agendas that are not our own. Finally, although the idea of covert operations against terrorists currently enjoys a measure of popular support with the American public, such operations can easily backfire.

That leads to a basic policy question: Should covert operations be included among measures to combat terrorism? Clearly, the answer is yes. In fact, covert operations have been employed against terrorists and have on occasion thwarted terrorist attacks in which innocent lives would have been lost. The necessity of covert operations in combatting terrorism has bipartisan support in the political establishment, and as public opinion polls indicate, covert operations to combat terrorists are supported by the American public.

Can deadly force be used as part of covert operations against terrorists? Yes. Given the nature of the terrorist adversary, a prohibition against deadly force would effectively rule out most activity beyond the passive collection of intelligence. The apprehension of wanted terrorists, attacks on facilities used by terrorists, the rescue of hostages, and support for overt military operations all, of necessity, involve the use of deadly force—at the very least, in self-defense.

Should there be "rules" for covert operations directed against terrorists? Again, yes. However, the rules cannot be too rigidly defined, let alone applied, for much depends on the context in which a particular operation is carried out. Why have any rules at all? After all, it might be argued, we are fighting against terrorists, and by their own terms, anything goes. However, that is not the point. Terrorism does threaten lives—although, historically, seldom great numbers—and the threat to lives justifies intervention, with force if necessary; but

terrorists seldom pose a major threat to the security of the nation. There is a vast disparity between the power of a government and that of its terrorist adversaries, and in the long run, terrorists have had only very limited success.

However, terrorists, by their choice of tactics, affront widely held values about what is fair in peace or war. In combatting terrorism, we are not fighting for survival, but we are defending the principles we choose to uphold. Therefore, it is essential that we defeat the terrorists in a manner that preserves those principles. We must not simply win. We must win properly.

Covert operations against terrorists should be governed by different guidelines from those that govern other covert operations. First, in the case of terrorism, we are usually dealing with non-state adversaries. The conventions and tacit agreements that constrain covert actions against states will not necessarily apply. Second, in contrast to our relations with states, our only relations with terrorists are hostile: We do not have diplomatic relations with terrorists. We conduct no trade with them. We anticipate their hostility. Third, in confronting terrorists, we are in a state of "war" or near war. Although terrorist groups have political aims and may have political arms, they are organized primarily to inflict violence. This allows somewhat greater latitude in covert operations directed against them. Thus, there may be fewer constraints on covert operations against terrorists than on such operations in any other situation except declared war. We should keep in mind, however, that while terrorists may in effect "declare war" on us, and we may reciprocate, our terrorist foes are not privileged combatants. They are not entitled to the protections accorded prisoners of war; they are subject to criminal prosecution for their actions.

In sum, covert operations can and perhaps must be used against terrorists. Some will inevitably involve the use of deadly force. But specific guidelines should be established for their evaluation and conduct. These can consist of (1) criteria to judge whether a proposed covert operation is appropriate and (2) rules for the conduct of that covert operation. The following guidelines might be considered:

- The target of the covert operation must pose a direct threat to the United States, to U.S. citizens, or to U.S. facilities abroad. A policy against terrorism does not justify covert operations against all terrorists anywhere in the world. In any case, our limited resources should not be squandered.

- Loss of life (specifically American lives) is likely to be the consequence if no action is taken. We should not restrict the prospect to *imminent* loss of life, but the targeted group should present a clear danger if allowed to continue its operations unimpeded.
- The operation should be consistent with broader American goals, and it must be consistent with American values. It cannot involve unnecessary loss of life, needless suffering, the taking of innocent hostages, cruel and unusual punishment, or other actions that the American people would reject out of hand. Many of what we call our values are codified in laws and treaties. Those that are not codified must still be respected.
- The operation must be carried out within the framework of the law. I refer here to something beyond the procedural requirements necessary for the approval of covert operations. The activities of the terrorists must be seen clearly as a crime if they were to occur in the United States. Efforts must be made to collect evidence, establish culpability, identify the correct target, and so on. This is not to say that terrorists abroad must receive the benefit of Constitutional guarantees, but there should be some measure of legality.
- The operation must generally conform to the rules of war. A nation cannot do in a situation short of war what it has agreed not to do even in war. The rules of war prohibit the deliberate application of violence against civilian noncombatants, indiscriminate violence, taking hostages, the use of certain types of weapons, and the torture of prisoners.
- The operation should also comply, as much as possible, with existing treaty obligations and bilateral agreements. The latter, for example, may prohibit local operations in a country with which the United States has an intelligence exchange agreement. Accredited diplomats, even though they may be secretly directing terrorist operations, are internationally protected persons.
- The operation should be aimed at a clear and positive result in the form of deterrence, prevention, disruption, apprehension, or elimination of a specific terrorist capability. The expected results, if the operation is successful, should be worth the risks and costs involved. The possible gains should justify the consequences of failure or exposure if the operation is unsuccessful.

- Covert operations must comprise a specific action or a specified campaign. We must not simply turn operators loose to deal with terrorist groups. In every case, we should know exactly what the operation is, from beginning to end. Moreover, U.S. government officials should remain in control of the operation. This does not preclude the employment of other nationalities or tactical flexibility for the operators. It does, however, mean that the U.S. government will ultimately be held accountable for covert operations initiated, instigated, or directly supported by American officials. The use of nationals of other countries does not absolve the U.S. government of responsibility for covert operations it instigates, directs, or supports. If we are in control, if we know the specific operations to be carried out, we are responsible, regardless of whether or not the operatives are U.S. citizens.

It should not be inferred from the foregoing discussion that covert operations are invariably bloody business. In fact, few such operations involve killing. In combatting terrorism, the most useful covert operations may be those directed against the terrorists' logistics or future operations—electronics that fail to work, bombs that don't go off—or those directed at the terrorists' minds—sowing suspicion that recruits are infiltrators, that operations have been betrayed by informants inside the group. But it is the issue of killing that raises the most profound questions.

Should the U.S. arsenal against terrorism include assassination—the premeditated killing of specific individuals? Inevitably, one's views on this issue are personal. I think assassination is wrong, and I don't think it would achieve anything, but I recognize that there is a legitimate policy question: In responding to terrorism, can we minimize the loss of life—the lives of future victims of terrorism as well as the lives of innocent bystanders who might be killed in a conventional military response—by killing those who are most directly responsible?

In favor of assassination, one can argue that it may preclude greater evil. "Wouldn't you have assassinated Adolf Hitler?" proponents often ask. With hindsight, the answer is easy. The more difficult question is, when would you have assassinated him? After 1941, when Germany declared war on the United States? If before then, on what basis? Because he was a fascist, a ruthless megalomaniac, a rabid racist who persecuted Jews, annexed Austria, invaded Czechoslovakia? He was and did all of these things. But how do we identify future Hitlers? Megalomania, racism, and a proclivity to invade one's neighbor are, regrettably, not rare attributes among world leaders.

Assassination produces fewer casualties than retaliation with conventional weapons. If blood is the measure, assassination is surely the cleanest form of warfare. Assassination also would be aimed at persons directly responsible for terrorist attacks, not innocent bystanders. In the U.S. attack on Libya, 37 people died. Were any of them responsible for the terrorist campaign that provoked the attack? Military force, even with "precision weapons," is a blunt instrument.

Assassination of terrorist leaders would disrupt terrorist groups more than any other form of attack. Effective leadership is a scarce resource. The deaths of terrorist leaders in the past have impaired their groups' ability to operate.

Assassination leaves no prisoners to become causes for further terrorist attacks. The release of imprisoned terrorists is the most frequent demand in hostage situations and the terrorists' second most important objective after publicity.

Lining up against these arguments in favor of assassination are moral and legal constraints, operational difficulties, and practical considerations. To begin with, assassination is morally wrong. Admittedly, this is an arguable point. The actions of terrorists also are morally wrong—but that does not make assassination right. Nevertheless, at the very least, many people would *view* assassination as immoral.

Under current U.S. law, assassination is also illegal. Advocates of assassination do not view such killings as murder. They argue that assassinations fall into the same category as executions—the legal taking of human life. Execution, however, is not an appropriate parallel, since under the circumstances likely to prevail, assassinations would certainly violate American standards of due process.

Other proponents may argue that eliminating terrorist leaders is an act of war. Most terrorists regard themselves as being at war with their enemies, and haven't we "declared war" on terrorism? Does that not put terrorists in the same category as soldiers in an army at war, therefore making them legitimate targets? The answer is no. We do not accept the terrorists' pretension. We do not consider terrorist attacks as acts of war, and we do not treat captured terrorists as prisoners of war; we try them as criminals. Moreover, our rhetorical declarations of war have no legal standing. We have also "declared war" on those who would import and sell drugs in this country, but we do not condone the assassination of leaders of drug rings.

This brings us back to the question of whether the United States can devise an appropriate way of declaring and waging war against a group of individuals who do not constitute a government. At a minimum, such an action would require the presentation and

careful consideration of evidence, some notice of belligerency, and the formulation of rules of engagement to govern our own conduct. Even a formal declaration of war would not automatically legalize assassination. The metaphor of war should not be allowed to obfuscate the issue of whether assassination is legal.

Following revelations in the mid-1970s that the U.S. government had been involved in various plots to assassinate foreign leaders, the President issued an Executive Order: "No person employed or acting on behalf of the United States Government shall engage in, or conspire to engage in assassination." Reasons of state do not constitute a defense against a murder charge. Proponents of assassination argue that this is a self-imposed constraint. The President could lift his ban. That might provide legal protection for a hired assassin here in the United States, but it would not protect him against murder charges in other countries, nor would it shield the United States from the wrath of other governments.

In combatting terrorism, we ought not to employ actions indistinguishable from those of the terrorists themselves. We oppose terrorism not because we always oppose the causes espoused by the terrorists or reject the grievances they claim as their motive, and not because we consider all uses of armed force unjustified. We are, after all, a nation founded upon armed rebellion. We oppose terrorism because we believe that bombs in airports and restaurants, the taking of hostages, and assassinations on city streets are illegitimate means of fighting under any circumstances. Our goal is not just to outgun the terrorists, but to defeat, or at least limit, terrorism. We do not further that goal by resorting to terrorist tactics ourselves.

Assassination of terrorists could justify further terrorist actions against the United States. Suppose that in retaliation for the assassination of one of their leaders, terrorists launched their own campaign to assassinate American diplomats, perhaps even U.S. political leaders at home. Would the world simply see it as another phase of a dirty war, fought with tactics we have agreed to?

Our opponents would have the advantage. Terrorist leaders continually worry about their security. They are elusive, hard to find, hard to get at. In contrast, we are particularly vulnerable to the risk that our own leaders may be assassinated. We would agonize over each operation; our opponents would not hesitate. We would worry about the possible danger to bystanders; terrorists who set off bombs in airports and departments stores have no such concerns. In a war of assassination, we would clearly be at a disadvantage.

The replacement for the person we kill may be even worse than his predecessor. This is the direct counter to the principal argument in favor of assassination. One reason the assassination of terrorists has not worked over the long run is that the elimination of one man simply leads to his replacement by another in the chain of command.

Who would give the order to assassinate? Not an easy question to answer. Whether seen in the context of peace or war, there is an understandable reluctance to assume responsibility for the cold-blooded killing of a specific person, as opposed to shooting at an anonymous enemy. That pushes the decision up. The higher the rank of the target, the higher the decision must go. Most heads of state naturally shun such decisions. They may consider their foes to be scoundrels deserving of a quick exit, but they are reluctant to behave as scoundrels themselves. Even if they feel that the action is justified, they have no desire to play the role of high executioner. At a minimum, most leaders want to maintain plausible deniability—the ability to declare that they did not directly order someone's death. Some may seek cover in implied instructions. "Who will free me from this turbulent priest?" lamented King Henry before his most devoted Barons. The King's henchmen thought they understood the King's desire and they murdered Becket. Of course, he did not *order* the killing, and he later claimed that he had been misunderstood.

With such a system, plausible deniability is achieved. At the same time, there is the risk of confusion, misjudgment, and loss of control in a delicate and dangerous area.

Assassins may have their own agendas. Assassination is a nasty business, and it often requires employing nasty people. We might have to rely on third parties whose political agendas and attitudes about violence differ from our own.

Historically, assassination has achieved nothing. Following the bloody attack on Israeli athletes at the Munich Olympics in 1972, Israel embarked upon a campaign of assassination. Between October 1972 and 1974, 11 known or suspected leaders of Palestinian terrorist organizations were shot down or blown up by Israeli agents. The campaign ended after the killing of an innocent waiter in Norway who was mistakenly identified as a terrorist on the list. The assassination campaign may have disrupted terrorist operations, but the effects were temporary. It was difficult to discern any decline in Palestinian terrorist attacks at the time, and Israelis and Jews worldwide are still frequent targets of terrorist violence. Of course, since we cannot count things that don't occur, we have no way of knowing how many more attacks would have taken place had Israel not engaged in assassination.

One learns never to say "never." Being at war, openly engaged in military hostilities, might make a difference, although this country has always taken the position that not all is fair even in war. Short of war, however, "assassination has no place in America's arsenal." The quote comes from a report written in 1975 by a Senate Committee investigating U.S. involvement in assassination plots. It was a conclusion supported by the CIA directors who testified before the committee. It has been reiterated by every President since.[4]

HOW DO WE GET THE HOSTAGES BACK?

Hostages have haunted the American presidency for the past decade. Since 1976, there have been only 258 days when American hostages were not being held by terrorists. And in the past five years, there have been only 22 days when terrorist kidnappers were not holding American captives in some part of the world. One of the most difficult challenges for the Bush administration will be to obtain the release of the remaining American hostages in Lebanon, some of whom have been in captivity for more than four years.

Based on what we know about the releases that have occurred up to now, there are three sets of keys. The captors themselves have one: They could decide on their own to release one or more hostages if the reward were great enough. Iran's considerable influence over the captors gives it the second set of keys. Syria, the largest military force in Lebanon, has the third set: It can exert military pressure on the captors or try to buy hostages from them; it also controls the military checkpoints through which a released hostage must pass.

Analysts are never certain at any moment which set of keys or combination of keys could unlock a door. Do the Iranians have a master key, that is, can they override local objections and order a hostage to be released? Would the captors release hostages without approval from Tehran, or must the Iranians and the captors both turn their keys to get a hostage out? Could the Syrians and the captors bring a hostage out without Iran turning its key? Or are all three sets needed?

The hostage issue is complicated by the fact that people holding the hostages have not been clear or consistent about exactly what they want in return for their release; indeed, the captors have shown little inclination to communicate at all except for an occasional videotaped statement read by one of the hostages. The most persistent demand has centered on the release of 17 prisoners imprisoned in Kuwait for their role in a series of terrorist

---

[4]For a further discussion of the arguments for and against assassination as an instrument of policy, see Brian Jenkins, *Should Our Arsenal Against Terrorism Include Assassination?* The RAND Corporation, P-7303, January 1987.

attacks on the American and French embassies and other targets in 1983, but the captors have occasionally raised other issues, such as the release of Mohammed Ali Hamadi, the confessed hijacker of TWA 847, or the withdrawal of all Israeli troops from southern Lebanon. At times they have simply employed hostages to make political statements.

Apart from their specific demands, the captors have a number of powerful incentives to retain some of their hostages. In Lebanon, possession of hostages, like the possession of a large arsenal of weapons, provides a group with a certain amount of prestige. Having hostages also makes the captors a factor to be reckoned with in the international arena. Nothing can be done by any of the governments involved in the region without at least taking into account the possible consequences for the hostages: Thus, hostages elevate the captors to the level of governments; nations are reduced to the level of Lebanon's feuding clans. For the Shi'ite groups, the possession of hostages guarantees continued support from Iran. It also protects the captors against retaliation—Syrian, Israeli, or American. And finally, hostages are a good investment. Despite the denials of deals done, the captors have released some of their hostages in return for large ransom payments.

Some of the hostages have apparently been released upon instructions from Iran, whose government exercises great influence over the captors. Iran has effectively used this influence as an instrument of state policy, and its government has obtained significant political and economic concessions in return for the release of hostages. It is through Iran that the United States obtained the release of three American hostages in 1985 and 1986, and the U.S. government looks to Iran to obtain the release of those who remain. This makes the fate of the Americans held captive inseparable from the broader issue of U.S. relations with Iran.

Any attempt to open a constructive dialogue between Washington and Tehran confronts serious obstacles on both sides. The Americans must operate within the constraints of a no-concessions policy that, if anything, has become more brittle since its publicized breach in 1986. The Iranians, on the other hand, present attitudes that range from deep suspicion to outright hostility, unrealistic estimates of what the United States might be willing to do to obtain the release of the hostages, arrogant and outdated presumptions about the importance of Iran to the United States, a Persian negotiating style that discomforts American officials, and continuing turmoil in Tehran that prevents sustained progress on any issue.

Although superficially consistent since its pronouncement in 1973, U.S. policy on dealing with hostage situations has been subject to nuances in its presentation and interpretation. Basically, that policy opposes making concessions to persons or groups holding hostages. Although the policy specifically refers only to terrorists, in the case of Americans currently held in Lebanon, it is interpreted to also include governments that may have influence over terrorists holding hostages. Thus, selling arms to Iran to get hostages released, whatever other strategic justifications were offered, was a breach. During the 1988 presidential campaign, both candidates reiterated their adherence to the no-concessions policy in unequivocal terms that offered very little room for maneuver.

Since Irangate, the no-concessions policy has become more restrictive. Originally, its wording indicated that while the U.S. government itself would not release prisoners, pay ransom, or make other concessions to terrorists holding hostages, it would not actively oppose other governments making concessions to obtain the release of Americans held hostage. In fact, this was often the solution. In most cases involving American hostages, the captors made demands on other governments, and in the majority of these cases, those governments made concessions—often with American encouragement or at least with tacit American agreement. For example, in 1985, Israel promised to release 700 Shi'ite prisoners in return for the release of 39 American passengers seized in the hijacking of TWA 847.[5]

Embarrassed by Irangate, the United States since has fervently and regularly repeated its own pledge not to make concessions; it has discouraged other governments from making any deals to obtain the release of their own nationals; and it has publicly criticized those governments that have done so. There is a consistency of logic in this extension of U.S. policy: Terrorist expectations obviously would be reduced if all nations adhered strictly to a no-concessions position. Governments say they do, but in practice, they don't, and at times the differences in approach have become an irritant in bilateral relations. Since the ability of the United States to combat terrorism depends on international cooperation, it is arguable whether public brow-beating of our friends is appropriate. Moreover, given the serious lapse of policy in our own secret dealing with Iran, incessant reiteration of policy looks hypocritical.

---

[5]Even in cases where demands were made on the U.S. government, the record offers no clear-cut message. In some cases, terrorist demands were rejected; in other cases, concessions were made or offered (albeit sometimes anonymously).

Fearful of being embarrassed by anything that even remotely suggests another secret deal, the U.S. government has also discouraged private parties from attempting to open their own channels to the captors or to the Iranians, lest such attempts lead to private negotiations. Referring to the situation of the American hostages held in Lebanon, Secretary of State Shultz told the "independents" to "butt out," and the Department of State has warned of possible prosecution of those who conduct private diplomacy in violation of the Logan Act. This, by the way, contrasts with U.S. policy on kidnappings in Latin America, where American corporations routinely negotiate with kidnappers and pay ransoms to obtain the release of kidnapped executives. However, although these kidnappings are included in official chronologies of international terrorism, U.S. officials view them differently from cases in which captors make demands on governments.

U.S. policy does not preclude negotiations. While he was Vice President, George Bush pointed out that the United States does not have a no-negotiations policy: "We will talk to anyone, any group, any country about the safety and well-being of American citizens."[6] State Department officials argue that despite the absence of diplomatic relations between Iran and the United States, if Iranian officials want to communicate, they have ample diplomatic channels to do so. Independent intermediaries and indirect "back channels" do nothing but confuse matters. There is a great deal of truth to at least the second claim—private efforts to get the hostages out have caused a great deal of confusion. The lack of progress toward the hostages' release or of any visible efforts by the government, the understandable determination of the families and employers of those held hostage to do everything they can to communicate with the hostages and their captors, the chaotic situation in Lebanon, and the inclination of the Iranians themselves to work behind the scenes and communicate indirectly have all contributed to an environment in which would-be intermediaries, mysterious messengers, well-intentioned brokers, and cruel con artists abound.

Despite the availability of proper diplomatic channels, it has in fact remained extremely difficult for the United States and Iran to communicate directly. Suspicion is pervasive on both sides. Even during the secret negotiations that led to the release of one American hostage in 1985 and two in 1986, American officials met directly with their Iranian counterparts on only a few occasions. Most communications were indirect. Communication became even more difficult after the guns-for-hostages story broke. The

---

[6]"The Presidential Candidates on Terrorism," *TVI Report*, op. cit.

year following the first public revelation that the United States had secretly sold arms to Iran was dominated by accusations and investigations in Washington that effectively precluded any communications between the two governments. And for the next year, the United States focused its attention on the presidential election campaign, during which administration officials were particularly averse to doing anything that might lead to accusations of secret deals being cut to bring back the hostages in an election eve coup.

Given the murky power struggles going on in Tehran, U.S. officials were reluctant to commit themselves even when Iranian officials made seemingly positive statements about resolving the hostage situation: Were the Iranians' comments official? Were they speaking for the entire regime? Could they deliver? If answers to these questions could not be ascertained, Washington was not interested. The no-concessions policy, in effect, became a no-communications policy. This is not to imply that Iran was prepared during this time to talk about anything other than the possibility of further arms deliveries or even to talk at all.

Iran, for its part, has great difficulty in initiating a dialogue with the United States, the country that, in the eyes of Iranian hardliners, remains the "Great Satan." Before any kind of open communications can take place, those officials who may want to resolve the hostage situation as a prerequisite to improving relations must create an internal consensus. That consensus does not exist now. Iran's behavior over the last several months confirms the existence of powerful forces in Tehran who continue to oppose any kind of rapprochement with the West—in particular, the United Kingdom and the United States—except on their terms, if at all.

Even those Iranians who might be more willing to talk view the hostage problem as simply one facet of a broader set of issues that divide Iran and the United States. They complain about America's past "misdeeds" and its continuing hostility toward the Islamic revolution. They would like to see more rapid progress in settling the financial claims dispute that has for nearly ten years tied up Iranian money and prevented the delivery of goods Iran had purchased. They would like access to American technology and American arms to rebuild their armed forces. They hint that if relations improve, the hostage issue will be resolved.

But in linking the fate of the hostage issue to these other issues, Iran has badly misjudged the situation in the United States. The fate of the American hostages is a matter of concern to the U.S. government, but it is not a central issue. Public attitudes have changed since the seizure of the American embassy in Tehran. The government is under no immediate pressure from the public to bring the hostages home. Many Americans remain

hostile to Iran. Washington sees little political capital in making a deal. The intense media interest in the hostage issue during the final weeks of the presidential campaign did not reflect public pressure to solve the issue, but rather was a peculiar media quest to expose any possible deal-making by the administration that might bring hostages home and thus boost Bush's chances in the election.

Although Washington would welcome improved relations with Tehran, Iran has lost much of its strategic importance to the United States. U.S.-Soviet relations have greatly improved. The Soviets have withdrawn from Afghanistan and seem anxious to resolve other regional conflicts. Washington no longer views Iran as a vital bulwark against Soviet expansion or as the policeman of the Persian Gulf. The Gulf states have increased cooperation among themselves, and the United States has learned that in times of danger, it can assume the necessary defense tasks, as it demonstrated by reflagging the Kuwaiti tankers and escorting oil convoys. Moreover, uncertainties of Gulf shipping during the Iran-Iraq war led to the creation of a vast network of pipelines which now carry oil over land to Mediterranean ports, thus reducing the importance of Gulf shipping. Insofar as access to Iranian oil is concerned, world oil production is high and can be expected to remain high, and the price of oil, though rising, remains comparatively low. To put it bluntly, in a way that no U.S. official can say publicly, Washington can wait.

The American advantage, however, should not become an excuse for inaction. For humanitarian reasons—the hostages have suffered long enough—and for political reasons—hostage situations are always politically dangerous—efforts to bring about the release of the hostages must continue. It is also in the interest of the United States to encourage a less hostile regime in Tehran. Hostage-takers in Lebanon and their hardline backers in Iran should not have an effective veto over efforts by Washington and Tehran to resolve their differences. The United States is in a position of strength and can afford to be more flexible with regard to communications, which are not the same as negotiations or concessions. Without making substantive concessions, the United States also must be sensitive to the need of the Iranian government to create consensus.

In his inaugural address, President Bush clearly indicated his desire to open a dialogue with the Iranians: "There are today Americans who are held against their will in foreign lands," he said. "Assistance can be shown here and will be long remembered. Good will begets good will. Good faith can be a spiral that endlessly moves on." Eloquent, elliptical language, the message was nonetheless clear, and reports indicate that it was received in Tehran. But there was no response, and less than a month later, the furor rising

from the Ayatollah's call for the murder of author Salman Rushdie because of his book, *Satanic Verses*, led to a diplomatic crisis that resulted in the temporary withdrawal of West European ambassadors from Tehran. The hardliners had, for the moment, triumphed. Meanwhile, the situation in Lebanon has grown even more chaotic, if that is possible.

The struggle over the future course of the revolution continues. Although, for reasons of U.S. national interest, Washington would like Iran's more pragmatic leaders to succeed, the situation in Tehran is far too complicated for the United States to intervene sensibly in any effort to affect its outcome. Events beyond our control will have to play themselves out.

Meanwhile, we could work on defining our approach. When faced with an impasse, it is sometimes useful to redefine the problem. Getting the hostages out of Lebanon could be portrayed as a mutual goal of the United States and the more pragmatic leaders, not to say "moderates," in Iran, who presently confront hardline elements at home and in Lebanon that oppose any lessening of the hostility that exists between the two countries. Progress on the hostage issue will require considerable diplomatic skill, and the United States will have to show some flexibility in dealing with the Iranians while at the same time persuading them not to link the release of the hostages with prior resolution of the claims issue or other impossible demands.

Washington would prefer that the Iranians work through formal diplomatic channels; however, they may choose to initiate a dialogue through unofficial routes and back channels. This has been their pattern in the past. It allows them to quietly explore possibilities without losing face and choreograph in advance any subsequent overt steps in such a way that their leadership reaps political advantage on the domestic front. The United States should be willing to accept this as an opportunity to assist the more pragmatic elements in Iran and should help them by quietly designating the "unofficial" channel that will remain available when they are ready to talk.

The initial stages of the dialogue may entail a series of small tests of goodwill and symbolic gestures to mollify opponents, dilute animosity, and build trust. There is much that the United States can do short of making substantive concessions. Tokens and courtesies that provide the leaders we favor with domestic political capital help create a climate that will enable them to develop the consensus they need to put pressure on those now holding the hostages in Lebanon. At the very least, these actions would test Iran's intentions. If there is still no progress, we would have to conclude that Iran is determined to extract economic or political concessions in return for the release of the Americans or that its influence over the captors has declined or disappeared—in which case, new approaches will have to be tried.

We must also anticipate that those who oppose progress in resolving the differences that separate the United States and Iran will try to sabotage any agreement. New threats may be issued. Terrorist incidents may occur just when there seems to be cause for optimism. We are not dealing with a secure and stable government, but with a society still in the throes of a revolution. Some of Iran's leaders may seek to improve relations with the outside world while others are instigating or even sponsoring terrorist attacks that invite retaliation. The same leaders may go back and forth between these extremes in an effort to hold power—and keep their heads. American policymakers may find themselves likewise obliged to go back and forth between efforts to improve relations and actions that make clear the boundaries of U.S. tolerance.

Despite the difficulties, dealing through Iran remains for the time being our best bet for getting the hostages released. None of the alternatives look very promising. Syria's desire to assume credit for the release of hostages thus far surpasses its ability to achieve any results. Threatening the captors or Tehran with military retaliation if the hostages are not released has emotional appeal but is not likely to work and might imperil the hostages. Rescue, another appealing solution, is a long shot, especially if we are concerned with getting the hostages out alive.

That leaves ransom, a distasteful course of action but one which should not be ruled out entirely. It is absurd to argue that there are absolutely no circumstances in which a government might not acquiesce in some kind of deal to obtain the release of hostages. If efforts to work through the Iranians fail, and if those holding the hostages, hard-pressed by the fighting and with their backs to the wall, were to offer to release them for a sum of money, preferably one that can be expressed in humanitarian terms, a benefactor might be found. But it would depend on many conditions which presently do not exist. First, it would require the captors to open up a reliable channel of communications and be able to continuously prove that they have the hostages and that the hostages are alive—the Middle East abounds with fakers. Second, it would require the captors to drop all political demands, such as the release of prisoners in Kuwait. Third, it would require the captors to disconnect any discussions regarding the hostages from Iranian demands. Finally, it would require the willingness of the captors to conspire in maintaining the secrecy of the dialogue. If those conditions were met, which for now seems unlikely, then ways might conceivably be found for private parties with private funds to arrange a settlement that would not violate the U.S. government's own stance.

Putting the specific issue of the hostages in Lebanon aside, the new administration still confronts the broader issue of U.S. policy on hostage situations. That policy has become dangerously rigid. The arguments for and against a no-concessions policy are by now well established: A no-concessions policy provides clear instructions. It preserves the image of government authority. It may deter further hostage episodes (it must be noted that the evidence to support this claim is tenuous at best). A no-concessions policy may also encourage terrorist kidnappers to focus their demands on other governments instead of on the United States. A no-concessions policy, however, also imperils the lives of hostages, or at the very least protracts their captivity, and it is often modified or abandoned as a hostage crisis drags on, with the consequent loss of credibility. Most nations subscribe to no-concessions policies in theory. In practice, however, many of them have made deals to obtain the release of their citizens held hostage, although they may deny that the apparent concessions were part of any deal, or argue that these things were done for loftier purposes, or claim that any deals were strictly private affairs that did not involve the government. Even Israel, a country that is seen to exemplify the hard line, has on several occasions made concessions to obtain the release of hostages, and the United Kingdom, another steadfast proponent of the no-concessions policy, allows itself some flexibility by speaking of no "substantive" concessions.[7]

In a recent hostage episode in the Soviet Union, General Secretary Gorbachev acceded to the demands of captors who were holding 30 children hostage, provided them with an airplane and several million dollars, and permitted them to fly out of the country. His actions were completely contrary to the conventional wisdom and to the way Americans would expect a Soviet leader to respond in a hostage situation. The hostage-takers released the children and flew to Israel, where they were arrested and returned to the Soviet Union, along with the plane and the money. Gorbachev was free to get back to more important issues, and on all counts, the outcome was a complete success.

One must be careful about drawing lessons from the incident, however: The hostage-takers were not fanatic terrorists making impossible political demands. They were ordinary criminals who, judging by their actions, seemed to be rather simple-minded. Further, the Soviets took enormous risks in providing an airplane to men with guns. But the episode does illustrate the point that cases may arise in which making concessions is the right thing or the

---

[7]For further discussion of policy issues in hostage situations, see Brian Jenkins et al., *Dealing with Political Kidnapping: Executive Summary*, The RAND Corporation, R-1857/1-DOS/ARPA, October 1976.

only thing to do. It also illustrates the utility of not being boxed in by public declarations of policy. Gorbachev had no previously announced policy and therefore could do what officials felt necessary, without losing his credibility or setting a precedent.

The United States probably has declared that it will never make concessions too many times to be able to return to the flexibility of having no policy at all, and it would not be sensible to publicly disavow the no-concessions policy. That policy must remain a guiding principle. However, in dealing with some future hostage situation—and one will almost certainly arise in the next four years—it would be desirable to have greater room for maneuver than current policy allows.

CAN INTERNATIONAL COOPERATION BE SUSTAINED?

International cooperation will be increasingly difficult to sustain at its current level. If the President of the United States decides to keep terrorism high on his agenda of international issues, he may find himself increasingly without allies. America's European allies have successfully contained, although they have not entirely eliminated, the threat from domestic terrorists. The United Kingdom and Spain are the exceptions. They still confront deadly, persistent separatists, but these are seen as local conflicts. The European allies, for the most part, also have solved their problems with Iran and Syria and have seen their hostages released from Lebanon. Again, the United Kingdom is the exception. The other allies may now be reluctant to associate themselves with highly visible positions or efforts that irritate their political and economic relations with the Middle East.

Yet international cooperation is vital for the United States. Our principal terrorist problem lies beyond our borders and takes the form of terrorist attacks directed against American citizens and facilities abroad. The U.S. government depends heavily on the cooperation of other governments for much of its intelligence, for providing security around likely targets of terrorist attack, for cooperation in investigations, for the apprehension and trial of terrorists, and for cooperation in imposing sanctions on state sponsors of terrorism.

Bold multilateral declarations of solidarity in the fight against terrorism have not prevented individual countries from following their own paths, particularly in negotiating the release of hostages—"a nasty business," in the words of one European diplomat, in which "it is every country for itself." These declarations, while unofficial in themselves, nonetheless have been useful in providing a framework and an incentive for cooperation, and in guaranteeing the resources to increase that cooperation at the technical level. Unless some new campaign of international terrorism surges across the globe, renewing a sense of

common danger, new pronouncements are unlikely. The trick will be to preserve cooperation at the technical level in the absence of high-level rhetoric. International cooperation will have to be treated as a precious resource to be husbanded for the long fight, not a moral duty to be constantly reminded of. Continued American nudging may be necessary; public nagging will not work. The United States will also have to carefully weigh some of the more muscular demonstrations of American anger and might against the effects of those displays on allies who see things differently and are sometimes less than enthusiastic about public crusades and military maneuvers.

One approach might be to combine multilateral efforts to combat terrorism with multilateral efforts to combat drug trafficking—a priority issue for the United States and a growing problem in Europe as well. (The policy issues concerning drug trafficking are discussed in Section III.) The joint efforts of Italy and the United States against terrorism, organized crime, and drug trafficking provide a successful model. Such an approach could at least preserve the cooperative machinery at the technical level. Combining efforts, however, risks dilution of the campaign against terrorism and could provoke turf wars within the U.S. bureaucracy. Right now, responsibilities for combatting terrorism and combatting drugs are strictly separated in the U.S. government, except for the slippery issue of "narco-terrorism," which brings the drug traffickers' use of violence to intimidate local government or retaliate against foreign governments into the realm of terrorism. There is an Office of Counterterrorism and a separate Bureau of International Narcotic Matters in the Department of State, a Drug Enforcement Agency with investigative responsibilities, and, under the Bush administration, a newly-appointed Drug Czar. Would the anti-terrorism machinery get the same attention if it were submerged in the larger anti-drug machinery? It would also have to be ascertained that the foreign government agencies are not also divided along similar lines.

While the ability of the United States to lead its allies in the struggle against terrorism may diminish, there are some indications that the Soviet Union might be growing more receptive to U.S.-Soviet cooperation in the fight against terrorism.

The Soviet Union confronts an array of terrorist threats both abroad and at home, some of which are of potentially greater consequence than those the United States faces. Historically, international terrorism has fallen unequally on a handful of Western nations. The United States invariably finds itself in first place among the targets—a price we pay for American influence and presence throughout the world—followed by Israel and France, then the United Kingdom. West Germany and Turkey also place high on the target list. Until

recently, this was the Soviet perception as well: Terrorism was a peculiar Western disease, a symptom of unjust capitalism or a reaction to the West's opposition to the progressive forces of the world. In either case, it was not a Soviet problem. Indeed, we hear little about terrorism in or directed against the Soviet Union. But there have apparently been many incidents of anti-Soviet terrorism that have not been reported. In recent years, hijackings inside the Soviet Union and terrorist attacks against Soviet officials abroad have brought the Soviet Union to fifth place in the list of terrorist targets. The Soviets may not share our penchant for counting, but they realize that they too must now worry about terrorism.

The terrorist incidents of greatest concern to the Soviet Union are those that might lead to confrontation between the two superpowers. The U.S. bombing of Libya obviously made a deep impression on the Soviet Union. Although there was no confrontation in that case, the Soviets are concerned that some future action by terrorists could provoke similar military retaliation against a Soviet ally accused of sponsorship, which could bring the Soviet Union face to face with an angry United States if it tried to protect its protege. The Soviet Union also worries about incidents or campaigns of terrorism that could lead to wider military conflict. Again, the Middle East furnishes the most likely scenarios. Finally, the Soviet Union worries about incidents of terrorism that may involve the use of chemical, biological, nuclear, or any other means of mass destruction.

In addition to these alarms, there are several potential terrorist threats that are peculiar to the current situation in the Soviet Union. The American failure in Vietnam dealt a serious blow to America's sense of confidence about its mission in the world and caused concern about U.S. security interests in Asia, but it stopped there. No one in California felt directly threatened by falling dominoes in Southeast Asia. The Soviet failure in Afghanistan is different. Soviets fear that, inspired by their own success, American-supported Afghan rebels may carry their fight into the Soviet Union itself. This is one facet of a broader concern in Moscow that a violent form of Islamic fundamentalism will spread to the 50 million Moslems who live in the Soviet Union. And that fear is part of an even broader Soviet concern that the government could confront violent separatist movements among the various nationalities and ethnic groups that make up the Soviet Union itself.

These concerns became apparent at a recent meeting in Moscow, where a small group of American and Soviet participants explored the possibilities of cooperation between the two countries in combatting terrorism. It was more than an academic discussion among a handful of scholars and journalists. Both governments were interested in the results of the meeting, although neither participated officially—all the better, since the participants were able

to speak without the requirement of representing national positions. (Soviet officials were at the meeting, but as individual scholars.) The remarkable thing was that the meeting took place at all. Here were Americans and Soviets, albeit unofficially, discussing one of the most sensitive foreign policy issues, one which indeed has been an area of accusation and contention between the two countries.

Both sides took risks in coming. American participants worried about Soviet propaganda ploys or being subjected to harangues over the legitimacy of wars of national liberation or the U.S. role in Central America. At the same time, the Soviets anticipated a barrage of American criticism about the Soviet role in international terrorism. They knew that merely talking with Americans about cooperating against terrorism could itself be interpreted by their friends in the Third World as abandonment or even a hostile act.

By the end of the five days of discussion, the participants were able to agree upon a list of specific suggestions about how their respective governments might increase cooperation. These include the creation of a standing bilateral group and channel of communication for the exchange of information about terrorism; the provision of mutual assistance in the investigation or resolution of terrorist incidents; cooperation at the diplomatic level in expanding and strengthening international conventions against terrorism; greater controls on the transfer of military explosives and certain categories of weapons; joint efforts to prevent terrorists from acquiring the means of mass destruction; the exchange of technology that may be useful in preventing or combatting terrorism; and the conduct of joint exercises and simulations for the purpose of exploring Soviet-American cooperation during terrorist threats or incidents.

One should not anticipate too much. Participants at the Moscow meeting pulled their punches in the interest of identifying areas of agreement rather than focusing on differences, but there is much that divides the two countries. We must also keep in mind that the United States still has difficulties sustaining international cooperation even among countries with which it has shared political and legal traditions for two centuries and which for 40 years have been military allies. Nonetheless, the door to Soviet-American cooperation in combatting terrorism has been opened.[8]

---

[8]For a more detailed discussion of the Moscow meeting, see Brian Jenkins, *The Possibility of Soviet-American Cooperation Against Terrorism*, The RAND Corporation, P-7541, 1989.

III. TAKING ON THE DRUG TRAFFICKERS

Attention is shifting in Washington from combatting terrorism to the war on drugs. Official comments about dealing with the drug problem contain the same martial language that characterized the Reagan administration's earlier rhetoric on terrorism. This *war* is being fought on three fronts. Domestically, efforts are being made to reduce drug consumption; this is a slow process. On and just over the national frontiers, interdiction efforts have resulted in larger interceptions of illegal drugs, but more drugs are coming into the United States than ever before, and their price is dropping—an indication of availability. The new administration may therefore focus greater attention on the third front, efforts to destroy crops and disrupt processing in the source countries. Here we must move very carefully. An aggressive U.S. campaign on this front will strain relations with source-country governments, which tend to view the drug problem as one of U.S. consumption, not one of local production. Increased U.S. efforts in the source countries may also affect local security in areas where drug traffickers coexist and sometimes cooperate with powerful guerrilla groups. Under the combined onslaughts of left-wing guerrillas and powerful drug traffickers, the security situation in Colombia and Peru seems likely to deteriorate anyway. Carrying the war on drugs to the traffickers may also bring a violent response from them. U.S. antidrug efforts have already provoked terrorist attacks against U.S. targets in Latin America. If Washington escalates its campaign, we must anticipate that the traffickers will do the same.

There is also an additional dimension to the drug problem. Whereas the problem of terrorism lies beyond the U.S. borders and domestic terrorism is not a major issue, drugs *are* a domestic problem and growing drug consumption has brought increasing drug-related gang violence. Far more Americans die in drug-related gang wars than at the hands of terrorists. Thus far, the gangs have concentrated their attacks on each other, but many bystanders have been killed or wounded in the crossfire. In major cities, including Miami, Los Angeles, and Washington, D.C., this violence has reached alarming levels. Big money has meant higher stakes and heavier weapons. Shootouts in which hundreds of rounds are exchanged are not uncommon. Control of the streets is slipping away. These cities have their own little Beiruts, little Medellins. This is our domestic terrorism, and it is more ferocious than the politically motivated violence in many other countries. The domestic gangs have not yet turned political, but if their power is allowed to grow unchecked, or if

they are seriously challenged by the authorities, the same kind of terrorism could occur here that we see employed against the judiciary, the legal system, and the political structure in Colombia.

The problem has not been adequately addressed. Gang violence is a tradition in the United States that has been romanticized in countless films. Most of the battles today occur in the poorer neighborhoods—traditional gang turf. The majority of the victims are Blacks or Hispanics—also a tradition. The apparent tolerance of Americans for an appalling level of criminal violence—there are 20,000 homicides a year in the United States—has blunted our senses to the very real danger of domestic terrorism.

IV. CAN WE ALTER THE ECOLOGY OF POLITICAL VIOLENCE?

Beyond the specific policy questions involved in combatting terrorism, there is the broader issue of political violence in today's world. Despite apparent momentum toward peace, many wars continue. Continuing violence and political decay have turned Lebanon into a society that seems to be perpetually at war with itself; it remains a breeding ground and base of operations for the Middle East's most dangerous terrorist groups. A domestic insurgency has emerged in the territories occupied by Israel. Guerrilla contests and terrorist campaigns continue in Northern Ireland, the Basque provinces of Spain, Southeastern Turkey, Greece, the Western Sahara, Sudan, Ethiopia, Angola, Mozambique, Uganda, Burma, Kampuchea, Sri Lanka, the Philippines, Indonesia, El Salvador, Nicaragua, Peru, Guatemala, and Colombia. Violence continues in South Africa and in India. Ethnic antagonisms and separatist sentiments have reemerged in the Balkans and in the Soviet Union, where there is also concern about the spread of violent forms of Islamic fundamentalism. The world remains a violent place. Some parts of it appear to have slipped into a state of permanent war.

The principal American concern has been the spillover of this violence into the international arena, where it assumes the form of terrorism. But combatting international terrorism cannot be the only concern of the United States. Many of the conflicts do derive from deep-rooted differences that the United States cannot expect to resolve, but there are areas where U.S. actions in domains other than security can help reduce tensions or the level of armed conflict. This is not the classic liberal error of believing that we can eliminate terrorism by satisfying the grievances of all of those who would resort to terrorist tactics: Vicious terrorist campaigns have been waged in the most economically and socially advanced and most democratic countries of the world. In some cases, however, the United States can make a difference, by helping to negotiate a settlement to an existing conflict as American diplomats did in Namibia, by working with other nations to restore order in places like Lebanon, by providing economic assistance, or by reducing the heavy burden of debt which threatens to propel some of the more fragile democracies of Latin America back into the violence of the 1970s.

The United States can also try to contain the sheer volume of politically motivated violence by addressing the problems created by the growing availability of weapons and explosives, which have become mere commodities in international trade, like oil and grain.

There are not necessarily more grievances in the world today than there were twenty, fifty, or a hundred years ago; ethnic conflict and religious extremism are not new; and fanaticism is not an invention of our time. But easy access to weapons encourages those who feel most fervently about their cause to use violent means in its pursuit.

The world has become increasingly sensitive to the pollution of its seas and its atmosphere. If we do not wish to see the dark reflections of Belfast, Beirut, or Medellin multiply, we must also become more sensitive to the poisoning of the planet's political environment by the virtually uncontrolled traffic in explosives, guns and drugs, and the terrorism that accompanies it.