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**COMBATting TERRORISM:  
A NEW NATIONAL STRATEGY**

**BY**

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USAWC STRATEGY RESEARCH PAPER

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## ABSTRACT

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With the Cold War over, the instability of the new world "disorder" has created a breeding ground for terrorist groups. The United States, as the lone remaining superpower, has increasingly become the target of international right-wing extremist groups seeking to strike a blow for their causes. Conducted by organized, highly trained, and technologically sophisticated paramilitary units, terrorism is in fact a form of warfare waged against the United States and its allies. But current U.S. policy toward terrorism, hampered by its reliance on diplomacy, sanctions, rules of law, and the cooperation of other nations, is ineffective in protecting U.S. interests and the lives of U.S. citizens. To respond effectively, the United States must add an unprecedented dimension to its counterterrorist policy and rise to the next level, a level above a mere criminal law enforcement approach to this threat. That dimension must be specified in a new national strategy that acknowledges terrorism as armed conflict. This strategy must assign the U.S. military a perpetual pro-active role as a deterrent and respondent to the terrorist threat.



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# COMBATting TERRORISM: A NEW NATIONAL STRATEGY

## Introduction

The man in the subway wore big glasses, brown trousers and a beige coat. He had donned a surgical mask. But then a lot of people wear masks in Japan during the hay-fever season. The witnesses agreed that he boarded the eight-car B711T train on Tokyo's Hibiya line when it originated at 8 a.m. at the Nakameguro station. The masked man found a seat and, according to a witness quoted anonymously by the Tokyo media, almost immediately began fiddling with a foot-long rectangular object wrapped in newspapers. At the next stop he set the package on the floor and strode abruptly from the train. By then, said a witness, a moist spot had appeared on the wrapping paper.

Michael Kennedy, an Irishman working in Tokyo, boarded the train at Roppongi station and noted that the spot had turned into a "pool of oily water on the floor. I noticed this quite offensive smell that I can't really describe." Others smelled it too and edged away. Within ten minutes commuters began to panic. Says Matthias Vukovich, an Austrian student who was in the car, "Everyone just ran off, and I didn't know what was going on. Someone yelled, 'It's gas!'" Vukovich then glimpsed at the puddle, his eyes and head now beginning to hurt. Next to the puddle sat an immobile old man, Shunkichi Watanabe, a retired cobbler. He was already dying.

"I saw several dozen people on the platform who had either collapsed or were on their knees unable to stand up," recalls Nobuo Serizawa, a photographer. "One man was

thrashing around on the floor like a fish out of water.” Those who could still walk staggered up three flights of stairs to the fresh outdoor air. Some vomited; others lay rigid.

Within a half hour, similar episodes were taking place at five other subway stops on three different lines. Police were herding thousands to hospitals where doctors administered atropine, a chemical agent antidote. The thousands of surviving victims of the gas attack were understandably bewildered. Kiyō Arai, a 22-year-old government employee who was stricken at the Kodenmachō station, said, “We’re just innocent ordinary people. It frightens me to think how vulnerable we are.”

It was not by coincidence either that the three trains targeted were those that converge on Kasumigaseki, the hub for top government offices, including the national police. Atsuyuki Sassa, former director general of the Cabinet Security Affairs Office, said, “This is a declaration of war against the Japanese government.”<sup>1</sup>

20 March 1995 marked the first time that a weapon of mass destruction was used to terrorize an urban center. Five members of the bizarre religious cult Aum Shinrikyō (Supreme Truth) released poisonous sarin gas in the heart of Tokyo’s subway system, killing twelve commuters and injuring over 5,000 others. Until the offenders were apprehended, Tokyo’s 30 million residents remained terrified, especially when they had to board a train, subway or bus. When they did, they eyed fellow passengers warily, anguishing at the sight of a suspicious package or unusual odor.

This act of modern terrorism could just as easily have taken place in New York City as in Tokyo. London, Paris, Rome, Frankfurt – no place in the world is completely immune to similar acts of devastation. Likewise, Americans both at home and abroad are no less vulnerable to terrorism than are the citizens of any other country.

Regrettably, current U.S. strategy for combatting terrorism, both for deterrence and for response, falls woefully short of the task. It places heavy emphasis on diplomacy, economic sanctions, and rule-of-law activities – all of which place minimal pressure on terrorists and the countries that sponsor them. Attempting to discredit terrorists globally, the U.S. labels terrorism a simple act of crime and fights it largely with law enforcement and intelligence agencies. We fail to recognize terrorists for what they have really become: organized and sophisticated, highly trained paramilitary units which are in effect conducting offensive warfare against the very nations and societies they target. To effectively combat international terrorism and to protect American lives, the United States must recognize terrorism for what it is. We must adopt a national strategy that “declares war” on terrorism and that commits the U.S. military overseas, as a matter of policy, to oppose terrorists and their sponsors as it would oppose any adversary in a state of armed conflict.

There are times when America and only America can make a difference between war and peace... Nowhere is that responsibility more clear or more urgent than in the struggle against terrorism... This will be a long, hard struggle... There will be setbacks along the way. But just as no enemy could drive us from the fight to meet our challenges and protect our values in World War II and the Cold War, we will not be driven from the fight against terrorism today... Terrorism is the enemy of our generation, and we must prevail.

President Bill Clinton

President Clinton has stated repeatedly that combatting terrorism, both internationally and domestically, is a critical priority of his administration. Although terrorism kills or injures relatively few people compared with other forms of violence, it inflicts an inordinate psychological, political, and economic toll. “Its random quality, the fact that it strikes without warning, the fact that it preys upon innocent victims, gives it a particularly evil quality. It increases our collective sense of fear and vulnerability... terrorism is a powerful, yet low-cost political weapon. It’s also used for strategic purposes – to bring down governments... and to turn back political, social, and economic change.”<sup>2</sup>

The motivation that triggers terrorism has changed from ideology and separatism in the 1960s, 70s and 80s to ethnic intolerance and religious fanaticism in the 1990s. Today’s motives more easily lead to atrocities. Terrorism has become bloodier. Assaultants now rely more on car and truck bomb detonations. There have been 165 such attacks since the World Trade Center bombing in 1993 – all calculated to kill massively.<sup>3</sup> It is in the interests of Americans everywhere that the United States establish an aggressive, unwavering national strategy against the evils of terrorism.

To defend the argument for a new counterterrorist strategy, this study will consider several related issues:

- Terms of reference: What is terrorism? What is a terrorist act? How does antiterrorism differ from counterterrorism?
- Statistics and examples of recent incidents of global terrorism, specifically

those directed at Americans.

- A review of current U.S. policy regarding counterterrorism: the 1995 National Military Strategy, the 1996 National Security Strategy, and recent legislation enacted by the Clinton Administration.

- Future trends of terrorism.

- The inadequacy of current policy and the requirement for change.

- A proposal for an alternative national U.S. strategy in the war against international terrorism.

- Legal justification for the new strategy.

### **Defining the Threat. . . Terms of Reference**

- No single definition of terrorism has gained universal acceptance. Article 22 of the United States Code, Section 2656f, describes terrorism as “premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents, usually intended to influence an audience.”

- International terrorism is terrorism involving citizens (perpetrators or victims) or territory of more than one country. Since international terrorism has a direct impact on U.S. interests, this study focuses on it.

- A terrorist group is any group practicing terrorism, or having significant subgroups that practice international terrorism.

- A noncombatant is a person neither engaged in nor preparing to engage in combat. Personnel performing police or law enforcement duties as well as personnel assigned to peacekeeping/humanitarian missions are generally considered noncombatants.
- A terrorist act is the use of force, violence, or intimidation to achieve terrorists' political ends when hostilities do not exist.
- Antiterrorism calls for defensive measures to reduce the vulnerability of individuals or property to terrorism.
- Counterterrorism initiates offensive measures to deter, prevent, and respond to terrorism.

### **Statistics and Recent History**

The total number of international terrorist acts rose in 1995 from 322 to 440, but fewer of these acts resulted in deaths than in 1994. The number of deaths declined from 314 in 1994 to 165 in 1995. However the number of people wounded increased ten-fold to 6,291; 5,500 of these were injured in the Aum Shinrikyo gas attack in the Tokyo subway system.

International terrorist acts against U.S. interests rose to 99 in 1995 from 66 in 1994. The number of U.S. citizens killed rose from four to twelve; 48 were wounded.<sup>4</sup>

The United States Department of State does not publish its official annual report on terrorism until April of the following year. Hence, the examples and statistics provided in this study are based largely on terrorist incidents occurring in 1995. However, significant, well-publicized events of 1996 that victimized Americans abroad have been noted.

- Two American employees of the U.S. consulate in Karachi, Pakistan, were killed and one was wounded when their shuttle bus came under armed attack.
- Members of the Japanese cult Aum Shinrikyo placed punctured containers of sarin, a deadly chemical nerve agent, on three trains in the Tokyo subway system during the morning rush hour. The attack killed 12 and wounded 5,500, including two Americans.
- Two U.S. missionaries were killed by the Revolutionary Armed Forces of Colombia after being held as ransom to force the withdrawal of U.S. military personnel providing assistance to Colombia.
- Gunmen from the Islamic Group attempted to assassinate Egyptian President Hosni Mubarak during a visit to Ethiopia. This attempt was thwarted by host nation security and counterterrorist forces.
- Terrorists bombed the Riyadh headquarters of the Office of the Program Manager/Saudi Arabian National Guard, killing seven, including five U.S. citizens, and seriously injuring 42.
- Prime Minister Yitzhak Rabin of Israel was assassinated by a Jewish Israeli extremist and Palestinian terrorists continued an array of suicide bombings and shootings in Israel, killing 47 people.
- In addition to the nine American deaths previously cited, a U.S. tourist was murdered in Cambodia by the Khmer Rouge, a U.S. citizen was killed in a suicide attack on an Israeli bus in Gaza, and another died in another bus attack in Jerusalem.<sup>5</sup>

- In June 1996, terrorists bombed Khobar Towers, Dhahran, Saudi Arabia, a facility housing U.S. and allied forces supporting Operation Southern Watch. There were 19 fatalities and approximately 500 wounded.

- In December 1996, 25 rebels from the Tupac Amaru Revolutionary Movement stormed the residential compound of the Japanese ambassador to Peru. Over 600 guests, including six Americans and ambassadors from eleven countries, were taken hostage as leverage for a list of demands. The volume of hostages, the prominence of the prisoners, and the fact that the siege took place on the soil of a foreign embassy render this incident as possibly the boldest act of terrorist hostage-taking in history.

The accounts above cite only those terrorist events occurring in the recent past. They do not cite past terrorist attacks on U.S. interests, such as the bombing of the World Trade Center in 1993; the downing of Pan Am Flight 103 in 1988; the bombing of the U.S. Marine Barracks in Lebanon in 1983; and the seizure of the U.S. Embassy in Tehran in 1979, to name a few. Clearly, the United States is no less vulnerable to terrorism today, abroad or domestically, than it was fifteen years ago. In fact, many argue that the new world “disorder”, caused by the dissolution of the Soviet Union and, in turn, the breakdown of global bipolar stability, may have put U.S. citizens at greater risk today than ever before to the threat of terrorism. As the sole surviving superpower, the United States is blamed for the world’s problems – blamed for not solving them, blamed when it tries to, and blamed when its solutions do not satisfy everyone. As the price we pay for our perceived affluence, influence and involvement in world affairs, American citizens today have become the preferred targets of terrorists. <sup>6</sup>

Stephen Sloan has aptly described the emergence of this strategic threat:

“Terrorism may come to the United States whenever foreign adversaries want to test Washington’s resolve in continuing its support for activities of the United Nations and friendly governments. Given the lack of coherence in the international environment and [our] low threshold of pain in the taking of American casualties in ill-defined conflicts...one must recognize that future acts of terrorism, if skillfully executed, might have a strategic result.”<sup>7</sup>

### **Current U.S. Policy**

The current 1995 national military strategy, *A Strategy of Flexible and Selective Engagement*, places only slight emphasis on counterterrorism. In rather vague, general terms, our entire military strategy on terrorism is stated in one sentence: “We will also act both unilaterally and in concert with security partners to fight international terrorism”<sup>8</sup>

In February 1996, the White House published *A National Security Strategy of Engagement and Enlargement*. The section entitled “Combatting Terrorism” begins by addressing the need for specialized units to defeat terrorist groups. It stipulates that “from time to time, we might also find it necessary to strike terrorists at their bases abroad or to attack assets valued by the governments that support them”.<sup>9</sup> The thrust of the current U.S. strategy, however, focuses on the following main points:

- Make no concessions to terrorists.
- Continue to pressure state sponsors of terrorism.

- Fully exploit all available legal mechanisms to punish international terrorists.
- Help other governments improve their capabilities to combat terrorism.
- Ensure close, day-to-day coordination among Executive Branch agencies:

Departments of State, Defense, and Justice; the FBI; and CIA.

- Integrate intelligence, diplomatic, and rule-of-law activities.
- Cooperate with other governments and international counterterrorist

organizations.

Additionally, in 1995 and early 1996, the Clinton administration, with Congressional ratification, enacted legislation designed to further enhance U.S. efforts to combat international terrorism. In particular, this legislation:

- Provides broad new Federal jurisdiction to prosecute anyone who commits a terrorist act in the U.S. or who uses the U.S. as a planning ground for attacks abroad.
- Bans fundraising in the U.S. that supports terrorist organizations.
- Allows U.S. officials to deport terrorists from American soil and to bar terrorists from entering the U.S. in the first place.
- Increases controls over biological and chemical weapons.
- Toughens penalties over a range of terrorist crimes.
- Bans the sale of defense goods and services to countries determined not to be cooperating fully with U.S. antiterrorism efforts.

Current collective U.S. strategy to combat terrorism cited above has come a long way under this Administration. Such ongoing initiatives may even keep America in the

forefront of the international effort. But, in reality, does America's "tough guy" rhetoric about terrorism have any impact whatsoever on the zealot freedom-fighter who is often willing to lay down his life, and to take the lives of innocent American citizens, in order to advance his political aims and religious ideals?

### **Terrorism: Act of Crime?**

Current U.S. policy treats international terrorism as a pure act of crime – not to be condoned or excused for political reasons. Consequently, terrorists are treated as ordinary criminals, not combatants. They are dealt with from a civil police perspective. The goal is to deter terrorists by managing them successfully through arrest, prosecution, and imprisonment. This approach is heavily dependent upon international consensus and the cooperation of other nations, especially in the application of extradition treaties.

Using this approach, President Clinton was able to secure the arrest and extradition in 1995 of Ramzi Ahmed Yousef and three members of his gang as suspects in the 1993 World Trade Center bombing. But this is merely one isolated success story. Apprehension of terrorist suspects using diplomacy and rule-of-law pursuits abroad is routinely fruitless. In many cases terrorists have gone to ground, protected either by elaborate early warning intelligence nets or by strong-armed threats and pay-offs directed at local officials. In other cases, terrorists enjoy the sheltered safehaven of a sponsoring sovereign in such nations as Iran, Iraq, Libya, Sudan, Syria, Cuba, and North Korea. These governments are widely considered to support, train, supply, and shelter terrorist

groups for their own foreign policy pursuits. They would certainly be reluctant to cooperate with another country's law enforcement efforts to counter terrorism.

In 1995, the number of individual and group-sponsored terrorist acts exceeded the number of state-sponsored terrorist acts. Many of these terrorists claimed to act for Islam and operated more than ever on a global scale. International cooperation in support of U.S. policy against transnational groups who relocate frequently and who do not align with any one sovereign is quite unlikely. These transnational terrorists benefit from modern communications and transportation, have world-wide sources of funding, are expert at modern explosives and weapons, and are more difficult to track than members of the old established, state-sponsored regimes. Many of these transnational terrorists were trained in militant camps in Afghanistan or are veterans of the Afghan war.<sup>10</sup> Their scope, objectives, philosophy, tactics, and techniques hardly stop at, nor do they closely resemble, mere acts of international crime.

### **The Terrorists Are at War**

Accordingly, there is increasing reason for U.S. officials to regard terrorism not as a common crime, but as a form of warfare. As the director of the task force assigned by the Secretary of Defense to investigate the Khobar Towers terrorist bombing, U.S. Army General (Retired) Wayne A. Downing addressed this issue in his executive summary. Since American military forces are superior to all others in the world, he is convinced that some enemies are waging war against us asymmetrically because they cannot challenge our forces directly. Terrorism is a way to level the playing field, so to

speak, in order to allow a small organization to inflict its will on and advance its goals against a much more formidable power.

Some of these enemies believe that our greatest vulnerability is American intolerance for casualties in the pursuit of objectives that do not have an apparent direct link to vital national objectives. A small number of potential enemies have selected terror as a faceless, low-risk, high pay-off strategy that the U.S.' political system finds difficult to counter. Terrorism then is a form of warfare. Sometimes labeled the "weapon of the weak," it is nevertheless a powerful strategy. It provides our opponents a force projection capability that far exceeds their conventional military means. If this nation proves incapable of responding to terrorism, it [terrorism] will continue to be a threat to the United States.<sup>11</sup>

Terrorists enjoy the advantage of being able to take the initiative in the timing and choice of their targets. They are increasingly mobile and technically sophisticated. To thwart terrorists, a nation needs every available edge to protect its citizens from these random acts of violence directed at noncombatants. Unfortunately, current U.S. policy does not provide the greatest possible advantage; it falls short as both an effective deterrent and as a credible response to international terrorism directed against American interests, both at home and abroad.

As a U.S. Army Special Forces officer who has served in counterterrorist units for over eight years, I believe that this great country must reexamine its approach to a growing threat that requires much more than a law enforcement policy. Just as the terrorist believes he is at war with the United States, so too must the U.S. "declare war" on terrorism. We must stop playing petty games and acknowledge the terrorist for who he is: a freedom fighter; a paramilitary soldier engaged in all out war against what he considers the forces of evil. It is time to desist from labeling terrorism a crime only and

treat it for what it is...an act of war. The sooner we do this as a country, the sooner we will be able to respond effectively to the threat on our citizenry and on our economic interests.

### **Future Trends of Terrorism**

Terrorism against Americans and American interests, at home and abroad, shows no sign of decline as we enter the 21<sup>st</sup> century. As a form of political violence, terrorism remains a cheap, quick, and highly successful means for achieving limited objectives. Terrorism persists as the attention-grabbing option of choice for right-wing fanatics, religious fanatics, and for those involved in ethnic and tribal conflict. While no one will challenge the U.S. on the conventional battlefield in the foreseeable future, terrorist acts will be the preferred method of expressing hostility toward the remaining superpower. As mentioned, ideology is no longer the terrorists' driving force; ethnic hatred and religious fanaticism are. The universal availability of weapons, explosives and technologically sophisticated timing and triggering devices, along with global communications technology, expand the terrorists' formidable arsenal.

Car bombings such as at the World Trade Center, the Marine barracks in Beirut, and Khobar Towers will continue to be the favored terrorist weapon. Dynamite and old forms of explosives have been replaced by the more destructive and concealable Semtex. Car bombing is an unobtrusive tactic. It has the potential to cause extensive property damage and inflict mass casualties; it has the greatest shock effect and readily draws worldwide attention, even acclaim from those who loathe the U.S.<sup>12</sup>

Likewise, terrorists' employment of stand-off weapons like the American Stinger, the M-72 LAW, and the Russian SA-7 and RPG-7 hand-held anti-aircraft and anti-tank missiles have become more prevalent than ever.

A growing concern, especially after the precedent-setting gas attack in the Tokyo subway, is that terrorists will cross the threshold and employ weapons of mass destruction. The disintegration of the Soviet Union has led to a shake-up of its scientific establishment, widespread corruption, and growing organized crime. The current black market trade in weapon-grade plutonium and the attendant technology render nuclear terrorism a possible scenario. It can range from dispensing radioactive material in an area to cause contamination to the actual construction and possible detonation of a small, but very lethal, atomic bomb.

Terrorists now have access to biological agents which can contaminate a city's water supply. The stage for future chemical attacks has already been set by Aum Shinrikyo, which targeted the very vulnerable city subway system to dispense an easily-produced nerve agent.

Future terrorism scenarios may include nonlethal assaults on the infrastructure of modern industrialized society, such as the information super highway. Terrorists can operate in cyberspace to destroy and manipulate information for their own purposes. This gives them the potential, for example, of manipulating the stock market or of shutting down computer-dependent transportation or communication systems.

U.S. military personnel will continue to be targets of terrorists because, collectively and individually, servicemen symbolize U.S. power. Since the likelihood of

the United States becoming involved in a major regional contingency in the foreseeable future is negligible, military operations other than war (MOOTW) will characterize the normal U.S. military deployment. Our service personnel are especially vulnerable in peace operations, in delivering humanitarian assistance, or in restoring order in situations where governments have failed and where ethnic conflict, widespread crime, and available weapons create a lethal, chaotic environment ripe for terrorist strikes.<sup>13</sup>

Terrorists will continue to rely on the world media to help spread their message of instantaneous fear and intimidation. Through this vehicle, terrorists can successfully manipulate what may often be their ultimate target: public opinion.

### **Recommendation: A New National Strategy**

The terrorist threat to Americans is greater and stronger than the power of mere economic sanctions, trade restrictions, and coercive diplomacy are to deter it. U.S. national security strategy acknowledges the necessity to strike terrorists at their bases abroad and to attack assets valued by the governments that support them. It is time for the Department of Defense to actualize this provision by convincing Congress that it must expand the military's role in combatting terrorism abroad.

As a rule, the United States has been reluctant to retaliate with force; it has done so on very few occasions. The bombing raid on Libya in 1986 and the 1993 cruise missile attack on Iraq's intelligence service headquarters after an assassination plot against former President Bush are two rare examples. But with the rate of terrorism against American citizens recently on the rise and international terrorism increasingly

coming to American soil, it is time for the U.S. to take a tougher stand.' The United States must "declare war" on terrorism and add an unprecedented dimension to its existing counterterrorist policy. We need a new national strategy that incorporates the military in a pro-active, aggressive response role as a means to effectively combat terrorism.

Using military force always creates controversy in the U.S.. Democratic societies find it problematical to use force, because nations founded on the rules of law have a natural tendency to resolve international problems by diplomacy and legal recourse. However, the threat posed by international terrorism is so serious today that the likely victim is left with no other option but the judicious use of force in order to protect its moral order and values, as well as its citizens' lives.

Pro-active measures should stipulate three levels of response: reprisal, pre-emption, and retribution. All three are measures short of war, although each is applicable in the context of general warfare. All three forms of response have legal justification under Article 51 of the UN Charter, which reserves to nations the inherent right to self-defense.<sup>14</sup> Terrorism invites a response commensurate with the levels of perceived, projected, or actual threat. The United States should not be afraid to apply force to protect its interests, citizens, and property while still attempting to find peaceful, long-term solutions to the threat of terrorism.

**Reprisal.** Reprisal is "a coercive measure directed by a state against another state in response to or in retaliation for illegal acts of the latter for the purpose of obtaining , either directly or indirectly, reparation or satisfaction of the illegal act".<sup>15</sup> A response,

whether a low signature operation, a surgical military assault, or the projection of power by air attack and full scale military intervention, executed swiftly and decisively, must be proportionate to the initial offense if the response is to achieve its full value. Reprisals must be announced internationally to serve as an effective deterrent to future attacks. A "secret reprisal" is no reprisal at all.

**Pre-emption.** "Pre-emption entails striking in advance of hostile action to prevent its occurrence."<sup>16</sup> A demonstrable national will and capability to pre-empt a terrorist faction will certainly have a deterrent effect over the long run. This form of response relies exclusively upon irrefutable intelligence.

Unless the state in which the terrorists are located can be persuaded to deal with the problem by its own credible means, pre-emptive force will undoubtedly involve violating another nation's sovereignty. But a potential victim nation such as the U.S. cannot waste time leaving itself vulnerable while waiting for the host nation to take appropriate action. It must strike to eliminate the threat. The pre-emptive response must be highly discriminative, with clearly defined objectives. It must be able to stand the test of international analysis and criticism. Further, the "right of pre-emptive strikes" could be diplomatically established, thereby precluding the issue of national sovereignty.

**Retribution.** "Retribution represents action specifically aligned to the eventual destruction of the militant organization."<sup>17</sup> It turns the terrorist into the hunted and denies his initiative and freedom of movement. This response, designed to target with precision accuracy the actual terrorist (rather than bombing a populated village under the

reprisal option), will convince organizations considering future terrorist activities that they will be relentlessly pursued and punished.

### **Legal Justification**

It is not always easy to discern legal ways for using armed force abroad to deal with terrorism and its state sponsors and supporters. The United Nations Charter system, however, provides guidelines regarding the legitimate use of force today. Article 51 states:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.<sup>18</sup>

The use of military force in national self-defense has long been recognized by the international community. This right, under international law, extends to a nation's response to an international terrorist threat, as long as that response conforms with accepted international practice. Such military responses as pre-emption, reprisal, and retribution are all forms of self-defense, anticipatory and reactionary, provided for by international law. Before employing one of these options, the U.S., or any democracy for that matter, must analyze seven criteria in accordance with international custom and treaties to determine its legal right to respond with force:<sup>19</sup>

- Is the proposed response aimed at protecting the status quo? A nation cannot launch an armed offensive retribution for the mere sake of vengeance.

- Has there been a violation of a legal obligation? Attacks against American citizens abroad, especially by state-sponsored terrorist groups, violate Article 2 of the UN Charter: “All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.”

- Has there been an actual armed attack from an external source? Past terrorist attacks, or even anticipated attacks, violate Article 2.

- Is the response timely? In the case of combatting terrorists, a delay may be unavoidable in order to gather appropriate intelligence.

- Is the military response in self-defense necessary? By definition, terrorists have abdicated peaceful, non-violent methods of resolving issues. As a form of policy, we do not negotiate with terrorists. Our only credible response and the only way to save American lives may be military action. Terrorists leave no other recourse.

- Is the military response proportionate to the threat? An excessive response, especially if there is collateral damage and needless death, will be rebuked by the rest of the world. It may even lead to sanctions and other enforcement actions against the U.S.

- Has the military response been reported to the Security Council? Article 51 requires immediate reporting in order to allow it to intervene and attempt to terminate the armed aggression or future similar situations through peaceful means.

If U. S. decision-makers can answer the above criteria to their satisfaction before mounting a counterterrorist operation and if the U.S. is prepared to withstand the world's reaction once the action is complete, then the use of military force against terrorists abroad is justified.

Another legal aspect that must be addressed is the issue of "declaring war" against terrorists. In this study, "declaring war" has been used as a figure of speech designed to describe the resolve America must assume if it hopes to effectively combat terrorism. "Armed conflict", not declared war, is the actual response category and legal term to be considered in this approach. Armed conflict, falling between peacetime crisis and all-out war, is specified by the 1907 Hague Regulations, the 1925 Geneva Gas Protocol, and the 1949 Geneva Conventions. Addressing terrorism in the context of armed conflict, the U.S. thereby acknowledges terrorism as a mode of warfare and further emphasizes the seriousness of terrorism to U.S. national security.<sup>20</sup>

The law of armed conflict does not grant terrorists POW status. Instead it condemns them as unlawful combatants in six areas:

- The law of armed conflict unconditionally bans terrorism, irrespective of the justness of the terrorist's cause.
- Civilians and civilian objects are protected by Geneva Convention IV.
- The law of armed conflict prohibits the taking of civilian hostages.
- The law of armed conflict provides a standard of treatment for prisoners.

Killing hostages, a frequent terrorist act, is prohibited.

- The law of armed conflict forbids the use of weapons, projectiles, and materials that cause unnecessary suffering.
- The law of armed conflict also prohibits the unlawful use of a lawful weapon. Every life a terrorist takes constitutes an unlawful act.

Applying the law of armed conflict to international terrorism will not decriminalize terrorism, nor will it give terrorists the status of privileged combatants. In fact, it adds to the arsenal for dealing with terrorism. It authorizes armed reprisal, which is not permitted in a peacetime context. It justifies the use of armed force. And combatting terrorism in the context of an armed conflict assists in developing military tactics, techniques, and procedures.<sup>21</sup> Escalating power to the level of “armed conflict” would also serve to heighten the awareness and the support of the American people for a more aggressive and effective response to terrorism.

### **Conclusion**

The Achilles heel of the world’s only superpower is international terrorism. Today’s terrorist knows all too well how to capitalize on America’s cultural vulnerability to the death of its innocent citizens in an ill-defined conflict. Today’s terrorist also knows that America’s democratic ideals and reluctance to respond with force are weaknesses in its capability of dealing with terrorism. How many innocent lives must be lost before the U.S breaks out of this hapless paradigm and adopts a new counterterrorist strategy? Can we afford to stand by complacently as some international terrorist group, state-sponsored

or not, plans a Tokyo-like nerve gas attack on the New York subway system? The time has come to heed the urgent warnings of such analysts as Caleb Carr:

We live in a world in which many powerful terrorist groups consider themselves at war with the United States and have no goal more specific than America's destruction. In such a world, America can no longer say simply that it will never give in to terrorism, because terrorism is no longer holding a gun to American heads and seeking compliant behavior – it is firing that gun without warning or ultimatums.<sup>22</sup>

To effectively fight terrorism, the United States must modify its current policy of combatting terrorism solely by means of the law enforcement approach. Our current policy leaves prosecution and punishment of terrorists primarily to the domestic legal systems of nation states. Successful execution of this policy is largely dependent on the cooperation of other countries. Many countries will not or cannot apprehend terrorists within their borders, and the extradition process is uncertain at best.

The U.S. must rise to the next level and assume “a state of armed conflict” in dealing with terrorism. This escalation is a national strategy that employs the military as a matter of course, to be used pro-actively in accordance with provisions of the UN Charter. Rule-of-law, diplomacy, and sanctions achieve only a limited end. Waging aggressive war against terrorists, treating them as enemies of the state (which indeed they are) is the only way to defeat them. Reprisal, retribution, and pre-emption – employed according to the criteria for the use of force in a self-defense role – are ideal ways to employ the military against an often fanatical adversary who only responds to force. The country already has the resources : specialized military units, a trained conventional military, intelligence systems, and the latest technology. What it needs is the resolve of the American public, the consensus of Congress, and the cooperation of the international

community in the execution of a more pro-active policy. This new strategy would then serve the goal of an increased level of protection for United States' interests from international terrorism, both at home and abroad, achieved by pro-active operating procedures and an effective deterrence.

Harry Summers has sounded the battle cry: "Declaring war is a serious step." But he correctly infers that "war has already been declared – by the terrorists. We can either pretend that it hasn't or we can respond in kind."<sup>23</sup> This strategic research project shows how the United States can and should respond in kind.

## ENDNOTES

<sup>1</sup>David Van Biema, "Prophet of Poison," Time, 3 April 1995, <time-webmaster@www.timeinc.com/> 6 April 1995.

<sup>2</sup>U.S. Department of State, "Patterns of Global Terrorism," Foreign Policy Bulletin 7, no. 3 (May/June 96): 30.

<sup>3</sup>Brian M. Jenkins, "Striking Home: The Terrorist Threat on America's Doorstep," TVI Report 12, no. 3 (1996): 25.

<sup>4</sup>U.S. Department of State, Patterns of Global Terrorism: 1995, Department of State Publication 10321 (Washington: Office of the Secretary of State, April 1996), 1.

<sup>5</sup>U.S. Department of State, Foreign Policy Bulletin, 34-35.

<sup>6</sup>Jenkins, 25.

<sup>7</sup>Stephen Sloan, "Terrorism: How Vulnerable is the United States?" May 1995, <<http://www.kimsoft.com/korea/terror.hhem>>, 7 September 1996.

<sup>8</sup>Chairman, Joint Chiefs of Staff, National Military Strategy of the United States of America: A Strategy of Flexible and Selective Engagement, 1995, 9.

<sup>9</sup>White House, A National Security Strategy of Engagement and Enlargement (Washington: The White House, February 1996), 15.

<sup>10</sup>U.S. Department of State, Patterns of Global Terrorism: 1995, iii.

<sup>11</sup>Wayne A. Downing, "Report of the Assessment off the Khobar Towers Bombing," Executive Summary, 1996, vi.

<sup>12</sup>Sloan, 3.

<sup>13</sup>"The Basics: Combatting Terrorism," linked from Terrorism Research Center at "Basics," <<http://www.terrorism.com/terrorism/basics.html>>, 20 January 1997, 6-2.

<sup>14</sup>Ashok Krishna, "Insurgency and Terrorism: Pro-Active Responses," Strategic Analysis, August 1995, 613.

<sup>15</sup>Ibid., 614.

<sup>16</sup>Ibid., 616.

<sup>17</sup>Ibid., 618.

<sup>18</sup>Richard J. Erickson, Legitimate Use of Military Force Against State-Sponsored International Terrorism (Maxwell Air Force Base, AL: Air University Press, July 1995), 228.

<sup>19</sup>Ibid., 131-149.

<sup>20</sup>Ibid., 76.

<sup>21</sup>Ibid., 209.

<sup>22</sup>Caleb Carr, "Terrorism as Warfare: The Lessons of Military History," World Policy Journal 13, no. 4 (New York: World Policy Institute, Winter 96/97): 7.

<sup>23</sup>Harry Summers, "Declaring War on Terrorism," Army Times, 26 August 1996, 54.

## BIBLIOGRAPHY

- Arend, Anthony C. "International Law and the Recourse to Force: A Shift in Paradigms." Stanford Journal of International Law 27, no. 1 (Fall 1990): 1-47.
- "Backgrounder: Terrorism." Linked from Security Resource Net, <<http://nsi.org/Library/Terrorism/facterr.html>>. 7 September 1996.
- Bowens, Glenn. <bowensg@CSL-1>, "Memo: US Would Grab Terrorists." Electronic mail message to Bruce Hoover, <hooverb@awc5>. 5 February 1997.
- Busby, Morris D. "Testimony of the Honorable Morris D. Busby Before the United States Senate Permanent Subcommittee on Investigations Committee on Governmental Affairs." 27 March 1996.  
<<http://www.counterterrorism.com/busby.htm>>. 7 September 1996.
- Carr, Caleb. "Terrorism as Warfare: The Lessons of Military History." World Policy Journal 13, No. 4. New York: World Policy Institute, Winter 96/97: 1-12.
- Chairman, Joint Chiefs of Staff. National Military Strategy of the United States Of America: A Strategy of Flexible and Selective Engagement, 1995.
- Crawford, Richard. "America's Response to International Terrorism." Individual essay. Carlisle Barracks, PA: U.S. Army War College, 2 April 1986.
- Chalk, Peter. "The Liberal Democratic Response to Terrorism." In Terrorism and Political Violence 7, No. 4. London: Frank Cass & Co, Winter 1995.
- Davis, William J. "Counterterrorism." Individual essay. Carlisle Barracks, PA: U.S. Army War College, October 1994.
- Downing, Wayne A. "Report of the Assessment of the Khobar Towers Bombing." Executive Summary. 1996. v.-ix.
- Erickson, Richard J. Legitimate Use of Military Force Against State-Sponsored International Terrorism. Maxwell Air Force Base, AL: Air University Press, July 1995.
- Hastings, Alcee L. "Terrorism in America."  
<<http://www.house.gov/alceehastings/terror.html>>. 20 January 1997.
- Hoffman, Bruce and Donna. The Rand-St. Andrews Chronology of International Terrorism, 1994. Santa Monica, CA: Rand Publishers, 1996.

Jenkins, Brian M. "Terrorism: 1995 and Beyond." TVI Report 12, no. 2 (1996): 16-20.

\_\_\_\_\_. "Striking Home: The Terrorist Threat on America's Doorstep." TVI Report 12, no. 3 (1996): 25-28.

Krishna, Ashok. "Insurgency and Terrorism: Pro-Active Responses." Strategic Analysis, August 1995, 611-623.

Lake, Anthony. "Defining Missions, Setting Deadlines: Meeting New Security Challenges in the Post-Cold War World". U.S. Department of State Dispatch 7, no. 12 (March 18, 1996): 127-130.

Marcella, Dr. Gabriel, Professor of Third World Studies, Dept. of National Security Strategy. Interview by author, 28 January 1997, U.S. Army War College, Carlisle, PA.

Marcella, Dr. Gabriel, comp. Evolution of U.S. Strategy on Terrorism, 1986-1995. Carlisle Barracks, PA: U.S. Army War College, January 1996.

Maxon, Richard G. "Nature's Eldest Law: A Survey of a Nation's Right To Act in Self-Defense." Parameters (Autumn 1995): 55-68.

Nadler, Rep. "Effective Counterterrorism Act of 1996." A Bill presented to the 104<sup>th</sup> Cong., 2<sup>nd</sup> sess., 12 March 1996. <<http://nsi.org/Library/Legis/hr3071.txt>>. 7 September 1996.

Newcomb, LCDR Mark. "United Nations and the Use of Force: The Arabian Gulf and Iraq." A briefing presented to military students at International and Operational Law Department, Judge Advocate General's School, Charlottesville, VA.

Ottaway, David B. "U.S. Considers Slugging It Out With International Terrorism." Washington Post, 17 October 1996, 25.

Pexton, Patrick. "Perry Takes the Heat in Dhahran Terrorist Bombing." Army Times, 30 September 1996, 18-19.

Sample, Travis L. "The Existential Basis for Effecting a Coherent American Response to Terrorism." Dissertation presented to the Graduate School of the University of Southern California, November 1987.

Schroeder, Pat. "Counterterrorism Technology Research Act of 1995." A Bill presented to the 104<sup>th</sup> Cong., 1<sup>st</sup> sess., 14 June 1995. <<http://nsi.org/Library/Legis/bill/1847.txt>>. 7 September 1996.

- Schumer, Rep. "The Omnibus Counterterrorism Act of 1995". A Bill presented to the 104<sup>th</sup> Cong., 1st sess., 21 March 1995.  
<<http://nsi.org/Library/Terrorism/hsterr.txt>>. 7 September 1996.
- Sloan, Stephen. "Terrorism: How Vulnerable is the United States?" May 1995.  
<<http://www.kimsoft.com/korea/terror.htm>>. 7 September 1996.
- Summers, Harry. "Declaring War on Terrorism." Army Times, 26 August 1996, 54.
- "The Basics: Combatting Terrorism." Linked from Terrorism Research Center at "Basics,"  
<<http://www.terrorism.com/terrorism/basics.html>>. 20 January 1997.
- U.S. Department of State. November 1987. Current Policy no. 1023. Counterterrorism: Strategy and Tactics. L. Paul Bremer, III.
- U.S. Department of State. January 1990. Current Policy no. 1243. Counterterrorism in the 1990's. Morris D. Busby.
- U.S. Department of State. Patterns of Global Terrorism:1995. Department of State Publication 10321. Washington: Office of the Secretary of State, April 1996.
- U.S. Department of State. "Patterns of Global Terrorism (1995)." Foreign Policy Bulletin 7, no. 3 (May/June 96): 28-37.
- Van Biema, David. "Prophet of Poison." Time, 3 April 1995. <[time-webmaster@www.timeinc.com](mailto:time-webmaster@www.timeinc.com)>. 6 April 1995.
- White House. A National Security Strategy of Engagement and Enlargement. Washington: The White House, February 1996.
- White House. "Fact Sheet - Counter-Terrorism: The White House's Position on Terrorism." Linked from Security Resource Net,<  
<http://nsi.org/Library/Terrorism/policy.html>>. 7 September 1996.
- White House . "The President Signs Counterterrorism Legislation." Foreign Policy Bulletin 7, no. 3 (May/June 96): 28-29.
- White House. "Executive Order: Prohibiting Transactions with Terrorists Who Threaten to Disrupt the Middle East Peace Process." 24 January 1995.  
<<http://nsi.org/Library/Terrorism/eoterr.txt>>. 7 September 1996.
- Wilcox, Philip C. Jr. "Combating International Terrorism." 5 March 1996.  
<<http://www.state.gov/www/global/terrorism/960305.html>>. 20 January 1997.