

Deterrence, Terrorism, and American Values

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INTRODUCTION

In the aftermath of the September 11 attacks on the World Trade Center and the Pentagon, academics and policymakers were quick to dismiss the strategic role that deterrence could play in U.S. counterterrorism policy. President George Bush's often quoted conclusion that traditional concepts of deterrence are meaningless against "shadowy terrorist networks" with no nation to defend and who are willing to engage in "wanton destruction" resonated throughout discussions on U.S. national security strategy. A 2002 RAND report asserted, "Deterrence is both too limiting and too naïve to be applicable to the war on terrorism."¹ Since September 11, deterrent strategies have repeatedly been characterized as relics of the Cold War era of superpower confrontation. As a result, the White House has focused on defensive and preemptive counterterrorism strategies. The current administration argues that the U.S. can no longer wait for the worst security threats, such as terrorists acquiring chemical, biological, radiological, and nuclear weapons (CBRN), to materialize before acting.

Alternatively, many commentators and researchers, especially in the field of political science, maintain that deterrence remains a viable and utilizable tool in U.S. policymakers' arsenal to combat terrorism. Regardless of which side of the fence analysis falls on this issue, however, an important aspect of the deterring terrorism argument receives very little attention – the role that ideals and values play in America's ability to establish a deterrent mechanism against terrorists. I argue that deterrence, as a strategic concept, is not inapplicable to defending against terrorism; however, the U.S. would face considerable legal and moral quandaries if it were to carry out the necessary policies to deter terrorists and their supporters. To be sure, some elements of a terrorist organization can be deterred, but it is unlikely that U.S. policymakers are willing to sacrifice core American values in order to credibly signal to these actors that something "they hold dear" is in jeopardy if they commit or support terrorist aggression. To establish a deterrent mechanism against terrorist networks the U.S. would be required to explore a number of extremely heavy-handed policy options, such as regime change, nuclear retaliations, and expanding targeted killing operations to include terrorists' family members and loved ones.

Implementing policies such as these are the only ways to effectively deter elements of a terrorist organization and its support structure. Nevertheless, doing so would force the U.S. to take certain positions that would come into conflict with American ideals and beliefs about justice, fairness, and human rights. Moreover, policy pronouncements that could deter terrorists would be inflammatory and would most likely be met with considerable domestic and international criticism. Even when the U.S. has "skirted" some of these policies in recent years to combat terrorism, controversy and disagreement have emerged over the morality and legality of such actions.

The simplistic argument that terrorists cannot be deterred is reductionist. Additionally, those who argue that deterrence maintains significant utility in the U.S.

war on terror fail to acknowledge the level of harshness and brutality required of U.S. policy to establish a deterrent mechanism against members of terrorist networks. What really prevents the U.S. from deterring terrorists is not the simple unsuitability of the strategic concept of deterrence, but America's humanity, civility, and idealism.

DETERRENCE AND TERRORISM

By now, the arguments are familiar for why deterring a group such as al-Qaeda is a complex endeavor. First, terrorists are highly motivated and therefore they are willing to risk anything – their lives in the case of suicide-bombers – to accomplish a goal. Second, the political goals of terrorist groups are often very broad, idealistic, ambiguous, or unclear. Third, terrorists are difficult to locate. Terrorist networks operate trans-nationally and therefore make reprisals difficult to “return to sender.” Fourth, it remains undecided how deterrence can work against an enemy that understands that the ultimate policy goal of the U.S. is not to coexist with groups like al-Qaeda, but to eradicate them. Finally, terrorists often attempt to incite retaliation. Terrorists have used the collateral damage caused by retaliatory efforts to foment more support for their organization or broader cause. In total, the deck is stacked against deterrence playing a significant role in U.S. counterterrorism policy.

While most post-September 11 analyses conclude that deterrence is of little use against terrorists, some maintain that the “death of deterrence” has been exaggerated and that deterrence can remain a key component in the war on terror.² One rationale for the argument that deterrence is not “dead” is that September 11 did not illustrate the irrelevance of deterrence, but rather that U.S. foreign policy throughout the 1980s and 1990s had failed to communicate to al-Qaeda that the U.S. was willing and able to inflict significant suffering on terrorist transgressors. That is, deterrence did not fail; rather the U.S. had failed to establish an effective deterrent mechanism against al-Qaeda. As President Bush noted in 2001, “It was clear that bin Laden felt emboldened, and didn't feel threatened by the United States.”³

The list of instances in which the U.S. was attacked by Islamic radicals but failed to retaliate in any meaningful manner is well known: Tehran in 1979, Beirut in 1983, the World Trade Center in 1993, the Khobar Towers in 1996, the U.S. embassies in East Africa in 1998, and the USS Cole in 2000. All of these cases evoked principled lectures and saber-rattling by U.S. presidents on how the U.S. must fight terrorism, yet rarely were these strong proclamations accompanied by actual deeds. Furthermore, the events that unfolded in Somalia in 1993 signaled to U.S. enemies that the U.S. was unwilling to suffer costs in blood to realize its policy goals. Some even argue the U.S. continues to be afflicted by a “Vietnam syndrome.” This reticence to retaliate and aversion to casualties did not go unnoticed by al-Qaeda's leadership. Osama bin Laden repeatedly painted the U.S. as a “paper tiger,” a country more apt to growl than bite.

The second argument made for the continued applicability of deterrence is that terrorist networks are hierarchical organizational structures. Terrorist organizations are comprised of many actors, each with different responsibilities, roles, and motivations. The fanatical individuals who carry out suicide bombings or other types of attacks represent only a small portion of a terrorist organization. Many other actors, such as financiers, recruiters, leaders, religious figures, and state supporters are also important components of a terrorist organization. These different elements have come to be known

as the “al-Qaeda system.” It is suggested that while the “foot soldier” who is willing to blow him/herself up in a crowded marketplace is probably undeterrable, deterrence may be possible against other entities that comprise a terrorist network. Some actors within a terrorist network may have a clearer cost-benefit conceptualization, possess assets that are more easily targeted, or are simply less motivated than other elements within the organization.

Although terrorist networks should be understood as complex organizations, the dilemma of effectively deterring the actors who comprise a terrorist system remains. First, security strategists must distinguish what these diverse actors actually value. Second, defense planners must establish a *meaningful* threat of punishment in the event of a terrorist attack against the U.S. or its interests. As Thomas Schelling noted, “To exploit a capacity for hurting and inflicting damage one needs to know what an adversary treasures and what scares him.”⁴ The U.S. must be able to credibly communicate and signal to the different actors in a terrorist network that what they value will be put at risk. Bombing baby formula factories in the Sudan and empty tents in Afghanistan, as the U.S. did in response to the 1998 embassy bombings in Africa, does not constitute damaging what terrorist elements hold dear. Establishing a deterrent mechanism requires not just any retaliation, but focused and consequential retaliation.

Recent comments by French President Jacques Chirac and Colorado Congressman Tom Tancredo intensified the debate over how retaliatory threats are communicated to terrorists. President Chirac, speaking at a submarine base in Brittany in January 2006, stated that France was prepared to carry out a nuclear strike against any country that sponsors a terrorist attack against French interests. Chirac went on to say that France’s nuclear arsenal is now organized to include the ability to retaliate against a terrorist attack with tactical nuclear strikes.⁵ President Chirac was clearly sending a warning to Iran and various Arab countries that continue to support terrorist organizations. In a more reckless assertion, Congressman Tom Tancredo stated in 2005 on a Florida radio talk show that the U.S. could consider “taking out” Muslim holy sites if terrorists attacked the U.S. with nuclear devices. Both comments created a public storm, as many observers quickly labeled these statements irresponsible.

Notwithstanding the merit or lack thereof of such comments, the response that these statements engendered revealed another problem with the possibility of establishing a deterrent mechanism against terrorists. Because effective deterrence requires the U.S. to directly threaten targets of value to terrorist elements, a dilemma arises: whether the U.S. would be willing to carry out the necessary actions to credibly communicate to terrorist elements that what they value is at risk if terrorist acts occur. What targets must the U.S. threaten for a potential terrorist element to estimate that the costs of carrying out a course of action are unacceptably high? Is the U.S. prepared to implement policies that may evoke strong dissent from certain segments of the domestic and international community? Can the U.S. credibly threaten these targets without crossing certain ethical, political, and legal boundaries of behavior?

U.S. foreign policy has always been a manifestation and extension of the basic values, principles, and beliefs on which the American republic was founded.⁶ In dealing with terrorists, the U.S. has sought rational, reasoned, and relatively proportional responses in order to maintain the respect of the international community and its own citizens. However, to deter certain terrorist elements the U.S. will ultimately find it necessary to

compromise certain democratic values that have long guided its foreign policymaking. Because the U.S. cares about projecting an image of virtue, it is unlikely that it will ever truly be able to put at risk what terrorist elements value. The current war on terrorism has already revealed the inherent conflict between maintaining a foreign policy that reflects the reality of U.S. capabilities while remaining dedicated to democratic ideals. As Clifford Kupchan has argued, Americans want both a muscular and moral foreign policy.⁷

Unfortunately, measures that may prove functional in establishing a deterrent mechanism against a group like al-Qaeda may not be viable in light of the core values of the country, even in a time of war. The politically incorrect promise of violent retaliation following a terrorist attack is the only significant course of action when attempting to establish a deterrent mechanism against members of the al-Qaeda system.⁸ Those who argue that deterrence is still relevant in dealing with terrorism fail to consider the actual policies the U.S. will have to pursue in order to deter terrorists from carrying out violent acts.

Most examinations of deterrence and U.S. counterterrorism policy make the common argument that the U.S. will have to communicate a clear message of punishment against terrorist elements, without actually considering toward whom and where these threats should be directed. Moreover, in those instances where authors consider targets of retaliation, potential threats of punishment rarely strike at what terrorists truly hold dear. Frequently, policy recommendations represent little more than establishing obstacles to terrorist networks, not meaningful attempts to change the decision-calculus of terrorist elements. The targets the U.S. will be forced to retaliate against and the manner in which these targets will have to be engaged may render the moral price of establishing a real deterrent mechanism too high. Deterrence is impossible against terrorists, not because it is theoretically inapplicable, but because the U.S. is too concerned with maintaining its moral authority in the world. The aspiration of the U.S. to take the “moral high road” will signal to terrorists that the things they value most are actually not in grave danger. When attempting to deter terrorists the “ethical and necessary” ultimately will collide.

Deterring State Supporters

Deterring state sponsors of international terrorist organizations presents perhaps the most theoretically straightforward attempt to utilize deterrent strategies in the war on terrorism. Even those who are generally skeptical of deterrence being applied to terrorism believe the U.S. may be able to deter states from harboring or supporting terrorist organizations. Of the many elements that comprise a terrorist network, rogue regimes that support terrorists are the easiest to find. Assets of a rogue regime that can be targeted, such as the territory under its control or the lives of the ruling elite, are more apparent than the assets held by individual members of terrorist organizations. Efforts to dissuade states from forming relationships with terrorists also represent one of the critical aspects of the war on terrorism. Indeed, only days after the September 11 attacks, President Bush articulated what came to be known as the Bush Doctrine: “Any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime.”⁹

The most salient concern for U.S. defense planners is the prospect of rogue states providing CBRN to a group such as al-Qaeda. The U.S. currently lists six countries as

potential state sponsors of terrorism: Iran, Syria, North Korea, Cuba, and Sudan. In 2006 the U.S. State Department removed Libya because it apparently was assisting the U.S. in its war on terror. It appears that over the past few years, state sponsorship of terrorist organizations has waned. Libya, for example, has been cooperating with the U.S. to find Libyan members of al-Qaeda. Even more noteworthy, in December 2003, Colonel Muammar Qaddafi stated that the Libyan government would cease research and development of CBRN and would allow weapons inspectors to confirm its disarmament efforts. While the impetus for such positive steps are multifaceted, the U.S. success in ousting the Taliban from power and killing many of its members in Afghanistan has “served notice” to rogue regimes around the world that the U.S. is willing and able to destroy what rogue regimes value. Moreover, the possibility of Saddam Hussein acquiring CBRN and then passing these capabilities along to terrorists was a significant rationale for the U.S. invasion of Iraq. Many argue that Libya’s decision to dismantle its CBRN programs and other governments’ decisions to ratchet up the pressure they exert on al-Qaeda cells within their borders is at least partly due to a growing fear that U.S. military force might be used against regimes that continue to harbor terrorist organizations.¹⁰ As Vice President Dick Cheney stated in the 2004 vice presidential debate with John Edwards, the Libyan decision to abandon its CBRN programs was one of the “great by-products” of U.S. actions in Iraq and Afghanistan.¹¹

While it appears that U.S. military operations and legal actions since September 11 have established a deterrent mechanism against state sponsorship of terrorism, the threat of these initiatives remains a critical concern to policymakers. Osama bin Laden has voiced an interest in acquiring mass-casualty weapons and many analysts suggest that al-Qaeda would not hesitate to use CBRN weapons if it acquired these capabilities. To do so, however, terrorist groups need help, either by smuggling CBRN materials from poorly secured facilities or by developing relationships with foreign governments willing to transfer CBRN capabilities. Thus far, it appears that al-Qaeda’s pursuit of CBRN capabilities has been unsuccessful. In 2002, *The New York Times* reported that U.S. administration officials stated that “...analysis of suspected radioactive substances seized in Afghanistan has found nothing to prove that Osama bin Laden reached his decade-long goal of acquiring nuclear materials for a bomb.”¹² However, U.S. intelligence agencies suspect that Pakistani scientists gave al-Qaeda members information on how to construct a radiological weapon, or “dirty bomb.”¹³ North Korea increased the fear of a state transferring weapons materials, when in 2003 it threatened to sell a quantity of plutonium to the highest bidder. Additionally, as Iran is on the cusp of developing nuclear capabilities, this scenario is becoming even more critical to U.S. defense planners.

Currently, the U.S. maintains a position of “calculated ambiguity” on how it will respond to a CBRN attack on its soil or against its interests abroad. The doctrine of calculated ambiguity garnered support when the Bush administration purportedly deterred Saddam Hussein from using biological or chemical weapons against U.S. forces during the first Gulf War in 1991. Secretary of State James Baker delivered a note to Iraq’s Foreign minister Tariq Aziz that cautioned Hussein that any use of these weapons could result in U.S. nuclear reprisals. The unclassified version of the 2002 National Security Presidential Directive (NSPD) 17 declares that the U.S. will reserve the right to respond with “overwhelming force” and keep open “all of its options” to a CBRN attack on the U.S., its interests, or its allies. In 2003, *The Washington Times* reported that the

classified version of NSPD 17 made the willingness of the U.S. to respond with nuclear weapons to a CBRN attack more explicit.¹⁴ Nevertheless, the U.S. is deliberately vague about its plans to respond to a CBRN attack. The strategic rationale for maintaining this ambiguity is to keep open a broad range of response options and approach potential events on a case-by-case basis. The vagueness of U.S. reprisal plans, however, does not support deterrence. The credibility of U.S. threats to retaliate suffers as a result of this ambiguity. While the use of language such as “overwhelming force” connotes a severe retaliation, this lack of clarity is not the best way to solidify the belief among terrorist-supporting regimes that their behavior puts them at severe risk. As one author notes, “Frequently, the bigger and more indiscriminate the threat, the less believable it is in the eyes of the target audience.”¹⁵

In order to establish a deterrent mechanism that will dissuade rogue states from supporting terrorist organizations, the U.S. must develop a strong declaratory policy that clearly communicates a threat of punishment for those states that provide CBRN materials to terrorists. Strategies for dealing with rogue states assisting terrorist organizations that are severe and target assets of value to the regime will best reinforce deterrent mechanisms. As Ian Lesser argues, for deterrence to be viable against rogue regimes, the threat of retaliation for supporting or sheltering terrorist organizations must be both “massive” and “personal to the leadership.”¹⁶ The U.S. policy of calculated ambiguity reinforces many of the internationally held stereotypes of the U.S. that negatively affect its ability to establish a credible deterrent threat. By avoiding direct language, the U.S. appears irresolute, noncommittal, and perhaps overly sensitive to public opinion.

To create a credible deterrent threat, the U.S. must articulate a policy of regime change in those states that offer support to terrorist groups. Regimes that assist groups such as al-Qaeda, especially if this assistance is with acquiring CBRN capabilities, must know that they will be toppled and replaced if this support is identified. Specifically, the leadership of rogue regimes must be explicitly warned that they will be removed from power, suffer legal repercussions, or even be killed for maintaining ties with terrorist groups. Doing so would represent a meaningful threat of punishment to the leadership of rogue regimes. However, a stated policy of regime change presents numerous dilemmas. Most notably, sovereignty is still a revered concept in international relations. Engaging in a war to bring about regime change is acceptable in the international community only in instances of clear self-defense or through the decision of the United Nations Security Council.¹⁷ Thus, in order to have international support to carry out a regime change, the U.S. would have to bring forth evidence that a particular state was responsible for transferring CBRN capabilities to a terrorist group that carried out an attack on the United States.

Making the case for regime change in Afghanistan was easy, as it was fairly clear to the international community that the U.S. was retaliating against a regime guilty of harboring and providing sanctuary to al-Qaeda. However, future attempts to gain international approval for regime change may be more difficult than they were in Afghanistan. The failure to garner widespread international support for the U.S. invasion of Iraq and the subsequent failure to find CBRN weapons will only serve to make the international community more skeptical of U.S.-led efforts to topple rogue regimes. Furthermore, the difficulties the U.S. has had in “winning the peace” in Iraq will decrease the credibility of U.S. threats to dismantle rogue regimes. The ruling elite

in rogue regimes may be unconvinced of the willingness of the U.S. to topple a regime and engage in another nation-building effort. These arguments correspond with the often-heard suggestion that U.S. policy in Iraq has undermined its ability to fight the war on terror in other parts of the world.

In addition to articulating a policy of regime change, the U.S. must be more explicit in its capability and willingness to respond with nuclear weapons in the event of a CBRN attack. It remains uncertain whether the U.S. is likely to retaliate against an enemy that has used CBRN with either conventional or nuclear weapons. The psychological weight that the ultimate sanction of nuclear reprisals carries is critical in developing a meaningful deterrent threat against rogue regimes transferring CBRN capabilities to terrorists. As one author suggests, "The extremely high costs that a rogue state might suffer from nuclear retaliation should give even the most reckless of regimes pause before sharing a nuclear capability with terrorists."¹⁸ Threatening a massive conventional weapon response simply does not carry the same deterrent weight as the threat of nuclear reprisals. However, current U.S. nuclear capabilities prevent the U.S. from convincingly threatening nuclear retaliations against rogue regimes. The U.S. nuclear arsenal is too destructive to consider using, other than in retaliation to a nuclear attack. Because the U.S. nuclear arsenal consists primarily of weapons that have yields of hundreds of kilotons, U.S. threats to use nuclear weapons, especially in response to a biological or chemical weapon attack, are too incredible for rogue regime leaders to take seriously. Ambiguous threats about leaving the nuclear option open, when many enemies of the U.S. maintain little belief that the U.S. is willing to take action on these veiled threats, fails to support deterrence. The U.S. cannot credibly threaten nuclear reprisals against a CBRN attack because it is perceived the U.S. would not risk the extensive collateral damage and civilian casualties that would result from using the weapons in its current nuclear arsenal. Rogue regimes may rely on this moral and political reluctance by the U.S. when they consider transferring CBRN capabilities to terrorists.

In order for the nuclear option to be a credible part of the strategic menu, the U.S. must continue research on, and eventually development of, low yield nuclear weapons. Next generation "mini-nukes" could theoretically engage targets such as underground command and control bunkers, weapon labs, CBRN storage facilities, or even a presidential complex. As U.S. operations in Afghanistan and Iraq have illustrated, the war on terror will often present high-value targets that cannot be efficiently engaged with conventional munitions.

The development of mini-nukes and subsequent establishment of a declaratory policy of nuclear retaliation is a potentially divisive issue. First, the 1993 Spratt-Furse law bans any research and development of nuclear weapons that have yields of less than five kilotons. In May 2003 the House of Representatives adjusted the law, allowing research on low-yield nuclear weapons, but stated clearly that development and production of these weapons remains prohibited. Second, the mini-nuke debate polarizes the positions of "deterrence hawks" and "nonproliferation doves." The production of mini-nukes blurs the line between nuclear and conventional munitions. It also creates a number of nuclear fallout concerns and undercuts U.S. counterproliferation efforts. For instance, the U.S. government, through the 1995 Nuclear Non-Proliferation Treaty (NPT) extension conference, assured that it would not use nor threaten the use of nuclear weapons against non-nuclear members of the NPT. Third, some scholars, notably Scott

Sagan, argue that explicitly threatening nuclear retaliation could lead to a “commitment trap” whereby U.S. officials may feel that they *must* respond to an attack with nuclear weapons in order not to “lose face” domestically and internationally.¹⁹ Finally, since WWII, a nuclear taboo has emerged in the U.S. and throughout much of the international community, whereby a normative prohibition stigmatizes the use of nuclear weapons as something only done by “bad states.” Therefore, some suggest that by producing nuclear weapons that are designed for non-nuclear targets, the U.S. may undermine the nuclear taboo.

A second important step in establishing a credible threat of retaliation involves CBRN weapon attribution. To effectively deter states from transferring CBRN materials to terrorists, the U.S. needs to develop its ability to identify the origin of the CBRN materials used in an attack against the U.S. The prospect of an unattributed CBRN attack poses a significant dilemma for establishing a deterrent mechanism. As Michael Levi argues, the U.S. must develop its ability to identify where the materials used in a CBRN attack originated. While intercepting weapon transfers before they occur should be the primary goal, the U.S. must have the technical ability to identify where CBRN materials came from *after* they have been detonated. As Levi points out, “If the United States can take that technical step, it can credibly assure its enemies that their transfer of weapons to terrorists will ultimately lead to their demise.”²⁰ Without adequate attribution ability, rogue regimes may be more inclined to transfer CBRN capabilities to a terrorist organization because they believe their identity may never be revealed. As long as rogue regimes believe the U.S. cannot detect where CBRN materials originated, U.S. threats of retaliation are somewhat hollow.

While continued efforts by the Defense Department to develop a more robust attribution system are vital, the infancy of this capability requires the U.S. to make a much more controversial threat in the near-term. It is not certain that the U.S. will always be able to garner enough forensic evidence from a CBRN attack to pinpoint the origins of these weapons after an attack has been carried out. There is a lingering question of how compelling forensic evidence must have to be in order to justify a massive retaliation against a state suspected of providing CBRN assistance to a terrorist organization. To establish an effective deterrent mechanism the answer to this question violates accepted legal standards. The U.S. will need to be prepared to retaliate on the basis of limited or imperfect information about the origins of weapons material. That is, the burden of proof will have to be relaxed. As a recent RAND report conjectures, in the event of a CBRN attack the U.S. may be forced to retaliate based upon “...reasonable evidence and would even make some assumptions about who is supporting terrorists in possession of WMD.”²¹ U.S. retaliation would have to come in spite of there being some doubt about where the CBRN capabilities actually originated. A U.S. decision to retaliate against state targets based on imperfect information will undoubtedly fan anti-American flames around the world and may even generate substantial domestic dissent. This is especially likely in light of the fact that the current White House toppled Saddam Hussein’s regime despite considerable questions about Iraq’s CBRN capabilities and development programs. The Kay Report has raised serious questions about the existence of ties between Iraq, al-Qaeda, and CBRN.²²

Attribution difficulties present another, even more controversial, issue in terms of deterring states from transferring CBRN capabilities to terrorists. In addition to threatening massive retaliation and regime change against state supporters of terrorism,

the U.S. must also develop a doctrine of retaliation against CBRN proliferators that do not adhere to international standards of securing CBRN materials. Even with the establishment of certain enticements through the Cooperative Threat Reduction (CTR) framework, or Nunn-Lugar legislation, a number of states have not developed the necessary safeguards to secure critical weapons materials. Pakistan and Russia, for example, continue to maintain fissile nuclear material facilities that are poorly secured. Moreover, the CTR and other nonproliferation efforts have failed to prevent Iran and North Korea from pursuing nuclear capabilities. A comprehensive deterrent strategy would also threaten retaliation against those states that jeopardize international security by not conforming to international standards of safeguarding CBRN materials. That is, the “mere” crime of negligence and carelessness in overseeing CBRN materials must be punished. This is especially true in the event the U.S. cannot identify the origin of CBRN materials used in an attack. The U.S. must clearly communicate its willingness to severely punish those states that, because of mismanagement of CBRN, risk the loss or theft of critical materials from their storage facilities. Such a policy stance would be extremely contentious and may damage the relationship the U.S. has with a number of states. However, until CBRN attribution becomes certain, to establish a meaningful deterrent mechanism against states that knowingly transfer sensitive materials the U.S. must also threaten those states that do not adequately secure their CBRN materials.

The above discussion illustrates that establishing a deterrent mechanism, even in the theoretically most applicable case of deterring states from supporting terrorist organizations, would require the U.S. to adopt a number of controversial policies. To establish a meaningful deterrent mechanism against rogue regimes from supporting terrorist groups, the U.S. must take the following steps: (1) explicitly state that the U.S. will dismantle and destroy any regime guilty of supporting terrorist organizations, (2) increase research and development of mini-nukes and clearly communicate its willingness to retaliate with these weapons in the event of a CBRN attack, (3) develop a robust CBRN attribution system, and (4) warn states that do not maintain adequate security over CBRN materials and weapons that they will be punished in the event the U.S. is unable to identify the origins of a CBRN weapon used in an attack. Clearly, a number of these policies would be unpopular to many around the world. The uproar generated by President Chirac’s and Congressman Tancredo’s recent comments illustrates the potential problems with articulating a policy of massive retaliation and regime change. Moreover, the U.S. cannot make a credible threat of nuclear retaliation to a chemical or biological attack because its current nuclear arsenal is comprised mostly of weapons that are far too destructive. Making a credible threat becomes even more difficult when retaliation may have to be carried out on the basis of incomplete information about who exactly was responsible for giving a terrorist organization CBRN capabilities. With the current difficulties of CBRN attribution, and the fact that a number of states that do not directly support terrorist activities are negligent in securing CBRN materials, the ability of the U.S. to communicate a clear and believable retaliatory threat is further hampered. There exists too much opportunity at the present time for rogue regimes to transfer CBRN capabilities to terrorists without detection and therefore without fear of reprisals. Until these opportunities are reduced, or the U.S. is willing to communicate and carry out a number of potentially unpopular policy choices, effectively deterring states from forming any relationship with terrorist groups is unlikely.

A final problem with deterring state sponsorship of terrorism is unrelated to the myriad of issues that surface in regard to CBRN weapons. One of the biggest difficulties policymakers and analysts face is that state sponsorship of terrorism can include a wide spectrum of actions and degrees – ranging from very passive to very active. Even more problematic is that some states that maintain some degree of support for terrorist organizations are loosely considered U.S. allies.²³ For example, Pakistan’s intelligence service and military are known to sympathize with and at times directly support active Islamist terrorist groups in Kashmir. One such group, the al-Qaeda splinter group Jaish-e-Mohammed, has been linked to the December 2001 attack on the Indian Parliament and the 2002 murder of *New York Times* journalist Daniel Pearl. Therefore, to establish a credible deterrent mechanism, the U.S. would have to be willing to clearly signal to a number of its “allies” in regions such as the Middle East that it is prepared to carry out regime change or other drastic policy responses to even low-levels of passive support. Many countries, including purported U.S. allies in the war on terror, continue to “turn the other cheek” to terrorists operating within their borders because they simply do not believe or fear that the U.S. will punish them in a meaningful manner.

Deterring Individual Elements

Beyond state supporters, other notable elements that comprise a terrorist organization may include financiers, recruiters, religious leaders, “foot soldiers,” and the actual leadership of these groups. Deterring these actors is even more problematic than deterring rogue regimes from developing ties with terrorists. Deterring states from supporting terrorist groups would force the U.S. to adopt a number of potentially unpopular policy positions. However, the requirements to deter individuals within a terrorist system will force policymakers to compromise some very basic and sacrosanct American values.

The clearest example of this potential tension involves the issue of “targeted killings” of members of terrorist organizations. Targeted killings refer to operations carried out with governmental approval that seek to eliminate specific individuals who are considered to be serious threats to national security. A targeted killing differs from assassination in that assassination is the killing of a head of state or prominent political figure. Assassination is also a killing characterized by “treacherous” methods. In spite of this attempt at differentiation, the actual distinction between the two acts is largely a semantic one.

The issue of targeted killings has garnered considerable attention in recent years for a number of reasons. Israel has conducted targeted killings throughout much of its history. However, a wave of targeted killing operations carried out by Israel since the beginning of the second intifada in September 2000 has drawn increased attention to these methods. Israeli agents have recently used a variety of tactics, including car bombs, sniper bullets, helicopter gunship attacks, and booby traps, to kill individual members of Hezbollah and Hamas. Since September 11 the Bush Administration has also attempted to expand U.S. ability to target individual terrorist leaders and operatives. Administration officials argue that the U.S. must have more leeway to conduct targeted killings in order to punish members of an increasingly decentralized al-Qaeda organization. A main component of U.S. targeted killings has been the use of CIA-operated Predator drones. The January 13, 2006, Predator attack on targets in the Pakistani village of Damadola that sought to kill al-Qaeda’s deputy Ayman al-Zawahiri

was especially controversial. The attacks failed to kill al-Zawahiri and reportedly left eighteen civilians, including five children, dead. Even Steven Spielberg's recent motion picture, *Munich*, about Israeli commandos hunting down and killing the Palestinians responsible for the slaying of Israeli athletes at the 1972 Munich Olympics, has thrust the issue of targeted killings into mainstream discourse.

The primary goal of the U.S. should usually be to arrest terrorist leaders and operatives. These individuals can be interrogated to obtain intelligence about other members of the organization and plans for future attacks. However, it is often too risky or even impossible to apprehend or capture terrorist operatives. If apprehending a member of a terrorist organization significantly endangers U.S. personnel, and there are no other feasible alternatives, then targeted killings are an option. Many Islamic fundamentalist groups are currently located in areas of the Middle East, Southeast Asia, Central Asia, and Africa where it would be dangerous for U.S. forces to try and apprehend them. A declared policy of targeted killing is vital, although controversial, to establishing a deterrent mechanism.

Some commentators have suggested that one of the main reasons that deterrence is irrelevant when it comes to fighting terrorists is that many of these individuals are prepared to die for their cause. Therefore, it is assumed that retaliatory threats of punishment mean little to individuals who are willing to give their lives in the first place. However, this reflects a narrow view of terrorist organizations. Besides suicide bombers, who may be impelled by the promise of martyrdom, other elements who comprise a group such as al-Qaeda are more risk-averse. Osama bin Laden, and other members of al-Qaeda's leadership, for instance, have not carried out suicide bombing missions nor attempted to engage U.S. forces in Afghanistan's mountains. Indeed, many members of al-Qaeda's leadership have literally been running for their lives since the September 11 attacks. Some analysts have pointed to the 2002 surrender of hundreds of members of the Palestinian Islamic Jihad to Israeli forces during large-scale military engagements in Jenin as evidence that many members of terrorist groups are not willing to give their lives.

Because the lives of individuals within a terrorist organization represents one of the few assets that the U.S. may be able to hold at risk, the U.S. must maintain the option of carrying out targeted killing operations. A declared U.S. policy of selective killings may compel terrorist leaders to consider the utility of engaging in terrorist activities. However, establishing an effective deterrent mechanism against potential actors will require the U.S. to be *much* more forthright in its intent to carry out targeted killing operations. It is essential that the U.S. explicitly affirm that it will kill members of terrorist groups that U.S. intelligence analysts believe are responsible for carrying out terrorist attacks against its assets or interests. The U.S. should also make clear that it will target members of a terrorist organization other than just senior leaders, such as those responsible for providing financial or logistical support to a terrorist organization. Broadening the scope of targeted killings beyond just senior leaders may serve to deter individuals who are merely "casual sympathizers" from committing to groups like al-Qaeda. To make these threats credible the U.S. should continue to seek and, when it cannot capture alive, kill all senior leaders of al-Qaeda who played a role in orchestrating the September 11 attacks. The U.S. has successfully tracked and killed a number of al-Qaeda leaders since September 11. However, to deter terrorism the U.S. must expand its capabilities to kill terrorist operatives. The Predator program

represents but one option the U.S. can explore to credibly threaten the lives of individual al-Qaeda members. Current political constraints, however, impede the ability of U.S. intelligence agencies and the military from carrying out focused covert operations to hunt down and kill terrorist transgressors. Until the constraints on these operations are relaxed even further, the U.S. will be unable to establish a deterrent mechanism that is functional, effective, and forthcoming with deterrent results.

While the morality of targeted killings remains a hotly contested issue, it appears that targeted killings do influence terrorists. Since 2002, for example, Palestinian leaders have repeatedly called for Israeli forces to cease carrying out these operations. On January 30, 2002, Israeli Prime Minister Ariel Sharon met with a number of Palestinian leaders. One of the primary demands of the Palestinian leaders was for Israel to immediately stop targeted killings.²⁴ Some analysts argue that targeted killings have been directly responsible for decreasing threats to Israel's national security. It appears that Egyptian terrorist infiltration of Israel in the 1950s decreased when Israeli agents killed the Egyptian intelligence officers who oversaw the operation. Retaliation against the Black September terrorists in the 1970s who killed Israeli athletes in Munich virtually destroyed the organization.²⁵ Since the beginning of the second intifada in September 2000, empirical evidence suggests that Israel's targeted killing campaign has been successful. As cited by Daniel Byman in his timely 2006 *Foreign Affairs* article on the efficacy of targeted killings, the National Memorial Institute for the Prevention of Terrorism reported that Hamas killed twenty-one Israeli civilians in 2005. This number was a fairly sharp drop-off from the sixty-seven who were killed in 2004, forty-five in 2003, 185 in 2002, and seventy-five in 2001. It is believed by many, especially in Israel, that Israeli targeted killings have "shattered Palestinian terrorist groups" and made it difficult for these groups to orchestrate large-scale suicide attacks.²⁶

The individuals who actually carry out violent terrorist acts represent the most difficult group to establish a deterrent mechanism against. Unlike other members of a terrorist group, "foot soldiers" are often willing to give their lives for the organization's cause and achieve martyrdom. To these individuals, the prospect of dying "in battle" against the perceived *infidel* is considered a great honor. Therefore, threatening to kill these individuals would likely do very little to deter them from continuing to carry out suicide missions or other types of violent acts. However, achieving martyrdom is only part of the motivation for suicide bombers to give their lives; giving one's life in battle against the infidel results in monetary rewards for a martyr's family members. Many martyr's families are compensated with payments usually ranging between \$12,000 and \$15,000. Furthermore, significant psychological benefits are derived from a family member giving his/her life in these struggles. The act of martyrdom is considered a heroic deed and results in glorious funeral ceremonies and the immortalization of the individual through graffiti, portraits, trading cards, and other memorabilia.²⁷

Because of the value martyrs may place on the monetary and psychological rewards that come to their families after their death, an effective deterrent strategy by the U.S. must include threatening to punish the families of suspected foot soldiers. Meaningful threats of punishment would include targeting either the lives or livelihood of these family members. In a recent article by Major General Doron Almog of the Israeli Defense Force, Almog gives a poignant account of a particular instance where Israel attempted to dissuade a potential suicide bomber by threatening his family:

In early 2003 an Israeli agent in the Gaza Strip telephoned Mustafa, a wealthy Palestinian merchant in Gaza, to inform him that over the previous three months his son Ahmad had been preparing for a suicide bombing mission in Israel. Mustafa was told that if his son followed through with his plans, he and his family would suffer severe consequences: their home would be demolished and Israel would cut off all commercial ties with Mustafa's company. Neither he nor the members of his family would ever be permitted to enter Israel again. Faced with this ultimatum, Mustafa confronted his son and convinced him that the cost to his family would far outweigh any possible benefits his sacrifice might have for the Palestinian people.²⁸

A better-known example is the alleged response by KGB agents for the September 1985 Hezbollah abduction of a Soviet diplomat. Reportedly, in retaliation for the abduction, KGB agents kidnapped and killed a family member of a senior official in Hezbollah. The KGB agents removed his genitals and stuffed them in his mouth before returning the body to his relatives. After the family of the deceased received his body, the Soviet diplomat was quickly released.

If the U.S. can remove the benefits that suicide bombers' families receive from carrying out an act of violence, it is possible that suicide bombers would be more hesitant to engage in that action. A more meaningful deterrent threat would include threatening to kill close family members of a terrorist operative who was identified as a perpetrator of violent acts against the U.S. or its interests. If terrorists truly believed their actions would result in the death or destruction of their family's way of life, it may deter some of them from engaging in or supporting terrorist violence.

Irrespective of whether targeted killings are an effective counterterrorism tool, the political, legal, and moral legitimacy of these operations are controversial. First, there is a history of various U.S. agencies coming under fire for supposed links to assassination programs. Most notably, the 1976 Church Committee put pressure on the CIA for its involvement in the Phoenix program, which attempted to find and neutralize Viet Cong members who were carrying out activities that attempted to destabilize South Vietnam during the war. The Church Committee directly confronted questions about how necessary strategic objectives reconcile with democratic ideals. The Committee concluded that "...assassination is unacceptable in our society" and that it "...was struck by the basic tension – if not incompatibility – of covert operations and the demands of a constitutional system." The Committee was most concerned with efforts to assassinate foreign leaders, such as Cuba's Fidel Castro; however, it is likely that many of the same arguments maintained by the Church Committee would emerge in regard to a clearly stated U.S. policy of targeted killing.

From a legal standpoint, targeted killings "walk a thin line." Assassination is prohibited, as a matter of national policy, by Executive Order 12333. This Order states that no person acting on behalf of the U.S. Government shall engage in assassination. However, this assassination ban provides considerable flexibility and is conspicuously imprecise. Targeted killings against legitimate targets who threaten U.S. national security, determined by the President, do not constitute assassination and are not prohibited by Executive order 12333. For instance, President Ronald Reagan authorized the attempt to kill Libya's Colonel Muammar Qaddafi for Libya's role in the 1986 bombing of a West Berlin discotheque. President Clinton also relaxed the constraints on targeted killings following the U.S. embassy bombings in East Africa. Clinton authorized

the use of cruise missiles against targets in Afghanistan and the Sudan in response to the attacks. Finally, the current White House has stated that it maintains the right to carry out targeted killings based on war powers granted to the president by Congress after September 11. Another complexity of the legality of targeted killings is the fact that these operations, under international law, cannot be carried out as an act of revenge or reprisal for a past event. Targeted killings are only legal if they are done in an effort to prevent a future threat to a nation's security.²⁹ Delineating actual revenge killings from killing someone to prevent future threats to U.S. security is a murky issue by itself. This is especially true when it comes to dealing with terrorist organizations that wage continuous campaigns of violence against an enemy.

A second dilemma for targeted killings involves the issue of national sovereignty. Targeted killings of terrorist leaders and operatives may violate the sovereignty of other states unless these killings are authorized by the state in which the killing takes place. Some analysts speculated whether Pakistan was informed of the 2006 Predator attempt to kill al Zawahiri in 2006 in Damadola.

A third concern about the U.S. engaging in targeted killings is the condemnation that these operations have drawn from members of the international community. Prior to September 11, even the U.S. was fairly vocal in its admonishments of Israel's targeted killing policy. In July 2001, Secretary of State Colin Powell stated, "We continue to express our distress and opposition to these kinds of targeted killings and we will continue to do so."³⁰ Following the 2002 Predator strike in Yemen that killed Ali Qaed Sinan al-Harhi, a leading al-Qaeda member and prime suspect in the 2000 attack against the USS Cole, many suggested that the Bush administration was moving away from the law-enforcement tactics of arresting and detaining terrorist suspects to a more controversial policy of targeted killing or extra-judicial killing.

Soon after the strike on al-Harhi, a United Nations report condemned the attacks. The report stated that the attack established an alarming precedent and was a clear case of extra-judicial killing and therefore a violation of international law.³¹ Extra-judicial killing refers to the deliberate killing of an individual where it is deemed that apprehending and arresting a suspect is not a viable alternative. Similarly, Amnesty International claimed, "If this was the deliberate killing of suspects in lieu of arrest, in circumstances in which they did not pose an immediate threat, the killings would be extra-judicial executions in violation of international human rights law."³² Other vocal opponents to targeted killings by the U.S. and Israel include many Arab and European Union governments. Sweden's Foreign Minister went so far to say that the Yemen strike was "...a summary execution that violates human rights. Even terrorists must be treated according to international law."³³ Because of the widespread condemnations of targeted killings, the perception of the U.S. as an upholder of the rule of law will diminish even more than it already has in recent years if the U.S. expands its operations in this area.

In addition to the legal and political repercussions of the U.S. engaging in targeted killings, a more fundamental issue about these practices arises. The U.S. must ask whether it wants to be a nation that is associated with targeted killings, assassinations, and threatening families of terrorists to establish deterrence. The U.S. has often turned to Israel to evaluate its own strategies to defend against terrorism. However, Israel is a different case altogether. Israel must approach counterterrorism not from a perspective of national security, but from a perspective of national survival. Israel constantly finds its society and its citizens' way of life under siege by Palestinian terrorists. Palestinian

terrorists who come from the West Bank and the Gaza Strip are only miles from Israeli territory.³⁴ This is not to diminish the threat that terrorism poses to the U.S., but what may be necessary for Israel may not be appropriate for the U.S. It must be considered whether a declaratory policy of targeted killings is fundamentally compatible with American core values and morality. This is not a question that should be conveniently dismissed as mere fodder for liberal editorial pages or grandstanding speeches by left-wing academics. It is a legitimate concern that even the most hawkish American citizens should at least reflect upon.

To be sure, a significant reason for the Bush Administration not coming under more fire than it did for calling for the capture of bin Laden “either dead or alive” was the widespread public outrage over the September 11 attacks. Therefore, as the memory of these attacks subsides and the country moves beyond these tragic events, it is unclear whether future administrations will be able to successfully convince the American public that targeted killings are reconcilable with the core values of the nation. Moreover, it is likely that a stated policy of punishing the families of suicide bombers or other terrorist operatives would be met with considerable criticism. Threatening individuals who are perceived to be innocent and are not guilty of collaborating in an act of terrorist violence would be morally repugnant to many, albeit an effective tool to enhance deterrence.

CONCLUDING REMARKS

Returning to the theoretical core of classical deterrence theory illustrates the deterrence dilemma in which the U.S. currently finds itself. To deter terrorists, the U.S. must ask itself two questions. First, what can it do in response to a terrorist attack? Second, are U.S. enemies persuaded that the U.S. will actually do what it says it will do? This second question represents the “Achilles’ heel” of U.S. terrorism deterrence. Since September 11 the U.S. has been resolute in its pursuit of terrorist perpetrators. However, has the U.S. fully persuaded terrorist organizations that it is willing and able to punish them for their actions? Do terrorist elements view current U.S. actions simply as an out-of-character “knee-jerk” reaction to September 11? Will U.S. resolve in the war against terror waver, as it has in previous wars and conflicts? How much do calls for the U.S. to police its own actions in regard to moral and legal considerations undermine its credibility to punish terrorist acts?

The nature of America’s democratic system and the need for retaliation efforts to “pass moral muster” continually remind our enemies that they will rarely have to face the full consequences of U.S. power. To deter terrorists from attacking the U.S. or its interests, the U.S. will have to be prepared to compromise many of its core values and conceivably set in motion the moral decline of the world’s lone superpower. In truth, many of our enemies must be amazed by some of the debates currently being waged in the United States. Debates regarding the humane treatment of suspected terrorist detainees, responding in a proportional manner to suicide bombings, upholding the civil rights of September 11 suspects, or not directly targeting terrorist perpetrators are most likely construed as superfluous discussions by U.S. enemies. Incidents viewed as symbols of U.S. heavy-handedness by some Americans, such as Guantanamo Bay or Abu Ghraib, may not represent the same thing to U.S. enemies. Robert Kaplan made this point recently: “For Iraqis meeting with Americans in Mosul, ‘Abu Ghraib’ had a

different connotation than it did in the United States. Here it meant not brutality but American weakness and lack of resolve.”³⁵

Concern over the cost of compromising our ideals undoubtedly undermines efforts to make our enemies believe we are willing to punish them no matter at what expense. To effectively deter terrorists the U.S. will have to accept the price that comes with violating some human rights, responding with overwhelming force, alienating certain allies, and even eliminating those assets and people that terrorists may hold dear. Any discussion of deterrence that fails to acknowledge the necessity to implement such policies belongs only in ivory towers where the theoretical does not have to be tested by the practical. Deterring terrorists will not happen with strong policy statements alone, it will only happen if the U.S. can clearly illustrate to terrorists and their supporters that they will feel significant pain as the result of their actions. However, as long as arguments about the conflict between what is necessary and what is right continue to resonate throughout American society, the idea of deterring terrorists, who have no qualms about using pipe bombs to blow people up, represents little more than a pipe dream. And even if we, as Americans, did suggest that we were willing to sacrifice some ideals to combat terrorists, would the terrorists believe us?

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