
THE INSTRUMENTS OF COUNTERTERRORISM

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Counterterrorism, which involves an array of activities that exceed the term “counterterrorism,” includes effective use of diplomacy, law enforcement, financial controls, military power, and intelligence gathering, says Paul R. Pillar, a national intelligence officer for the Near East and South Asia with the National Intelligence Council. “Every counterterrorist instrument is difficult to use. Using them well together is even more difficult. But using them all is critical in the fight against terrorism.”

Every tool used in the fight against terrorism has something to contribute, but also significant limits to what it can accomplish. Thus, counterterrorism requires using all the tools available, because no one of them can do the job. Just as terrorism itself is multifaceted, so too must be the campaign against it.

Counterterrorism involves far more activities than those that bear the “counterterrorist” label. Even before the attacks of 11 September 2001 made the subject a seemingly all-encompassing concern for the United States, it involved the efforts of many different departments and agencies. Counterterrorism includes diplomacy designed to harmonize the efforts of foreign governments on the subject. It includes the investigative work of numerous law enforcement agencies and the related legal work of prosecuting terrorist crimes. It involves measures by financial regulatory bodies to interrupt terrorist funding. As the allied military operations begun over Afghanistan in October 2001 remind us, it, at times, includes the use of armed force. Information gathering by intelligence agencies is another major part of counterterrorism. And all of these functions aimed at actively countering terrorist operations are in addition to the many defensive measures, taken by the private sector as well as by various levels of government, designed to protect against terrorist attacks.

DIPLOMACY

Diplomacy is critical to combating modern international terrorism which, in many respects, knows

no boundaries. Terrorist groups have increasingly spread their reach around the globe. Combating a terrorist network like the one that includes Osama bin Laden’s al-Qaida group requires the cooperative efforts of many countries because the network operates in many countries. Effective counterterrorist diplomacy is the glue needed to hold these efforts into a coherent whole rather than being merely disjointed parts. The building of a counterterrorist coalition following the attacks of 11 September is only the most recent and conspicuous demonstration that the United States needs the help of foreign partners in countering even those threats directed specifically against the United States.

Counterterrorist diplomacy is not just the responsibility of professional diplomats in foreign ministries. Officials performing other specialized, and counterterrorist-related, functions have to cooperate extensively with foreign counterparts to do their jobs. Regulatory agencies responsible for the security of civil aviation and other modes of transportation, for example, have to perform what is, in effect, a diplomatic function to accomplish the necessary coordination where their security systems intersect with those of other countries. Customs and immigration officials must do the same.

Most of this specialized cooperation is bilateral, but multilateral diplomacy also has contributions to make. It can provide broad sanction for measures that would have less legitimacy if taken by an individual state. The United Nations Security Council has done so, for

example, with resolutions (beginning with Resolution 1267 in 1999) pertaining to the Taliban's support to terrorism based in Afghanistan. Multilateral diplomacy — including resolutions of the U.N. General Assembly and a dozen international conventions on terrorism — also strengthens an international norm against terrorism. Some of those conventions, such as ones dealing with hijacking of aircraft, also provide a basis for practical cooperation on matters where national jurisdictions may overlap.

The limitations of diplomacy as a counterterrorist tool are obvious. Terrorists do not change their behavior in direct response to a treaty or U.N. resolution. But diplomacy supports all of the other tools, whether by broadening the moral force behind them or providing an international legal framework for their use.

CRIMINAL LAW

The prosecution of individual terrorists in criminal courts has been one of the most heavily relied upon counterterrorist tools. The United States has placed particular emphasis on it, with the bringing of terrorists to justice for their crimes being a longstanding tenet of U.S. counterterrorist policy. Non-U.S. courts have also played significant roles. A Scottish court sitting in the Netherlands was used to try two suspects accused of bombing Pan Am flight 103 in 1988.

Use of the criminal justice system can help reduce terrorism in several ways. Imprisoning a terrorist for life (or executing him) obviously prevents him from conducting any more attacks. The prospect of being caught and punished may deter other terrorists from attacking in the first place. Even if not deterred, the movements of terrorists still at large can be impeded by the knowledge that they are wanted men. The drama and publicity of a criminal trial may also help to sustain public support for counterterrorism, demonstrate a government's resolve to go after terrorists, and encourage other governments to do the same.

A limitation of applying the criminal justice system to terrorism is that the prospect of being caught and punished does not deter some terrorists. That prospect is obviously irrelevant to suicide bombers, and perhaps also to other low-level operatives who feel a comparable

level of commitment and desperation. High-level terrorist leaders — who typically stay farther removed from the scene of the crime and are more difficult to catch — may care little about whether the underlings are caught.

Prosecuting a terrorist also poses the practical difficulty of assembling sufficient legally admissible evidence to convict him. At least in U.S. courts, that is a higher standard than acquiring enough information to be fairly sure, from an intelligence or policy perspective, that someone is a terrorist. Direct evidence of the decisions or orders issued by terrorist leaders is particularly hard to come by. The physically dispersed planning and decision making of international terrorist groups means many of the actions leading to a terrorist attack were taken outside the country where the attack occurs and outside the jurisdiction of the lead investigators.

The need for international cooperation in applying criminal law to terrorists is obvious. It involves not only acquisition of evidence for use in court but also the extradition or rendition of fugitives to stand trial in the country where they are charged.

FINANCIAL CONTROLS

The funding that evidently made it possible for the perpetrators of the attacks in September to train and travel as they prepared for their operation has highlighted efforts to interdict terrorist money. The United States uses two types of financial controls to combat terrorism: the freezing of assets belonging to individual terrorists, terrorist groups, and state sponsors; and the prohibition of material support to terrorists. Money is also the subject of the most recent multilateral treaty on terrorism: the Convention on the Suppression of the Financing of Terrorism, which was opened for signature in January 2000.

Cutting off terrorists' funding faces two major challenges. One is that — notwithstanding the importance of financial backing to the September hijackers — most terrorism does not require large-scale financing. Less money is involved than in illegal narcotics, arms trafficking, and some other transnational criminal activities. The other challenge is that the flow of terrorist money is extremely difficult to

track. False account names, the use of financial intermediaries, and commingling of funds for legitimate and illegitimate purposes are the rule. Much money gets moved through informal arrangements outside any formal banking system.

Despite these challenges, more could be accomplished to impede terrorists' financial operations. The Treasury Department's Office of Foreign Assets Control (OFAC) provides focus and direction for U.S. efforts on this subject, but most of the financial activity, even of groups targeting the United States, takes place outside U.S. jurisdiction. The creation in other governments of offices similar to OFAC and the close cooperation of such offices would make a further dent in terrorists' financial activity.

MILITARY FORCE

Modern, precision-guided munitions have made armed force a less blunt and more useful counterterrorist instrument, but one whose use is still appropriately rare. Several countries have used military force with varying degrees of success over the last three decades to rescue hostages. More recently the military instrument has been employed to retaliate against terrorist attacks. The United States has used its armed forces for retaliation following terrorist attacks by Libya in 1986, Iraq in 1993, and Osama bin Laden in 1998.

A military strike is the most forceful possible counterterrorist action and thus the most dramatic demonstration of determination to defeat terrorists. The major limitation of military force is that terrorist assets, unlike conventional military assets, do not present large, fixed targets that can readily be destroyed. With the terrorist threat now coming much more from groups than from states, there are even fewer targets to strike, either to damage terrorist capabilities or to deter future terrorism.

The U.S. and British military operations begun in Afghanistan in October go beyond any previous counterterrorist use of military force, in that they constitute not just retaliation but an effort to clean out the prime source and safe haven of a terrorist network. In their goal and scale, they have the potential for having a substantially greater effect on terrorism than

any previous use of armed force. Success in Afghanistan will depend on political as well as military chapters of that country's history yet to be written. Even with success in Afghanistan, however, the military operations there do not directly touch the portions of the al-Qaida network that reside elsewhere, and, thus, must be part of a broader counterterrorist effort that does address those portions.

INTELLIGENCE

The collection and analysis of intelligence is the least visible but in some ways the most important counterterrorist tool, and is rightly thought of as the "first line of defense" against terrorism. But this instrument also has its limitations, chief of which is that the type of very specific, tactical intelligence required to thwart terrorist plots is rare. That kind of actionable information is difficult to collect because it requires penetration of groups that are small, suspicious of outsiders, and very careful about their operational security.

Most intelligence about terrorist groups is fragmentary, ambiguous, and often of doubtful credibility. Analysis is thus almost as much of a challenge as collection. The contribution of intelligence is not so much to provide coherent pictures of impending terrorist operations but rather a more strategic sense of which groups pose the greatest threats, which times and which regions present the greatest dangers, and what sorts of targets and tactics are most likely to be used.

The limitations of counterterrorist intelligence mean it should not be relied upon as a foolproof indicator of where threats do and do not exist. But the guidance it provides in managing the risks from terrorism is invaluable, from decisions on site security to broader policy on allocation of counterterrorist resources, as well as being essential to the functioning of all the other counterterrorist instruments.

PUTTING IT ALL TOGETHER

The instruments discussed here must be well coordinated. Used together wisely, they produce a whole that is greater than the sum of the parts. If not well coordinated, they can work at cross-purposes.

Enforcement of criminal law may get in the way of intelligence collection, for example, and military action could disrupt either law enforcement or intelligence gathering.

The United States accomplishes day-to-day coordination through sub-cabinet committees, cross-assignment of personnel, and other formal and informal mechanisms centered in the National Security Council and involving the Departments of State, Defense, Justice, and Treasury, the intelligence agencies, and other elements. The best arrangements for coordinating counterterrorism will vary from one government to another, but effective coordination should reflect three principles. One is that all of the

relevant ministries or agencies — including those responsible for military affairs, internal security, intelligence, and foreign affairs — need to be involved. Second, leadership should come from the center, such as a cabinet office or equivalent to the U.S. National Security Council. And third, the various offices involved need to develop everyday habits of working together that will become second nature and pay off during a crisis.

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