

## DEMOCRACY AND COUNTER-TERRORISM

### *Policy and Practice: Past and Present*

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#### ***Introduction***

“The Day the World Changed” was the cover title of the first issue of *The Economist* published in the wake of the 9/11 terrorist attacks.<sup>1</sup> It has been hard to escape the pervasive sense that somehow those events marked a ‘boundary’ between the world before and after, and that things will be forever different because of them. This is hardly a new idea; the same has been said, and perhaps with greater justice, about previous ‘earth-shaking’ events: the assassination of Archduke Ferdinand in 1914, the detonation of the first atomic bomb in 1945, and the opening of the Berlin Wall in 1989. But the question which is examined in this paper is whether 9/11 has changed - or will change - the way in which liberal democratic states conduct counter-terrorism campaigns. Did it fundamentally alter the calculus of security and liberty which has informed democratic responses to terrorism prior to 9/11 ? Or are there some ‘eternal truths’ about those responses which transcend the 9/11 ‘boundary’ ?

The paper consists of three parts. It starts by trying to place the 9/11 attacks in context, to determine whether they do or do not represent a new problem or a change in the magnitude of terrorist challenges to democratic states. It argues that the same factors that generate and sustain ‘traditional’ terrorist campaigns must be addressed in a counter-terrorism program against *al-Qaeda*. The second part of the paper discusses the ‘conventional wisdom’ about democratic counter-terrorism as it has emerged from the scholarly and specialist literature. Third, it examines some of the policies and measures applied by democratic states since 9/11. The paper attempts to assess the effectiveness of those measures, and the extent to which they are consistent with or represent a departure from past practice. Finally, the paper will conclude that while *al-Qaeda* poses qualitatively greater threat to democracies, possibly a “Revolution in

Terrorism Affairs”, it has not brought about a similar dramatic change in the practice of democratic counter-terrorism. That said, the threat perception has temporarily altered the liberty/security balance.

### ***A ‘Revolution in Terrorism Affairs’?***

The events of 11 September 2001 *may* represent, not just an adaptation, but the cutting edge of a quantum *breakthrough* in terrorist capabilities: a “Revolution in Terrorism Affairs”, as significant as the “Revolution in Military Affairs”. If this is true, it may call for a qualitatively different kind of response than previous experience suggests. First, it is clear that in some respects *al-Qaeda* -Osama Bin Laden’s group - is not just another group like the IRA. Rather, it represents a new kind of terrorist organization: part apocalyptic ‘*cult*’, part multi-national corporation.<sup>2</sup> First, consider its cult-like features:

- \* It is led by a charismatic leader, who believes he is on a ‘mission from God’ to return *all past* and present Muslim lands to the true path, while destroying the corrupt West and its allies.
- \* Its ideology is Manichean. It uses a selective interpretation of the *Q’uran* to give its members a reductionist world view that divides it into good and evil, believer and unbeliever, and a religious validation that explains all and justifies all.
- \* Its goal seems to be to instigate a total war between Islam and the West - a final “Clash of Civilizations” from which only the righteous (the Islamists) will emerge victorious.
- \* It uses religious leaders, places of worship, and schools to recruit members and to indoctrinate them through isolation and rigorous rituals, then sends them to camps for para-military training. This combination produces skilled and fanatically motivated “Soldiers of God.”

Second, *al-Qaeda* represents the ‘*privatization*’ of terrorism. If it *looks* like a cult, it *operates* like a multi-national corporation, not surprising given Bin Laden’s business experience. It is funded largely by Bin Laden’s personal wealth, businesses, and fronts on a scale unimaginable for previous terrorist groups. *Al-Qaeda* functions as a holding company with ‘branch offices’ and ‘representatives’ ‘networking’ world-wide. It engages

in long-term planning with 'management by objectives' and 'directive control'. It invests money and moves it globally. It uses all the tools of "Globalization": open borders, international transportation, electronic banking, fax machines, satellite phones, and the Internet. *Al-Qaeda* is "*Terrorism.com*".

Third, *al-Qaeda* used these tools to carry out an *Asymmetric* attack on the very heart and symbols of America's global economic and military power. It turned America's strengths into vulnerabilities. In fact, it did more than that; it turned them into *weapons*. An airliner and a skyscraper each by themselves is benign. But brought together at speed, guided by the world's most sophisticated computer - the human brain - and driven by that most powerful source of motivation - the human will - they created a "*binary*" Weapon of Mass Destruction" (WMD).

Fourth, thirty years ago Rand Corporation analyst Brian Jenkins articulated the accepted conventional wisdom that "Terrorists want a lot of people watching ... not a lot of people dead."<sup>3</sup> The aim of terrorism was to publicize a cause and to mobilize supporters for it: eg., the Palestinian cause. So, groups that carried out attacks claimed responsibility for them in very public ways, during or immediately after the attack: on radio, TV, through communiques and spokespersons. Casualties and fatalities generally were low, as few as one or two, at most a few dozen. Hostages usually were released. To do otherwise could alienate potential supporters, de-legitimize the cause, or provoke severe counter-measures that might destroy the group. But since the 1980s, many terrorist incidents have gone unclaimed. I believe this represents a change in motivation: from "mobilization" to "punishment". The primary motive now seems to be to strike major damaging physical and psychological blows against their enemies, sufficient to exact a high price for resisting the terrorists, to defeat a regime outright, or to compel them to meet the terrorists' demands. The result of this has been a much higher level of casualties. In the 1980s and 1990s, many incidents caused hundreds of deaths and sometimes thousands of injuries. But, the 9/11 attacks represent a quantum leap in lethality, right off the scale: some 3,000 dead, and 6,300 injured.<sup>4</sup> So, now we have "a lot of people watching *and* a lot of people dead".<sup>5</sup>

These changes - a cult-like mentality, privatization, globalization, and mass

casualties - mean that a well-funded, well-organized terrorist group now can do something that was not possible for them before. They can create weapons with destructive power equal to the major weapons of a state, use them to carry out a “decapitation strike” at the “centers of gravity” of a state, and thus inflict catastrophic human, political, psychological, and economic damage, with major ripple effects on global security and stability. It levels the playing field and puts such terrorist groups on a par with the states that are their enemies.<sup>6</sup> Consider what *al-Qaeda* achieved: nearly 10,000 casualties; untold psychological trauma; physical damage in the tens of *billions* of dollars; economic damage in the *hundreds of billions* or more, hastening a global recession; and causing a war that brought has down one regime and may yet topple others.

No sub-state terrorist group in history has ever achieved this kind of impact. This suggests that what happened on 11 September was not just a “Threshold Event”, like the nerve gas attack in Japan in 1995, but a “Breakthrough Event”. It demonstrated an exponentially higher level of terrorist killing power. What is ought to be of concern is that this has “raised the bar”, setting a new standard by which all subsequent terrorist attacks will be measured. For if a terrorist group can now kill and injure nearly 10,000 people in one coordinated attack, why not 20,000 or many times that ? If so, then all bets are off. There are no limits; anything is possible.<sup>7</sup>

That said, it may be too soon to proclaim 9/11 a true “Revolution in Terrorism Affairs.” It is possible that this incident may prove to be an anomaly that is never replicated by *al-Qaeda* or any other group.<sup>8</sup> For, while there are many terrorist groups around the world, probably very few - if any others - have the organization, skills, finances, motivation, the global reach, and the nihilist will to self-destruction shown by the members of *al-Qaeda*, all of which were necessary to launch the “mother of all terrorist attacks”. Moreover, it is clear that while *al-Qaeda* is qualitatively different from ‘conventional’ terrorist groups, it shares their key features and depends on the same factors as they do for its success and survival. The hallmarks of terrorism include:<sup>9</sup>

1. the use of violence or the threat of violence to punish enemies and/or to create a climate of fear to induce compliance with the terrorists’ objectives.

2. political objectives and societal impact - terrorism is about changing power relationships.
3. attacks that usually are selective in intent and objective, but which *appear* to be indiscriminate, drawing no distinctions between combatants and non-combatants. This enhances the surprise and shock factors that create the climate of fear.
4. attacks that may send different messages to a number of targets or audiences, and thus can be seen as a violent form of political communication: "Propaganda of the Deed" or Information Warfare. In terrorism, the attack (the 'medium') *is* the message. Traditionally, however, attacks usually have been accompanied by other forms of political communication.
5. perception management: terrorism can create images of power, omnipotence, and ubiquity for groups, states, or persons that are actually small and weak. They try to appear unbeatable.
6. organizational secrecy and individual anonymity, both to ensure group security and to achieve surprise and terror.

Terrorist campaigns are sustained by a range of factors, *ideally* including the following:<sup>10</sup>

A. "*The Cause*" - the issue that defines the beliefs and goals of the group and its constituency and motivates them to act: a rallying point. The cause may be political, ideological, economic, social, cultural, religious or ethnic, and is often some combination of these.

B. *Strategy* - a plan that turns those beliefs, goals, and motivation into a coherent sequence of political and military actions that will either defeat the enemy or coerce them into changing their policies or activities. The most effective terrorist strategy confronts the enemy with a 'two-front war': a strategic/psychological/communications battle for political legitimacy (ie., for the *right* to enact its goals), and a tactical/para-military battle for control (ie., for the *ability* to impose its goals on the target). The latter front supports the former; terrorist violence is never an end in itself, but always a means to a political/ideological end.

C. *Leadership* - terrorist campaigns and groups normally are directed by a small core of dedicated leaders who define the cause, inspire and rally followers to it, create the organization, develop a strategy, and plan and direct the campaign.

D. *Organization* - a structure that allows the leadership to deploy and direct members and supporters to carry out the plans and operations of the group. The organization may have a hierarchical, military-like pyramid form or be organized into independent 'cells'. A terrorist group usually has both overt political and covert military structures. The latter carries out operations intended to achieve the goals of the former as well as to protect it from attack and penetration by the enemy. The overt political arm is vital, to give the group or movement a legal, legitimate 'public face' for propaganda, recruiting, and fund-raising. So, the two parts of the structure overlap only to a limited extent, so that the political arm can appear to be 'independent' and be able to maintain 'plausible deniability' of any involvement in violence. Propaganda, fund-raising, and recruiting is often done through 'arms-length', legal 'front' organizations, which may pose as companies, charities, refugee, religious, or other 'humanitarian' organizations.

E. *Base* - both a physical area in which the terrorist group is relatively free to operate and train; and a constituency from which to draw political support, safe houses, funds, and recruits. The physical and constituency base are most useful when they overlap in the territory under dispute, but expatriate communities abroad may serve both purposes to a limited, but useful degree.

F. *Funding* - terrorism is a relatively 'low-tech' and hence, low-cost, form of warfare. But it is not cost-free, so all terrorist groups require some degree of funding. The amount needed will depend on the scale and length of the campaign, the size of the group, the types of weapons used, the intensity of terrorist activity, the need for travel, accommodation, documents, and bribes, and the degree of support provided to families of group members. Funding may be provided by sympathisers within the terrorists' political/social constituency at home and abroad, by external supporters such as foreign governments, by a range of criminal activities (such as robbery, extortion, kidnapping for ransom, racketeering, black marketeering, and narcotics trafficking), and even by

investment in legitimate businesses.

G. *Communications* - including a structure, a message, and a campaign. A terrorist group requires a secure internal communications structure that links the leadership to the members at all levels, in order to plan and to direct operations. It also needs an external communications structure to convey messages to external audiences. This may include a capacity to produce radio broadcasts, to issue communiques, to have spokespersons appear on radio and TV, even to run a website. Some of this may be done by front organizations, by sympathisers, or by 'friendly' journalists. While terrorist attacks often serve as "propaganda of the deed", "speaking for themselves" in many respects, almost all terrorist groups have mounted propaganda campaigns to support their political programs and to explain and justify their actions. Their message invariably blames the target for the causing the violence against them, legitimizes the attacks as self-defense and thus as both moral and legal, and proclaims the inevitability of victory over the 'evil' enemy. The message and the campaign is intended to produce three effects: to sustain the morale and commitment of the group and its supporters, to win over 'neutrals' to the cause or at least to dissuade them from supporting the enemy, and finally to isolate, confuse and demoralize the enemy, undermining their will to fight and even to encourage defections and collaboration.

H. *Intelligence and Security* - intelligence is required to identify and select targets, and to plan operations against them secretly to maximize surprise/terror. Rigorous internal security is vital to the survival of the group; this includes: thorough screening of recruits and members with close ties to the group; effective counter-intelligence to prevent hostile penetration; constant adherence to security procedures; and ruthless punishment of defectors, enemy agents, and collaborators.

I. *Weapons, Tactics and Training* - weapons traditionally include small arms and explosives. Tactics normally include arson, assassination, bombing, hijacking, hostage-taking and kidnapping. The quality of terrorist training varied considerably from group to group and over time. Small groups with limited resources often relied on very rudimentary training; others, with more resources, funding, secure base areas and experience could train their members more thoroughly. The most noticeable qualitative

difference over the last thirty years among the long-running terrorist campaigns, such as that of the IRA, was the increasing power and sophistication of their bombs. Most terrorist groups, however, displayed little technical or tactical imagination.

J. *Time and Will* - to succeed, a terrorist group must have the patience to sustain a campaign over a long period of time and see it through to victory in spite of many setbacks. It must be prepared to outlast and exhaust its enemy.

If these are the factors that determined success or failure, then the terrorist groups that operated in the period from 1945 to 1990 displayed a wide range of ability and competency in these fields. Few achieved their strategic objectives. The Jewish underground groups which forced Britain to abandon Palestine, allowing them to create the Israeli state, are exceptional in this regard.<sup>11</sup> The Provisional IRA, which became the epitome of a highly professional terrorist group, had to abandon its armed struggle after twenty-five years once it became clear that it could not win politically or militarily.<sup>12</sup> Likewise, more than thirty years of violence have failed to gain the Palestinian terrorist groups an independent state. The Greek 17 November movement avoided police penetration for 25 years, owing largely to its security based close family ties. But, apart from a handful of skilful assassinations, it had achieved nothing.<sup>13</sup> Quebec's FLQ was probably the most amateurish group in that era. It was effective in gaining media attention, but squandered its success by killing one of its hostages, alienating its growing support base and legitimizing a government crackdown.<sup>14</sup> There is some reassurance in this record. In many cases, terrorist groups could be contained, if not defeated outright. Others self-destructed due to internal strife, or ceased functioning because they became irrelevant in a changed political context.<sup>15</sup> Indeed, it is striking to note that in spite of the fear that terrorism invoked and the often clumsy, even ineffective, responses by democratic governments, throughout this period *not a single western liberal democracy succumbed to terrorism*. But will this hold in the 'Age of al-Qaeda' ?

### ***Democratic Counter-Terrorism: A Delicate Balance***

The fact that so many factors shape the conduct and outcome of a terrorist



campaign leaves open many avenues for counter-attack. Experience suggests that it is unlikely that any counter-terrorism campaign can succeed on *all* of these fronts. However, since each of these is vital to the success of a terrorist group, and they are inter-dependent to a large extent, disrupting even some of them may be sufficient to neutralize or contain the threat, even if it is not possible to eliminate it entirely. The 'conventional wisdom' about democratic counter-terrorism, drawn from the experience of the last several decades, provides some 'lessons' about what 'works' and what doesn't, and how these approaches can or can't be applied within liberal democratic societies.

The scholarly literature on democratic counter-terrorism is extensive, dating back to the 1970s. That body of writing acknowledged from the outset that there was an inherent problem in trying to protect democracies from terrorism - the risk that security measures could themselves undermine the very democracy they are intended to protect.<sup>16</sup> Writing in 1979, Robert Friedlander noted that: "The more effective the restraints, the greater the diminution of civil liberties." He then went on to pose the larger philosophical question about the very nature of democracy itself, which goes to the heart of the matter: "At what point does the general welfare take precedence over citizens' rights?"<sup>17</sup> The central problem for democratic counter-terrorism, therefore, is to find that 'delicate balance' between individual liberty and collective security that maximizes the latter without damaging the former. Grant Wardlaw, one of the authorities in this field, has suggested that there is a 'golden mean' for balancing operational effectiveness and democratic values in counter-terrorism: "The bottom line for the democracies is to remember not only whom they are fighting, but what they are fighting for."<sup>18</sup>

This is much easier said than done. As Ronald Crelinsten and Alex Schmid point out, democratic counter-terrorism is problematic on a whole variety of levels - not just the matter of balancing liberty and security. National interest can conflict with regional cooperation. Jurisdictional disputes may hinder collaborative efforts even within countries. The hazy boundaries between domestic and international terrorism and the responses to them make it difficult to determine which counter-measures are appropriate, let alone effective. Moreover, different experiences of terrorism arising in different political cultures among western democracies have produced a range of

responses and counter-measures, and different results. As noted in my own study, “There are ... varieties of democracy....Each political culture in unique, and each functions and responds to challenges in ways peculiar to itself.” There is no “one size fits all” ‘model’.<sup>19</sup>

In fact, Crelinsten and Schmid identify four different ways to classify responses to terrorism: ‘soft line’ versus ‘hard line’ (conciliatory versus force); short-term versus long-term (reactive versus proactive); those that address the *coercive* capabilities of the terrorist versus those that address their *political* capabilities; and domestic versus international. ‘Soft line’ or conciliatory approaches seek to address ‘root causes’ of terrorism, either by accommodation (meeting demands) or reform (redressing grievances). The ‘hard line’ strategy usually rejects negotiation of any kind, and responds with repressive force in some form, either through policing and judicial measures (the ‘criminal justice model’) or by military means (the ‘war model’) - or both. Short-term reactive responses attempt to deal with an immediate incident, while long-term responses are future-oriented. They may involve prevention, deterrence, and reform. The ‘repressive’ measures mentioned above are those usually applied to the terrorists’ coercive capabilities, while the conciliatory measures are directed at the terrorists’ political strength. Together, they are intended to deprive the terrorists of those things that allow a group to conduct operations and to sustain itself. Responses to domestic terrorism normally involve legal and administrative measures, extending the powers of the police, target hardening, and the creation of special counter-terrorism forces. At the international level, political and diplomatic measures, such as strengthening international legal regimes, predominated over the period from the late 1960s to the mid-1990s. However, economic instruments (eg., sanctions) were also used, and from the 1980s military power was employed with greater frequency. The authors also note a curious anomaly; while many western states have experienced domestic terrorism of a much more serious nature than its international counterpart, “the main focus of policy discourse ... has been on international terrorism....” They note that drawing clear-cut distinctions between domestic and international responses to terrorism may be artificial and thus misleading.<sup>20</sup> All of the approaches discussed above have

been applied by democratic states, individually and collectively, over a period of more than thirty years. The results of these initiatives have left us with a broad legacy of 'lessons learned.'

First, it is clear, both from recent and historical experience, that since terrorism arises from a political context of some sort, that any response *ideally* should be framed in a similar context. All other counter-measures flow from and should be guided by a political strategy. Force applied in a political vacuum may yield a short-term victory, but is likely to fail over the long-term. Political measures and coercive measures must be applied simultaneously. Like terrorism itself, countering terrorism involves a two-front war: a battle for legitimacy and a battle for control (or security). This does not mean necessarily conceding to the terrorists' objectives, that is, rewarding their terrorism. Even if appeasement were desirable in principle, those objectives may be beyond the capacity of any state to deliver (eg., a global revolution). But it does mean - as Martha Crenshaw argues - trying to find some means of undercutting their legitimacy and whatever support they may have.<sup>21</sup> In short, governments must engage the political battle, and they have.

In the post-1968 period, almost all states applied flexible policies - that is varying between hard and soft line. Often these policies were internally contradictory. For public purposes, governments usually adopted strong, inflexible declaratory policies and visible, short-term coercive measures. Yet, at the same time, they engaged in secret, long-term conciliatory approaches to the terrorists and/or their sponsors. The most striking example was provided by the Reagan administration. On the one hand, it promised the American public "swift and effective retribution" against terrorism; on the other, it negotiated covertly with Iran to secure the release of hostages. This illustrates one of the problems confronting democracies' counter-terrorism policy-makers: the need to respond to multiple 'players' in the terrorism arena - the terrorists, their sponsors, the victims, and the public. But one result emerged consistently from this practice; "negotiations and making deals with international terrorists were largely ineffective. Terrorists usually regarded deals as temporary tactical ploys, not as permanent prohibitions against the use of violence. They returned to terrorism as soon as they felt

circumstances warranted.”<sup>22</sup>

However, in the domestic context, the recent experience of Northern Ireland may be instructive. By 1990, there had been two significant developments in the conflict. First, British security forces operations had been sufficiently effective to contain and reduce IRA terrorism to “an acceptable level of violence” and thus to deny the IRA its primary goal: the defeat of British rule and unification of all of Ireland on the IRA’s terms. This was not a ‘decisive’ victory, but such was not necessary. Simply outlasting the IRA was enough. But this alone would not have been sufficient without the second, political, development: the failure of Sinn Fein - the IRA’s political wing - to make significant headway in electoral politics during the 1980s. Their “Armalite and Ballot Box” strategy had failed, and there was no prospect of victory on either front in the foreseeable future. This forced Sinn Fein to reconsider its options, widening the split between it and the IRA and weakening the latter. Recognizing and seizing the opportunity that this situation posed, the British government built on earlier political initiatives, such as the Anglo-Irish Agreement, to make Sinn Fein “an offer they couldn’t refuse”: power-sharing in return for peace. That was the essence of the “Good Friday Agreement”, and in spite of difficulties over implement-ing of some of its terms (such as IRA ‘disarmament’), it appears to have succeeded.<sup>23</sup>

If this is correct, then it represents a significant example of a democracy defeating terrorism, politically and operationally. “But”, Bruce Warner asks, “at what price ?” Taking note of security restrictions imposed on all British citizens, the rapid development of an armed police service, limits on press freedom, and expanded powers of exclusion, proscription, arrest and detention under the *Prevention of Terrorism Act*, he asserts that the response to terrorism “changed the face of British society - and its democratic character - to a marked, if unquantifiable degree....” Warner says these measures made Britain “a subtly less-free society.”<sup>24</sup>

Likewise, in 1970, the Canadian government used greatly expanded legal powers under the *War Measures Act* to ‘defeat’ a much smaller and less serious terrorist challenge from the FLQ. While those powers clearly infringed civil liberties and probably represented unnecessary ‘overkill’, unlike the *POTA* they were applied for only a six-

month period. There was considerable opposition to the use of the *WMA* and to the abuses of police investigative powers that followed in its wake. One result of this was the transformation of the security service in the mid-1980s into a civilian agency without law enforcement powers and subject to a much higher degree of external scrutiny. Moreover, at about the same time, a *Charter of Rights and Freedoms* was enshrined in the Canadian constitution, allowing the limits of the government's powers to be challenged in and ultimately decided by the courts. Arguably, therefore, and perhaps ironically, the Canadian legacy of the use of extraordinary legal powers against terrorism was in fact greater accountability for security and a formal commitment to a more liberal society. But the evidence is not conclusive.<sup>25</sup>

The second 'lesson' is that "international cooperation produced positive results, particularly on functional matters, such as the exchange of intelligence and criminal investigation data." The intelligence-sharing problems of the CIA and the FBI prior to 9/11 notwithstanding, cooperation has been most effective at the agency-to-agency level, where it enabled police and security/intelligence services to "conduct investigations, share evidence, make arrests, and gain convictions." In short, multi-lateralism works, especially at the operational level. However, multi-lateral cooperative efforts are less effective at the government-to-government level, because this is where national interest and sovereignty take precedence. Moreover, different governments will not always share a common view on the source, nature, and scale of the threat and, therefore, are unlikely to come to agreement on a common remedy. This is apparent even in the wake of the 9/11 attack. While expressing shock at the scale of the attack and sympathy for its victims, those states that weren't attacked directly, such as Europe, feel less inclined to give the US "War on Terrorism" unconditional support. Thus, there are limits to international cooperation against terrorism, and those limits make unilateral action - the very approach most states attempt to discourage - more likely. However, "unilateralism in any form created problems, not solutions."<sup>26</sup>

Third, governments that had created permanent crisis management organizations and facilities tended to manage responses to discrete terrorist events most effectively. While this may appear to be glaringly obvious, up to the 1990s few states had such

agencies. Thus, responses in most countries were characterized by 'ad hoc' and politicization; in fact, the two were linked. The evidence suggests that "crisis management will succeed only if there is continuity and stability in personnel, organization, and procedures, altered solely by testing and experience, not by bureaucratic tinkering."<sup>27</sup> Moreover, it is striking that the most effective body - the British one, based in the Cabinet Office - was/is small. These points have implications for American efforts in this field since 9/11, as discussed below.

Fourth, the *centrality* of intelligence to counter-terrorism was apparent long before 9/11. It has been part of counter-terrorism/counter-insurgency doctrine for at least half a century. In his book *Low Intensity Operations*, published more than thirty years ago, British general [Sir] Frank Kitson captured the essence of the problem in a single sentence: "The problem of defeating the enemy consists very largely of finding him."<sup>28</sup> This points to the core challenge - that terrorism represents a covert threat, not an overt one; terrorists operate in secrecy. Terrorism, therefore, presents the challenge and threat of surprise attack. As Richard Betts and others have pointed out, even capable intelligence services are unable to anticipate all possible eventualities and thus to prevent surprise on all occasions.<sup>29</sup> This applies as much to terrorism as to conventional war and is borne out by the 'revelations' concerning what the various American agencies knew about the 9/11 plot and when they knew it. Evidence now in the public domain suggests that the FBI, the CIA, and the NSA each had 'fragments' of information pointing toward some kind of attack in the United States, that the information did not reach the upper echelons of these organizations, that it was not shared, and that consequently, it was not pulled together by a single analyst to be evaluated for its meaning. Intelligence is crucial to minimizing and managing the risk of attack from terrorism, both domestic and international, even if it cannot eliminate the threat altogether.<sup>30</sup>

But, because terrorism presents a clandestine threat, counter-terrorism intelligence by its very nature must be *proactive* and *intrusive* if it is to *prevent* or minimize the threat of attack, or to locate and apprehend perpetrators after an attack. But, it is these methods that represent the state's greatest potential to abuse its power

and undermine its democratic character. So, balancing intelligence effectiveness with protection of rights and freedoms goes to the heart of the challenge of democratic counter-terrorism.<sup>31</sup>

Fifth, target-hardening remains an unproven remedy. Because there are many more targets than can be realistically protected, target-hardening has been selective. But this usually has caused terrorists merely to switch targets, or to choose different methods of attacking them. For example, introducing baggage screening at airports in the early 1970s, to counter the wave of hijackings at that time, dramatically reduced the number of such incidents. But in the 1980s, terrorists switched to putting bombs on airliners and to attacks on airports themselves. Now the aircraft themselves have become weapons. After 1980, when British security forces successfully re-captured the Iranian embassy from terrorists, terrorist groups did not usually try to capture embassies and take hostages, but instead attacked them with large bombs. So, target-hardening does not appear to have had a deterrent effect. That said, doing nothing would be unacceptable, morally and politically. If such protective measures bring even a temporary respite from attacks, that may be beneficial for public morale. The psychological impact of security may be as important as - and more valuable than - the barrier effect. The limits of target-hardening make clear a wider, more fundamental point: "Democratic states cannot provide total security from terrorist attack while maintaining the open society that is the essence of democracy."<sup>32</sup>

Finally, the military option appears to have had limited utility. Domestically, terrorism is usually a problem for law enforcement and security/intelligence services, whose task is to find, arrest, and prosecute the terrorists. This was the 'dominant paradigm' in much of continental Europe from the 1970s to the present. Most recently, it was police work - notably collaboration between Greek and British police - that broke up the infamous 17 November group in Greece.<sup>33</sup> But there have been exceptions to the rule. The United States used its armed forces to strike back in response to terrorism in the 1980s, bombing Libya after its role was uncovered in an attack in Germany, and intercepting and capturing the terrorists who had seized the cruise ship *Achille Lauro*. In Northern Ireland, because the police lacked both legitimacy and capability, and because

the insurgency expanded beyond normal policing, the British Army took the leading role in counter-terrorism. As noted earlier, the army was able to contain the insurgency, buying time for other factors to take effect. But the use of the army - in particular, covert counter-terrorist operations by the Special Air Service (SAS) Regiment and other specialized units - was problematic politically, morally, and legally, since their powers were exercised in a 'gray area' of "no peace, no war". That said, the use of the SAS and similar forces to rescue hostages from terrorists was generally successful and well-received politically.<sup>34</sup>

The problem with military power in counter-terrorism is that it is a 'heavy, blunt instrument' that often lacks the precision needed to neutralize a small, mobile enemy that hides among a larger, unengaged population. The costs and 'collateral damage' arising from the use of military forces often appear disproportionate to the catalytic attack or even the overall threat itself. They can undermine the legitimacy of the response by blurring the distinction between the methods of the democracies and those of the terrorists. Two observations arose from experience: first, that "the political and moral costs of reprisals were usually greater than their deterrent or attrition effects", and second, that the hostage rescue role appeared to be the most effective military/para-military CT task. It is "morally defensible ... clearly defined ... [can be] conducted within a legal, constitutional framework ... and, finally, ... likely to succeed."<sup>35</sup>

### ***Countering 'New Age Terrorism'***

'Revolution' or not, the 9/11 attacks have launched the US, Canada, and other states into a new "War on Terrorism", and we need to look carefully at what that involves and where it might lead. From the outset, US President George Bush asserted that this would be a "new kind of war." And to some extent, he has been proven correct. While there has been a 'conventional' *war* to oust successfully Afghanistan's *Taliban* regime, which provided sanctuary for *al-Qaeda*, other aspects have been less 'military', but no less important for that, the attack on *al-Qaeda*'s finances being a case in point. Nevertheless, these two aspects alone highlight a significant fact. *Since al-Qaeda* depends on all the same factors that sustain a 'traditional' terrorist group, it is



vulnerable, to a greater or lesser degree, to the same kinds of counter-measures, with some subtle differences. This gives us some means to assess the effectiveness of the War on Terrorism so far.

The most notable - and visible - achievement has been the relatively easy toppling of the *Taliban* regime in Afghanistan, and its replacement with a more moderate, broadly based interim government. This was significant for two reasons. First, it linked political and military action against the terrorists. It removed their political patrons, who provided *al-Qaeda* with an implicit mantle of legitimacy. Second, it has effectively deprived *al-Qaeda* of its base area. This 'base' (actually dispersed at a number of locations across the country) allowed it to train large numbers of its own operatives and members of related groups in rigorous fashion, a conclusion now supported by ample evidence from the interrogation of captured *al-Qaeda* and *Taliban* members, as well as from materiel, documents, and videotapes seized at the camps and sites elsewhere in Afghanistan.<sup>36</sup> While *al-Qaeda* is known to have established smaller bases in other countries, such as Indonesia, none were on the scale of its Afghan apparatus. Unless the remnants of the group are able to establish an alternate site of similar quality, they will have some difficulty sustaining the same level of capability among both existing cadres and new recruits. So, depriving *al-Qaeda* of its Afghan base has degraded its capacity to create and sustain new terrorist cells and operations, although it has not eliminated it altogether. The American, Afghan and coalition troops gained this victory with minimal losses to themselves and to the local population; it was a classic application of the principle of "economy of force".

That said, the campaign is not yet finished and was not without some significant problems. First, for both political and logistical reasons, the US committed only a small force to the war in Afghanistan. Combined with the local Northern Alliance, it was sufficient to overthrow the *Taliban* regime, and the prominence of Afghan forces in that campaign lent it a legitimacy it would not have had if the US had dominated the fighting and liberated Kabul. However, the American and coalition forces were too few and too widely dispersed to prevent some unwelcome events: the escape of substantial *Taliban*

and *al-Qaeda* forces into the mountainous borderlands of Afghanistan and Pakistan, where they have regrouped to continue resistance; mass defections of *Taliban* units to the Alliance without a clear indication of their true loyalties and long-term reliability (the fear being that this was simply a temporary maneuver to avoid capture in order to return to fighting later); and the escape of key figures, most notably *Taliban* leader Mullah Omar, but also possibly Bin Laden and some of his key lieutenants as well (though their ultimate fate is still unknown). While several subsequent operations, such as ANACONDA and HARPOON, have uncovered large caches of weapons, the remnants of the enemy have largely avoided contact with coalition forces, and the geography and general lawlessness of the frontier region provides them with a sanctuary, albeit not as secure or as useful as *Taliban*-ruled Afghanistan. Nor has the presence of coalition forces and the International Security Assistance Force (ISAF) prevented the resumption of tribal/warlord fighting. Consequently, Afghanistan continues to be plagued by political violence and the long-term security and stability of the interim government is by no means assured. Its writ does not extend beyond Kabul, while rival warlords vie for legitimacy.

Second, the US tried to compensate for its small ground forces by relying on air power. It is difficult to assess the effectiveness of the air campaign, lacking hard data on the size and capabilities of the *al-Qaeda/Taliban* forces prior to the bombing. While it destroyed some forces and reduced their capabilities, how much is not clear. US aircraft flew high to avoid air defences and relied on remote target acquisition and precision-guided munitions to hit their targets. But, new technologies did not prevent a series of targeting errors, which cost the lives of innocent Afghans and coalition forces alike. The bombing errors tended to undermine both international and local support for the otherwise carefully controlled campaign, and lent weight to the long-held view that air power is a counter-terrorism tool of limited military and political utility.

The second major achievement is that a large number of known and suspected *al-Qaeda* members have been killed, captured, detained, arrested, and in some cases, convicted, in countries from Europe to Southeast Asia. The total number is not known, but estimates range up to several thousand. Those killed include Mohammed Atef, one

of the group's senior military figures. Abu Zubaydah, a figure of equal importance, has been captured and interrogated, apparently yielding valuable information (though perhaps some disinformation as well). In addition, many countries are keeping suspected *al-Qaeda* 'cells' under surveillance; the FBI admits that it is watching some 200 individuals in the US. Thus, *al-Qaeda* has lost trained personnel through attrition, its freedom of action has been hampered, and some of its methods, security, and operations have been compromised. This has forced it to alter its structure to provide greater security against betrayal and discovery. There is some, although conflicting, evidence that it is trying to regroup in other countries, in smaller units, perhaps under new leadership. While that may allow the group to survive, it *may* also limit its operational capabilities. However, since *al-Qaeda*'s initial strength was not known, no one can say for certain what proportion has been destroyed or has survived.<sup>37</sup>

Third, if one of Bin Laden's goals for the 9/11 attacks was to provoke a final "clash of civilizations" between Islam and the West, then he failed. Far from lashing out in a blind rage, the American response was remarkably measured, and the global groundswell of Islamic revolt against America's "War on Terrorism" has not materialized. In fact, the Israeli-Palestinian clashes and the threat of war against Iraq have generated far more outrage in the Muslim world than did the Afghan campaign. This has prompted some to predict that Islamic extremism has peaked and is now in retreat. That may be an overly optimistic assessment, but both the 9/11 attacks and the US response *divided* the Islamic world rather than uniting it. For every radical cleric issuing *fatwa*'s and proclaiming "death to America", there are as many (if not more) moderate Islamic scholars denouncing Bin Laden's actions as unrepresentative of Islam.<sup>38</sup> Thus, the 9/11 attacks and the American response *so far* together have undercut the *legitimacy* of *al-Qaeda*'s campaign. As noted earlier, this is a necessary political condition for success against terrorism. But that important achievement is a fragile one. Bin Laden's vision retains residual, visceral appeal among both the elites and the dispossessed of the Muslim world. It would take only a clumsy, ill-timed US action (eg., against Iraq) to provide *al-Qaeda* with a new rallying point to exploit discontent. Finally, some progress has been made in disrupting *al-Qaeda*'s financial support. Many countries have

frozen the assets of companies, charities and other organizations thought to be fund-raising 'fronts' for *al-Qaeda*. But, this a long-term, painstaking work, hampered by the difficulty of tracing carefully disguised electronic financial transactions, by lack of universal cooperation in this effort, and by the fact that the full extent of Bin Laden's and *al-Qaeda*'s wealth has never been known. Moreover, the major European banking states have concluded that *al-Qaeda* has converted most of its wealth into gold and diamonds, whose transactions can't be traced by banks. So, the group still has substantial financial assets and the ability to move them.<sup>39</sup>

*Jane's Intelligence Digest* recently concluded that the War on Terrorism has yet to achieve most of its initial aims. The report faults the West for under-estimating support for Bin Laden in the Muslim world and for failing to exert more pressure on Saudi Arabia and Pakistan, both of which have played a role in the growth of *al-Qaeda*. It argues further that while ousting *al-Qaeda* from its Afghan base was a significant achievement, it did not prevent the group from continuing to raise funds and sustaining its network of sleeper cells around the world. In fact, some analysts believe that it is stronger than it was on 9/11.<sup>40</sup> This report can be criticized for flawed logic in one respect, since applying greater pressure on those regimes - Pakistan, in particular - could have de-stabilized them further, making cooperation against local Islamist terrorists and prosecuting the war in Afghanistan impossible, and driving even more Muslims into the militant camp. That said, both American and European intelligence and security services concur with the second part of the report. They believe that *al-Qaeda* retains a capacity to conduct operations against American targets around the world. This was recently underscored by the arrest of two persons in Germany believed to be planning an attack on the US Army headquarters in Heidelberg, and by the assassination attempt against Afghan president Hamid Karzai. The only disagreements among the various services are two: estimates of the size of the remaining networks (these range from hundreds to thousands), and whether the group is capable of further spectacular attacks or only smaller-scale, but still deadly, incidents.<sup>41</sup> The size debate could be appear to be moot, since the 9/11 attacks directly involved only 19 individuals. But if that level of skill is shared among thousands rather than hundreds, then the threat

level is greatly magnified and will likely last much longer; that might also allow it to regenerate more easily.

What are the implications of this for the counter-terrorism policies of western democracies? First, the US homeland, its presence around the world, and its neighbours and allies are still under threat, and are likely to remain so for the foreseeable future. Second, the extent of that threat is highly uncertain; this is a case where what we *don't* know can harm us. That said, there is no evidence to suggest that *al-Qaeda* is yet capable of destroying a democratic state. Third, given the above, some degree of heightened security activity is necessary and justified. How much, and whether it has been done properly, is much harder to answer.

In the immediate aftermath of the 9/11 attacks, the US and other countries employed extraordinary “target hardening” security measures. Security was increased at key government installations, military bases, nuclear plants and some other critical infrastructures. Commercial air traffic was shut down over North America for nearly a week, and military aircraft flew combat air patrols over the continent even after that traffic resumed. Crop-dusting aircraft, thought to pose a risk for bio-chemical attack, were grounded for an extended period. Certain areas were declared restricted to unauthorized traffic (for eg., over much of Washington, DC, but also over the G-8 Summit site in Alberta). NATO invoked Article 5 for the first time, declaring the attack on the US to be an attack on all alliance members. This paved the way for the deployment of NATO AWACS aircraft to North America to assist the US, Canada, and NORAD in the surveillance and control of their airspace. Once normal air travel resumed, the governments imposed stricter passenger and baggage security. After the initial crisis, Canada and the US began to introduce long-term “target hardening” measures. The US government has ‘federalized’ the previously privately-run security at major airports, and has expanded the Sky Marshal program. Airlines have been mandated to armour airliner cockpit doors, and there is a major debate now underway about the merits and risks of arming pilots - both seen as remedies to prevent a repeat of the 9/11 seizures. have initiated a “Smart Border” program, which is designed to enhance security while ensuring the uninterrupted flow of goods, services, and people

so vital to both economies. They have also deployed Integrated Border [and Marine] Enforcement Teams to prevent illegal immigration and smuggling along the St. Lawrence River Valley and BC/Washington borders.<sup>42</sup> Joint customs and immigration teams have been deployed at Vancouver and Miami airports. Port security and container searches have been increased in both countries.

But the effectiveness of these and other measures have been called into question, and in Canada, where the threat is perceived to be low, the initially intense levels of security have declined to pre-9/11 standards. For example, it is possible again to drive a truck bomb under National Defence Headquarters in Ottawa. The higher state of alert at Canadian Forces bases was reduced not just because the threat was receding, but because it simply cost too much.<sup>43</sup> Of the 2.5 million containers that arrive in Canadian seaports annually, only 3% are searched. Concern has also been expressed about the suspected presence of organized crime at Canadian ports, rendering them less secure. The Canadian Nuclear Safety Commission has mandated new standards for nuclear plant security, but these assume a minimal armed attack by a small number of persons, which may not be a realistic scenario in light of 9/11.

Likewise, in the US, a spate of airport security incidents in the US suggests that the new measures fall short of the ideal. The money allocated to new baggage scanning technologies will take years to yield results; in the interim, existing technologies still cannot detect all possible threats. The decline in air travel suggests that the psychological effects of the 9/11 attacks have eroded the public confidence in deterrence that target hardening previously seemed to provide. Furthermore, even supposedly high security American sites are still vulnerable. In early September an individual penetrated the perimeter security of the US Army chemical weapons depot in Tooele, Utah, where chemical ammunition is stored prior to being destroyed. While the intrusion was detected, it is not clear how far the intruder got into the installation; the person escaped from the site without being captured.

All of this tends to confirm the conventional wisdom about the value and limits of counter-terrorism target-hardening: too many targets, not enough resources, morale

impact more effective than deterrent impact, and no guarantees of complete security. But in the era of 'superterrorism', the conventional wisdom may not be sufficient. The risks of a CBRN incident may be small, but the consequences are very high. Does this conundrum warrant turning the grounds of a nuclear plant into a "killing field"? Clearly, lower consequence targets can be protected only selectively, and governments will have to manage the level of risk to them. It is equally fair to suggest that western democracies have yet to find a target-hardening solution for their high consequence targets that is effective, affordable, and compatible both with the threat and with democracy.

Crisis management and emergency preparedness organizations pre-date 9/11 by decades, owing to planning for wartime and for civil and natural disasters. Both the US and Canada had begun to upgrade their capabilities long before the attacks, due in part to the preparations for the Y2K 'rollover'. These have focussed in particular on Critical Infrastructure Protection. Other countries have made similar arrangements. In the aftermath of 9/11, the US decided to go a step further and has created a completely new Department of Homeland Security. Its mandate will be to prepare for and prevent major terrorist attacks on the US, and to manage the response and recovery efforts should they occur. The proposed organization will incorporate many agencies with disparate existing duties unrelated to countering terrorism, such as the Federal Emergency Management Agency, the Coast Guard, the Border Patrol, and the Secret Service. While the goal of streamlining this mission within a single organization is laudable in intent, it raises a host of practical problems. There is some risk that the counter-terrorism mission will divert resources from traditional and necessary tasks, such as the Coast Guard's search and rescue role. And if each component retains the organizational autonomy, role identity and culture they need to perform their tasks, they may not be responsive to standardized central direction with a wholly different mission ethic. The homeland security mandate may simply be too broad to be managed by a single bureaucracy, and since the DHS will comprise some 170,000 employees distributed through a large number of agencies and branches, it is unlikely to be sufficiently 'agile' to respond quickly and effectively to terrorism. In any case, it does include and will have no authority over the three most important bodies with counter-terrorism responsibilities:

the Central Intelligence Agency, the Department of Defense, and the Federal Bureau of Investigation.<sup>44</sup> Thus, it seems unlikely to solve the inter-agency problems that have been highlighted by 9/11, particularly coordinating intelligence assessments and warning.

Since 9/11, western democracies have devoted more intelligence and security resources to the counter-terrorism task,<sup>45</sup> including more intrusive investigative powers.<sup>46</sup> Even allowing for the fact that it takes some time to recruit and train new personnel, to acclimatize existing staff to new work, and to develop sources, these efforts have already resulted in arrests of suspected *al-Qaeda* members in many countries and the prevention of attacks before they could be carried out.<sup>47</sup> While some of 'revelations', warnings, and other information reaching the public domain undoubtedly have been incorrect or overstated, the steady stream of these reports - and the successes noted above - indicate that western security and intelligence services have been able to share and 'fuse' domestic security and policing intelligence in various countries with information from foreign clandestine sources and from the large quantities of intelligence gained from captured fighters, documents, equipment, and the technical means used by coalition forces. That said, there also have been some intelligence-sharing difficulties. To what extent these combined efforts have been sufficient to limit *al-Qaeda's* operational capability is not clear; only further attacks - or the absence of them - will prove that. However, they demonstrate not only the value and importance of the 'intelligence war', but also that *al-Qaeda* is not immune to a determined, multi-faceted, and multi-lateral intelligence assault. It can run, but it can't hide completely.

This also underscores the basic principle that international cooperation works against international terrorism. But it also reveals its limitations. The U.S. has been able to count on support for the War on Terrorism from traditional allies like Britain and Canada, as well as its NATO allies. It has even won some new 'converts to the cause', such as Pakistan, Syria, Sudan, Libya, and Yemen, if only to avoid America's wrath and to improve their own image. Some of these countries have provided troops to the operations in Afghanistan and other forms of cooperation, such as intelligence sharing, while others have 'cracked down' on suspected *al-Qaeda* on their territory.<sup>48</sup> While such



assistance is welcome, it is not cost-free for the US. Some of its erstwhile 'allies' in the War on Terrorism have exploited that mantle to suppress dissent or to pursue their own on-going anti-terrorist campaigns, and not always to US advantage. Israeli operations against Palestinian terrorists are a case in point. Even if justified in the Israeli context, they complicate America's efforts to garner support from Arab and Islamic countries. Moreover, in spite of several decades of anti-terrorist cooperation among western nations and development of international laws against terrorism, there are different legal standards between them and bureaucratic obstacles to cooperation. Even some close US allies, including Canada and some European NATO states, have objected to the curious legal formulations and different standards the US has applied to prisoners captured in Afghanistan and to other *al-Qaeda* suspects. Its use of 'unlawful combatant' status, prolonged detention, and potential use of military tribunals and the death penalty have become obstacles to extradition and other assistance.<sup>49</sup>

Which brings the discussion back to Grant Wardlaw's 'golden mean'. Have the liberal democracies fought the war against *al-Qaeda* without forgetting what they are fighting for? The evidence suggests a mixed record, a less-than-perfect balance. Given the perception of the threat, that is hardly surprising. Yet, it is also consistent with experience. Democracy has weathered the onslaught, yet again, so far.

That the various democratic states have developed and used more extensive investigative, detention, and deportation powers in this counter-terrorism campaign is beyond question. Some of these powers have been discussed above, and the preliminary evidence indicates that a case could be made for their efficacy. But propriety is another matter. A recent issue of *The Economist* argues that most people have not seen their freedoms noticeably eroded by the anti-terrorist campaigns and points out that Afghans (especially Afghan women) have regained freedom. However, it goes on to catalogue a litany of excesses and abuses that have occurred as a result of the War on Terrorism. Legal measures undertaken by the US government against suspected terrorists since 9/11 have violated two fundamental principles of democratic justice: due process, and transparency (the notion that "justice must not only be done, but must be seen to be done"). Under the new policies, the US government has designated

individuals captured overseas in the War on Terrorism (suspected members of *al-Qaeda* and the *Taliban*) as “unlawful combatants”. This permits the government to detain them indefinitely without trial, deny them access to a lawyer, put them before undefined ‘military tribunals’ rather than trying them under criminal law in civilian courts, and also suspends their claim to the rights afforded to prisoners of war under the Geneva Conventions. While on the latter issue the US has retreated from its initial hard-line position, the other policies remain in place. The US government has made it clear that its main reason for doing so is to allow them to extract information about past and future terrorist events. This prompted the US to permit suspects to be extradited from between countries (not the US), where they can be interrogated more ‘rigorously’ than allowed under US law. Within the US some 1,200 persons were arrested after 9/11 on suspicion of possible involvement in terrorism; of these about 750 had no links to terrorism, but most were deported for other infractions (usually violations of immigration laws). Not surprisingly, the majority of these - and of the 5,000 people interviewed by the FBI - were of Middle Eastern descent, raising charges of ‘racial profiling’.<sup>50</sup>

In that regard, US intelligence and law enforcement confronted a difficult problem. Not only did they lack of knowledge of the extent of the terrorist networks in the US, but also the uncomfortable reality was that, the cases of Richard Reid and John Walker Lindh notwithstanding, *al-Qaeda* is not an “equal opportunity employer”. It recruits *only* ‘true believers’, and the bulk of those are young men from the Middle East and North Africa. To have pretended otherwise would have been foolish, and in light of what the FBI quickly learned about the 9/11 attackers, it was logical to assume that other ‘sleepers’ might exist. That innocent people who fit that profile were caught in the sweep was as inevitable as it was unfortunate.

From the outset, civil liberties advocates warned about the potential for abuse of excessive powers;<sup>51</sup> their fears have been realized, and not just in the United States. In Canada, politicians, lawyers, and human rights advocates questioned the need for the anti-terrorism act and warned about its civil liberties implications.<sup>52</sup> The European Union applied a long-contested power that allows police in one country to arrest people wanted in another, the most of the crimes on the list have nothing to do with terrorism. EU

governments have been accused of using new powers to tighten immigration laws and block asylum seekers, even though there may be no terrorism-related evidence against them.. They have also applied new or expanded powers against domestic terror groups unconnected to 9/11 or Islamic extremists. Stung by largely legitimate criticism that they have become havens for Muslim extremists who recruit actively for *al-Qaeda*, Germany and Britain have responded with more rigorous security powers. The German government reintroduced computer-based profiling - searching public and private records for patterns that might identify terrorists. The BKA has been given direct access to financial records and can demand information from the postal service and airlines. It may soon have the power to examine e-mail records. Britain passed new anti-terrorism laws that provide for detention without trial for renewable six month terms, and for jailing uncooperative witnesses or suspicious airliner passengers. Its measures are also intended to expedite deportation of suspects, and imposes tough controls on exchange bureaus, which are suspected of being used to launder terrorist funds.<sup>53</sup> These official excesses apart, others have drawn attention to a shift in attitudes, which may have taken their cue from emergency powers: a climate of intolerance, and a certain stifling of dissent, through self-censorship and 'jingoism', though these latter notions have not gone unchallenged.<sup>54</sup>

### **Conclusions**

But it would be wrong to suggest that all is lost. History provides some perspective in this regard. It is worth recalling that during the Second World War, all democracies imposed much greater restrictions on civil liberties than has been the case since 9/11. And all evolved toward much greater degrees of liberty in the decades that followed. As noted earlier in relation to the October Crisis, the expansion of security powers and the restriction of liberties in emergency periods is usually temporary, and there is a return to normalcy when the threats recedes. In Britain and Northern Ireland the most odious restrictions have been lifted as the peace process gained momentum. Likewise, in post-9/11 Canada the pendulum swung back as the sense of threat eased. In April 2002, strident criticism forced the government to withdraw a second piece of anti-terrorism

legislation (Bill C-42), which was seen as too repressive, and to replace it with a less sweeping bill (C-55, the *Public Safety Act*).<sup>55</sup> Even in the US, where the sense of imminent threat is more pervasive for obvious reasons, certain civil liberties, such as freedom of speech, have not been proscribed, even if some feel constrained by prevailing attitudes. So the current situation, while clearly not desirable, should not be seen as a one-way street toward authoritarianism.

That said, the rush toward emergency powers does run counter to the conventional wisdom and experience from the 1970s-80s, when the state response was more restrained (though public opinion favoured a more robust response).<sup>56</sup> This leaves us with a curious conundrum. In spite of having damaged *al-Qaeda's* operational capacity (to some degree) using proven counter-terrorism methods, the democracies do *not feel* that they are more secure. This, in turn, suggests that both the public governments and perceive the threat from *al-Qaeda* as being much greater and qualitatively different than that posed by earlier generations of international terrorists. Unlike the latter, *al-Qaeda's* capabilities appear to herald a new level of *potential* threat which is *existential*. If a group can now wield weapons of mass destruction (or mass effect), then the very foundations of democratic states may be at risk. The reality may not be that extreme, but it is perceptions that inform attitudes and policy. Perhaps there is a dawning realization that there is nothing to be negotiated with *al-Qaeda*, nothing that can be realistically conceded, that will bring terrorism to an end. If there is no remedy, long - or short-term, then the democracies face a grim future: a new, long, harsh Cold War. And for the duration, some at least have opted for security over liberty.

1. *The Economist*, 15 September 2001.

2. On *al-Qaeda*, see: Rohan Gunaratna, *Inside al-Qaeda: Global Network of Terror* (New York: Columbia University Press, 2002).

3. Brian M. Jenkins, "International Terrorism: A New Mode of Conflict", in David Carlton and Carlo Schaerf, eds., *International Terrorism and World Security* (London: Croom Helm, 1975), p. 15.

4. The fatalities totals currently stand at: 2,800 at the World Trade Center; 182 at the Pentagon; and 40 aboard United Flight 93, excluding the hijackers in each case. The injured totalled 6,297,

5. This revision of Jenkins' original phrase may have been first used by two NSC officials (Steve Simon and Daniel Benjamin), according to John V. Parachini, "Comparing Motives and Outcomes of Mass Casualty Terrorism Involving Conventional and Unconventional Weapons", *Studies in Conflict and Terrorism*, vol. 24, no. 5 (September-October 2001), p. 389.

6. Prior to 9/11, the idea of this kind of 'superterrorism' was viewed with some skepticism. See: David Claridge, "Exploding the Myths of Superterrorism", in Max. Taylor and John Horgan, eds., *The Future of Terrorism* (London: Frank Cass, 2000), pp. 133-48; and Bruce Hoffman, "Change and Continuity in Terrorism", *Studies in Conflict and Terrorism*, (September-October 2001), pp. 417-28. Hoffman's article was based on a paper presented at a conference in April 2000.

7. It is now a matter of record, from captured documents, video footage, and interrogation of prisoners, that *al-Qaeda* has attempted to acquire or produce chemical, biological, and nuclear weapons. Its capacity to deploy such weapons is not known with any certainty.

8. Thomas Copeland, "Is the 'New Terrorism' Really New?: An Analysis of the New Paradigm for Terrorism", *The Journal of Conflict Studies*, vol. 21, no. 2 (Winter 2001), pp. 7-27 argues logically that 9/11 alone does not establish a pattern for a whole new type of terrorism.

9. Bruce Hoffman, *Inside Terrorism* (London: Victor Gollancz, 1998), pp. 13-15, 28-44.

10. Ibid, pp. 171, 178-80. See also: David E. Long, *The Anatomy of Terrorism* (New York: Free Press, 1990), pp. 4-6, 8-9, 21-23, 112-14, 129-30.

11. See: David A. Charters, *The British Army and Jewish Insurgency in Palestine, 1945-47* (London: Macmillan, 1989).

12. M. L. R. Smith, *Fighting for Ireland: The Military Strategy of the Irish Republican Movement* (London: Routledge, 1997), pp. 194-212, 214-15,

13. George Kassimeris, *Europe's Last Red Terrorists: The Revolutionary Organization 17 November* (New York: NYU Press, 2001), pp. 105, 151, 200-01, 208-9; Daniel McGrory and John Carr, "Greek Clan Confess to Killing British Envoy", *The Times* (London), 19 July 2002.

14. David A. Charters, "The Amateur Revolutionaries: A Reassessment of the FLQ", *Terrorism and Political Violence*, vol. 9, no. 1 (Spring 1997), pp. 133-69.

15. Martha Crenshaw, "How Terrorism Declines", *Terrorism and Political Violence*, 3/1 (Spring 1991), pp. 69-87.

16. Paul Wilkinson, *Terrorism and the Liberal State* (London: Macmillan, 1977; 1986), p. 81.
17. Robert A. Friedlander, "Coping With Terrorism: What is to be Done ?", in Yonah Alexander, et al., eds., *Terrorism: Theory and Practice* (Boulder, CO: Westview Press, 1979), p. 234.
18. Grant Wardlaw, "The Democratic Framework", in David A. Charters, ed., *The Deadly Sin of Terrorism: Its Effect on Democracy and Civil Liberty in Six Countries* (Westport, CT: Greenwood Press, 1994), p. 10.
19. Ronald D. Crelinsten and Alex P. Schmid, "Western Responses to Terrorism: a Twenty-Five Year Balance Sheet", in Schmid and Crelinsten, eds., *Western Responses to Terrorism* (London: Frank Cass, 1993), pp. 307-9; and "Introduction", in Charters, *Deadly Sin*, p. 2.
20. Crelinsten and Schmid., pp. 309-15.
21. Ibid., p. 311.
22. Ibid., p. 314; David Charters, "Conclusions: Security and Liberty in Balance - Countering Terrorism in the Democratic Context", in Charters, *Deadly Sin*, p. 215.
23. Smith, pp. 169-212; Colin Knox and Rachel Monaghan, " 'An Acceptable Level of Violence': Intra-Community Violence in Northern Ireland and South Africa", *Journal of Conflict Studies* [hereafter *JCS*], vol. 21, no. 2 (Winter 2001), pp. 28-29; Colin McInnes and Caroline Kennedy-Pipe, "The British Army and the Peace Process in Ireland", *JCS*, 21/1 (Spring 2001), pp. 22-24; Montgomery Sapone, "Ceasefire: The Impact of Republican Culture on the Ceasefire Process in Northern Ireland", *JCS* (Spring 2001), pp. 53-54; Joseph Ruane and Jennifer Todd, "Peace Processes and Communalism in Northern Ireland", in William Crotty and David E. Schmitt, eds., *Ireland and the Politics of Change* (London: Longman, 1998), pp. 185-94.
24. Bruce Warner, "Great Britain and the Response to International Terrorism", in Charters, *Deadly Sin*, pp. 19-22, 36-37.
25. On the *War Measures Act* and its *Charter* implications, see: William M. Vaughn, "Canadian Reason of State: Terrorism, Emergency Powers, and Civil Liberties," in David A. Charters, ed., *Democratic Responses to International Terrorism* (Ardsley-on-Hudson, NY: Transnational Publishers, 1991), pp. 163-89. Vaughn was not convinced that the *Charter* provides adequate protection for civil liberties in an emergency.
26. Charters, "Conclusions", pp. 215-16. See also: Michael Hirsch and Michael Isikoff, "What Went Wrong", *Newsweek*, May 27 2002 issue online; Michael Isikoff and Daniel Klaidman, "The Hijackers We Let Escape", *Newsweek* [print edition], 10 June 2002, pp. 20-28. .
27. Charters, "Conclusions", pp. 216-17.

28. Frank Kitson, *Low Intensity Operations: Subversion, Insurgency, Peacekeeping* (London: Faber, 1971), p. 95.
29. Richard K. Betts, "Intelligence Test: The Limits of Prevention", in James F. Hoge and Gideon Rose, eds., *How Did This Happen? Terrorism and the New War* (New York: Council of Foreign Relations, 2001), pp. 145-46.
30. Charters, "Conclusions", p. 217; United States, Congress, House Permanent Select Committee on Intelligence, Subcommittee on Terrorism and Homeland Security, *Counterterrorism Intelligence Capabilities and Performance Prior to 9-11: A Report to the Speaker of the House of Representatives and the Minority Leader*, July 2002, Executive Summary pp. ii, iii, v; Michael Elliott, "How the U.S. Missed the Clues", in "While America Slept: A Special 9/11 Report", *Time Magazine*, 20 May 2002 [on-line version].
31. K. G. Robertson, "Intelligence, Terrorism and Civil Liberties", *Conflict Quarterly*, vol. 7, no. 2 (Spring 1987), pp. 43-62.
32. Charters, *Deadly Sin*, p. 219.
33. John K. Cooley, "End of a Greek Myth on Terror", *Christian Science Monitor*, 7 August 2002, on-line edition, at [www.csmonitor.com](http://www.csmonitor.com)
34. Warner, pp. 25-27, and J. Brent Wilson, "The United States' Response to International Terrorism", in Charters, *Deadly Sin*, pp. 190-93.
35. Charters, *Deadly Sin*, pp. 219-20.
36. See, for eg: Nick Fielding, "Encyclopedia of Terror", *Sunday Times*, 4 November 2001; Nick Fielding, "Secrets of Al-Qaeda: Network Studied Oklahoma-Style Bomb", *Sunday Times*, 18 November 2001; "Prize Prisoners Betray Al-Qaeda Secrets", *Sunday Telegraph*, 2 December 2001. These revelations have been substantiated by video footage of *al-Qaeda* training programs that was broadcast in part on CNN in August 2002.
37. The FBI asserts that it may have no more than 200 operatives world-wide (report in *Palm Beach Post*, 30 July 2002, cited in *Daily Defense News* listserve, at [www.periscope1.com](http://www.periscope1.com)). However, Gunaratna, pp. 8, 54-55, believes that al-Qaeda is capable of regenerating its ranks from the thousands of members of related groups who trained in its camps and are now dispersed around the world. Reorganized into 'supercells', the organization may be much harder to find.
38. See: Fareed Zakaria, "The Extremists are Losing", *Washington Post*, 2 September 2002.
39. See: Colum Lynch, "War on Al Qaeda Funds Stalled", *Washington Post*, 28 August 2002; and Douglas Farah, "Al Qaeda Gold Moved to Sudan - Iran, U.A.E. Used as Transit Points", *Washington Post*, 3 September 2002; "Al Qaeda's Wealth Still Intact, Says Swiss Official",

*Washington Post*, 4 September 2002, all at: [www.washingtonpost.com](http://www.washingtonpost.com) ; Stewart Bell, “Muslim Donors Still Funding al-Qaeda”, *National Post*, 11 September 2002, at: [www.nationalpost.com](http://www.nationalpost.com)

40. “Al Qaeda: One Year On”, *Janes Intelligence Digest*, 5 September 2002, summary in email from Martin Rudner, 6 September 2002.

41. Susan Schmidt and Dana Priest, “U.S. Fears Low-Level Al Qaeda Attacks”, *Washington Post* 9 September 2002. See also: Jimmy Burns, “Al Qaeda Planning Attack on US Interests”, and Haig Simonian and Philip Jaklin, “Terrorists Ready to Act, Say Germans”, both in *Financial Times*, 5 September 2002, copies in emails from Martin Rudner, 5 September 2002. And see: Pamela Constable, “Karzai Escapes Assassination Bid”, *Ottawa Citizen*, 6 September; Melissa Eddy, “Plot to Attack U.S. Base in Germany Revealed”, *Globe and Mail*, 7 September, 2002.

42. Canada, DFAIT, Consulate of Canada (Seattle), *Canada-U.S. Immigration Cooperation* (2002); “Canada-U.S. Cross Border Crime and Security Cooperation”, [www.dfait-maeci.gc.ca](http://www.dfait-maeci.gc.ca); Joanna Kerr, “Seamless Policing: Integrated Border Enforcement Teams Break Down Barriers”, *RCMP Gazette*, vol. 64, no. 1 (2002), pp. 5-6.

43. Michael Staples, “Sept. 11 Changed Life at Base”, *Daily Gleaner*, 9 September 2002.

44. *The Department of Homeland Security*, at [www.whitehouse.gov/deptofhomeland/book.pdf](http://www.whitehouse.gov/deptofhomeland/book.pdf). For an early critique of the plan, see: Jeffrey Smith, “Haste and the Homeland Plan”, *Washington Post*, 18 June 2002.

45. Under the terms of the December 2001 federal budget the strength of CSIS will increase by about 30% over a five-year period. In the meantime, it has diverted more resources to counter-terrorism by downgrading other tasks. See: CSIS, *2001 Public Report*, pp. i-ii, 6-7, 17-19.

46. Canada’s omnibus anti-terrorism act, which became law in December 2001, gives police the power to conduct ‘preventive arrest’ of persons believed to be about to commit a terrorist act, lifts some restrictions on electronic surveillance of terrorist groups, and allows CSE (the Communications Security Establishment) to gather foreign intelligence on groups that might attack Canada or Canadian interests. See: Canada, 1<sup>st</sup> Session, 37<sup>th</sup> Parliament, House of Commons, Bill C-36, as passed by the House of Commons, 28 November 2001; Canada, Department of Justice, news release, “Anti-Terrorism Legislation Comes into Force”, Ottawa, 24 December 2001. In the US, the Patriot Act considerably expanded the investigative powers of the FBI as well as fundamentally reorienting the agency toward counter-terrorism investigation. It also reduced information-sharing barriers between the FBI and the CIA. See: Jim McGee, “An Intelligence Giant in the Making”, *Washington Post*, 3 November 2001

47. Paul Koring, “Al-Qaeda Schemes Thwarted, U.S. Claims”, *Globe and Mail*, 15 January 2002; “Substance Found in Rome Raid is Cyanide Derivative”, *CNN*, 20 February 2002: [www.cnn.com](http://www.cnn.com) Scott Macleod, “Inside an al-Qaeda Bust”, *Time*, 15 June 2002, at [www.time.com](http://www.time.com)



48. Robert L. Bartley, “Resolution, Nor Compromise, Builds Coalition”, *Wall Street Journal*, 12 November 2001; James Risen and Tim Weiner, “3 New Allies Help C.I.A. in Its Fight Against Terror” *New York Times*, 30 October, 2001.; Malcolm Rifkind, “Why the U.S. Must Rely on Arab Intelligence”, *The Times* (London), 8 November 2001; Raymond Bonner, “Yemen, Long Foe of U.S., Joins Anti-Terrorism Effort”, *New York Times*, 25 November 2001; Peter Finn, “Europeans Tossing Terror Suspects Out the Door”, *Washington Post*, 28 January 2002 - copies of all in emails from Martin Rudner to author.

49. Stratfor, “Global Intelligence Cooperation Comes With Risks”, 13 September 2001, at: [www.stratfor.com](http://www.stratfor.com); Ambrose Evans-Pritchard, “Belgians Block FBI Terrorist Inquiries”, *Daily Telegraph*, 18 October 2001; Daniel McGrory and Martin Fletcher, “Suspects Rights Rift”, *The Times*, 28 November 2001; “The Prisoners Dilemma”, *The Economist*, 24 January 2002, all in Rudner emails. See also: “Not Enough Global Co-operation Against Terrorism, Warns Top Expert”, *CBC News*, 13 August 2002. More recently, Germany has stated that it will not extradite *al-Qaeda* suspect Mounir Motassadeq to the US if he faces the death penalty.

50. “The War on Terrorism”, *Economist*, 4 September 2002; Jacques Steinberg, “In Sweeping Campus Canvasses, U.S. Checks on Mideast Students”, *New York Times*, 12 November 2001.

51. Robin Toner, “Despite Some Concerns, Civil Liberties are Taking a Back Seat”, *New York Times*, 18 November 2001.

52. See, for eg., critical comments on Bill C-36 in: CBC, “The National, Transcripts”, 20 November 2001, at: [www.cbc.ca/national/trans/T011120.html](http://www.cbc.ca/national/trans/T011120.html)

53. “The War on Terrorism”, op. cit.; “Despite Some Concerns ...”, op. cit.; George Jones, “No Hiding Place for Terrorists”, *Daily Telegraph*, 1 October 2001

54. Lynda Hurst, “From Tiger to Pussycat: America’s Press Defanged”, *Toronto Star*, 8 September 2002; Matt Welch, “Death of Dissent a Myth”, *National Post*, 7 September 2002.

55. CBC News, “Opposition Says Second Anti-Terrorism Bill Deeply Flawed”, 29 November 2001; CBC News, “New Anti-Terror Bill Limits Power to Declare Military Zones”, 30 April 2002 Details of Bill C-55 can be found in: Government of Canada Press Release, “Public Safety Act, 2002 Improves Legislative Framework to Fight Terrorism and Protect Public Safety”, 29 April 2002.

56. Charters, “Conclusions”, pp. 213, 221.