

Intelligence Power and Prevention after 9/11:
The Role of Intelligence in Facilitating and Legitimising
Controlling Security Strategies of the UK, US and UN

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2007

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Chris Mackmurdo

To Mum, Dad and Erin
&
In loving memory of
Mormor, Grandma, Bob and Corrie

ACKNOWLEDGEMENTS

This thesis was funded by the Economic and Social Research Council. I am indebted to: Dr. Bruce Jones and Dr. Shep Forman at the Centre on International Co-operation at New York University; Mark Hoffman; Prof. Michael Cox; Prof. James Gow; Michael Herman; Andres Salazar; Axel Wennmann; Kristina Segulja; and, Teresa Whitfield; and all the members of the UK and US intelligence communities who were willing to talk to me. And thanks Mum, Dad, Sonam and Dickie for reading (or at least offering to read) drafts along the way.

ABSTRACT

The theoretical framework for this thesis is provided by a revised version of James Gow's Constructivist Realism, based on Phenomenalist ontology, epistemology and causation, that explains the role of social processes in a material world that is socially constructed, but available to Positivist verification. After 9/11, the strategic imperative to prevent the threat posed by apparently incoercible and unconstrained terrorist actors has led to a shift from coercive strategies, which seek to prevent attacks through reactive mechanisms, to controlling security strategies that seek to prevent attacks through pro-active mechanisms. Although rational, controlling security strategies contravene the socially-agreed *Caroline* formula that underpins international order. This situation has led to a rational action/legitimate action astigmatism in international society. Controlling security strategies have vital intelligence requirements: an actor is incapable of preventing threats unless it is capable of anticipating threats. The post-9/11 strategic reality has triggered the need to revise Herman's concept of 'intelligence power', considering the roles of intelligence in facilitating and legitimising preventive responses to threats to international peace and security. These threats to international peace and security are posed by the two separate threats presented by 'new' terrorism and WMD proliferation, as well as a post-9/11 terrorism-WMD threat nexus. However, unlike states such as the UK and US, the UN is incapable of fulfilling the intelligence requirements of its controlling security strategy, owing to a lack of an intelligence capability. The differentials in the levels of intelligence power between the UN and states such as the UK and US entail significant implications for international order and intelligence affairs. If international order is to be maintained in the post-9/11 strategic reality, then the rational action/legitimate action astigmatism needs to be corrected. To potentially achieve this, the UNSC needs to develop an intelligence-assessment capability that will help enable it to facilitate and legitimise pro-action against anticipated threats in line with its and other states' strategic goals. Collective intelligence machinery will need new organisational structures at the international level that will encourage the provision of credible intelligence that has a better chance of meeting the standards of evidence that are required by the UNSC in determining threats prior to their materialisation.

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INTRODUCTION

PURPOSE

Aims and Objectives

This study was funded by the Economic and Social Research Council (ESRC), and falls within the ESRC theme of 'Governance and Citizenship: Global Governance and Security'. This study also relates to the ESRC's 'New Security Challenges' research scheme.

The aim of this study is to increase understanding of the nature and role of intelligence in international security affairs after 9/11. In order to achieve this aim, this study intends to meet five objectives. The first objective is to add to the literature on international relations theory by developing a new and robust theory of Constructivist Realism that successfully bridges the gap between Realism and Constructivism without incurring logical contradictions. The second objective is to develop a new and robust theory of intelligence power, rooted in international relations theory, based on the logical structure of Constructivist Realism that succeeds in explaining Michael Herman's concept of 'intelligence power'. The third objective is to explain the transition from pre-9/11 coercive security strategies that sought to react to coercible threats, to post-9/11 controlling security strategies that seek to pro-act against incoercible threats that demand prevention. The fourth objective is to provide a clear and thorough description of the 'new' terrorism-WMD threat to international security. The final objective is to address the controversial issue of intelligence and the UN through the identification of a rational action/legitimate action astigmatism in international affairs, brought about by a disjunction between intelligence-driven controlling security strategies and the provisions of the UN Charter. The overall motivation for this research is to root the relatively young academic study of intelligence in serious theoretical ground and move forward the debates surrounding the issue of intelligence and international peace and security after 9/11.

General Issues

This study examines the role of intelligence in facilitating and legitimising controlling security strategies that aim to prevent the materialisation of threats to international peace and security. The post-9/11 strategic reality has prompted the construction, at national and international levels, of security strategies that seek to pro-act against an apparently incoercible and unconstrained 'new' terrorism threat that is international in scope and reach. The post-9/11 imperative to prevent potentially catastrophic terrorist attacks, including those involving the possible use of weapons of mass destruction (WMD), entails the need to respond to threats before, rather than after, they materialise. Controlling security strategies that seek to prevent threats, therefore, have vital intelligence requirements: a strategy that aims to prevent threats through pro-action depends on information in order to anticipate threats.

Controlling security strategies that address threats determined through the assessment of information, as opposed to observations of actual attacks, represent rational action in accordance with the imperative of prevention and the strategic goals of a wide range of political actors, including the UK, US and UN, in the face of post-9/11 threats. However, despite the rationality of prevention, intelligence-driven controlling security strategies executed in anticipation of threats are not provided for by the legitimising institutions of international society, which are configured to allow states to react to threats only if an armed attack occurs.¹ Indeed, the UN Security Council (UNSC), which is uniquely responsible for determining and responding to threats to international peace and security, has no strategic intelligence capability. As such, the UNSC is incapable of executing a controlling security strategy that aims to pro-act against threats that demand prevention. The UNSC, therefore, is effectively unable to meet its self-declared 'challenge of prevention', or facilitate and legitimise national security strategies that seek to prevent anticipated threats prior to their materialisation.² A rational action/legitimate action astigmatism results from a

¹ "Article 51." UN Charter, from <http://www.un.org/aboutun/charter/chapter7.htm>.

² (December 2004). *A More Secure World: Our Shared Responsibility: Report of the High-Level Panel on Threats, Challenges and Change*, United Nations.

disjunction between the post-9/11 strategic goals of a wide range of states and the capabilities of the UNSC to facilitate and legitimise rational action (and help avoid irrational unilateral action) against anticipated threats within the parameters of existing legitimising processes that only allow reaction to threats that have already actually occurred. Examining the nature and implications of the potential power of intelligence to facilitate and legitimise controlling security strategies, and thereby help resolve the rational action/legitimate action astigmatism, is the principle task of this study.

Particular Focus on the UK, US and UN

This study seeks to address general questions about preventive strategy, intelligence power and terrorism-WMD threats in a post-9/11 world, within a Constructivist Realist theoretical framework. However, in order to describe and examine the real-world relationship between intelligence and post-9/11 controlling security strategies, this study focuses particularly on the UK, US and the UN, for practical and historical reasons. Firstly, information on the intelligence affairs of the UK, US and UN are the easiest to access, given the large quantity of academic literature, media reporting and publicly available official documentation before and after 9/11. Secondly, recent history involving the UK, US and UN highlights the rational action/legitimate action astigmatism in international affairs when, in March 2003, the US and UK invaded Iraq in response to a perceivable threat posed by Iraqi WMD programmes without UNSC approval.

The US and UK action was unusual in three ways. Firstly, the US and UK action against Iraq was pro-active. Force was used in order to prevent the materialisation of a potential attack, not to respond to an attack that had already occurred. Secondly, the threat posed by Iraq was determined through the assessment of intelligence, not through direct observation of an actual attack.³ Intelligence assessments were used by the US and UK, to an unprecedented degree, to provide the *casus belli* that would justify the use of force against a sovereign state.⁴ And, thirdly, assessments of the Iraqi threat

³ Freedman, L. (2004). "War in Iraq: Selling the Threat." *Survival* 46 (2).

⁴ Ibid.

emerged via two distinct processes. On the one hand, overt UN inspections sought access to Iraqi documents, facilities, materials, scientists and officials with the aim of establishing the status of Iraq's WMD programmes.⁵ On the other hand, covert national intelligence collection sought to glean information on clandestine Iraqi activities with the aim of uncovering Iraq's WMD secrets.⁶ On the basis of national intelligence assessments, and prior to the announcement of the UN inspectors' findings, the US and UK demanded that the UN Security Council (UNSC) sanction pro-active use of force to remove the Iraqi WMD threat.⁷ The US and UK cited intelligence that demonstrated Iraq's ability to deceive UN inspectors, its enduring interest in developing a WMD capability, and willingness to co-operate with terrorist groups such as al-Qaida.⁸ When the UNSC refused to sanction preventive measures, the US and UK invaded Iraq without UNSC approval, in contravention of the provisions of international law as codified in the UN Charter.⁹

The US/UK invasion of Iraq reflects the imperative of prevention and the emergence of intelligence-driven controlling security strategies after 9/11. The rationality underpinning the US and UK pro-action over Iraq is a feature of the post-9/11 strategic reality, in which apparently incoercible terrorist groups are understood to be bent on causing mass destruction. The imperative of prevention, in view of the terrorism-WMD threat, is recognised by the UK, US and UN; as such, controlling security strategies that seek to prevent terrorist attacks through pro-active mechanisms are in line with UK, US and UN strategic goals. The security strategies of the UK, US and UN, therefore, have vital strategic intelligence requirements, considering that the capability to prevent threats depends on the capacity to anticipate threats.

The US/UK invasion of Iraq also signified a breakdown of international order. Whilst the rationality of prevention is broadly recognised within the international community, the legitimacy of controlling security strategies remains highly

⁵ Freedman, L. (2004). "War in Iraq: Selling the Threat."

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

questionable, if not flatly rejected by existing legitimising processes. The self-defence and collective security institutions of the UN Charter permit the use of force exclusively in the event of the occurrence of an actual attack, not in anticipation of a potential attack. Furthermore, the UNSC, which is uniquely responsible for determining and responding to threats to international peace and security, is not capable of determining threats through the assessment of intelligence. As such, the UNSC is limited in its capability to implement an intelligence-driven controlling security strategy that seeks to prevent anticipated threats through pro-active measures, despite the UN's acknowledgement of the imperative to prevent threats to international peace and security.

STRUCTURE

This study consists of six chapters. Chapter 1 develops a theoretical framework centred on a revised version of Constructivist Realism, based on Phenomenalist ontology, epistemology and causation. Constructivist Realism attempts to combine the analytical strengths of Realism and Constructivism in order to explain the role of social processes in a material world that is constructed, but available to Positivist verification. In his book *Defending the West*, James Gow attempts to develop a theory of Constructivist Realism to this end.¹⁰ However, Gow's designation of necessity in Constructivist Realism creates a fatal theoretical dilemma: a theory cannot claim to both adhere to Positivist standards of rationality and describe phenomena as necessary. Phenomena can be described either in statements of fact, which are empirically verifiable, or in tautologies, which do not require empirical verification. It is a breach of Positivist rationality to describe necessary phenomena in statements of fact, which Gow attempts to achieve. In response to this theoretical dilemma, this thesis revises Constructivist Realism with a Phenomenalist ontology, epistemology and causation, in order to allow Constructivist Realism to successfully reconcile the analytical strengths of Realism and Constructivism, and achieve a theory that explains the international system as socially constructed, yet empirically verifiable, without incurring logical contradictions.

¹⁰ Gow, J. (2005). *Defending the West*. Cambridge, Polity Press.

Chapter 2 defines the term ‘prevention’ and examines the evolution of security strategies through the post-1945, Cold War, post-Cold War and post-9/11 periods. Preventive state practice is a phenomenon viewed through the lens of the revised theory of Constructivist Realism. After 9/11, prevention reflects rational, not necessary, action in light of changing material realities that are available to empirical verification. Indeed, the rationality of prevention is empirically rooted, and in line with strategic imperatives derived from verification of threats that are perceivable, but not necessarily always perceived. The institution of prevention has adapted to meet changing material security realities. The post-1945 strategic imperative to react to acts of aggression by coercible and risk-averse states was enshrined in the UN Charter in the face of the threat posed by interstate war. The logic of deterrence continued to characterise the strategic environment of the nuclear-charged Cold War. In the post-Cold War world, transnational, non-state threats to international order prompted the construction of the strategic imperative to prevent conflict from occurring within states, not just between states. Pro-active, although exclusively diplomatic, measures taken to control threats supported the post-Cold War imperative of conflict prevention.

After 9/11, however, the strategic imperative to prevent attacks by apparently incoercible and unconstrained terrorist actors extended the concept of conflict prevention into the military sphere. Instead of coercive strategies designed to manage threats posed by risk-averse states, the emergence of seemingly unconstrained terrorist ‘gamblers’ prompted the construction of a controlling strategy that sought to address threats before they materialised through pro-active mechanisms, including military force. Whilst controlling security strategies represent rational action within the post-9/11 strategic reality, they do not represent, *per se*, legitimate action. Action taken in anticipation of threats determinable through the assessment of information, as opposed to observation of actual attacks, contravenes the socially-agreed *Caroline* formula that regulates the use of force in international society.

Chapter 3 develops a robust theory of intelligence power based on Constructivist Realism that explains intelligence in the post-9/11 strategic reality. Post-9/11

controlling security strategies that aim to prevent threats depend on the acquisition and application of information on phenomena that are perceivable, but not necessarily perceived. In order to be able to pro-act to prevent anticipated threats, actors must be capable of investigating and empirically verifying these phenomena. As such, controlling security strategies have vital strategic intelligence requirements. The concept of 'intelligence power' developed by Michael Herman describes intelligence as a facet of national power. A state's level of intelligence power reflects the seriousness with which a state takes intelligence in achieving national security goals. After 9/11, however, perceptions of a 'new' terrorism threat have universalized, and the imperative to prevent threats has forced an increase in states' interest in intelligence. Intelligence has the potential power to facilitate and legitimise controlling security strategies required to manage post-9/11 security challenges, by enabling states to investigate 'fuzzy' threats that, according to Constructivist Realism, are perceivable, but not necessarily perceived. The post-9/11 strategic reality has triggered the need to revise Herman's concept of 'intelligence power', considering the international roles of intelligence in facilitating and legitimising rational responses to new threats to international peace and security.

Chapter 4 describes the post-9/11 threats that have prompted the construction of controlling security strategies. The threats to international peace and security that demand prevention are posed by the two separate threats presented by terrorism and WMD proliferation, as well as a post-9/11 terrorism-WMD threat nexus. The al-Qaida attacks on 11 September 2001 demonstrated a brutal terrorism threat that was international in scope and reach. The threat posed by WMD proliferation has been reviewed considering the existence of apparently incoercible, unconstrained and global terrorist groups bent on mass destruction. The realistic prospect of terrorism involving the use of WMD has given rise to a perceivable terrorism-WMD threat nexus that demands prevention through controlling security strategies that seek to mitigate the risk of terrorist attack.

Chapter 5 describes the respective capabilities of the UK, US and UN to fulfil the intelligence requirements of controlling security strategies, and Chapter 6 examines the

implications of differentials in intelligence capabilities for international order and intelligence affairs. The potential power of intelligence to facilitate and legitimise prevention has direct consequences on intelligence knowledge, activity and organisation. In order to facilitate prevention of threats to international security, intelligence knowledge needs to be international in scope: international dots require the drawing of international lines if they are to be joined and responded against effectively. In terms of activity, state-based collection activities need to be complemented by international analytical, assessment and dissemination activities, so that the appropriate type of intelligence knowledge is produced and the appropriate decision-makers become intelligence customers. A collective intelligence machinery will need new organisational structures at the international level that will encourage the provision of credible intelligence that has a better chance of meeting the standards of evidence that are required by the UNSC in determining threats prior to their materialisation.

METHODOLOGY AND SOURCES

This study is the product of qualitative research methods, including in-depth interviews with UN, US and UK officials. As expected in light of the subject matter of this study, it has been difficult to obtain information on intelligence matters, which is normally highly classified. Whilst I am confident of the analytical rigour of this study, there are obviously a number of areas that are relevant to this dissertation that I have been unable to access. The majority of people who I approached for interview were either unwilling to be interviewed or willing to talk strictly off the record. I have attempted to compensate for this by publishing externally, including a paper delivered at the 2006 International Studies Association Convention, and, therefore, providing quotable resources that will allow me to bypass the requirement to name sensitive sources in this document. These methodological disadvantages are natural consequences of conducting a research study of this kind, and there are bound to be gaps and inaccuracies. However, I do not believe that these difficulties affect the arguments and analysis contained in this dissertation. It is important to note that I have not attempted to obtain information from officials through devious means or exploited any security clearances I may have held during the writing of this dissertation to obtain and use

classified material for this study. The following list represents my main sources of information:

1. Academic books, articles and papers;
2. Media reporting;
3. Official documents and statements, such as the *Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Counsellors* (known as the 'Butler Report'), and relevant reports emanating from the UK, US and UN authorities, of which there have been many after 9/11 and the Iraq invasion;
4. Interviews: during the course of my research, I spent the five months of March–July 2004 as a Visiting Scholar at the Centre on International Cooperation at New York University, which provided an extremely valuable springboard for interviews with UN and US officials. Eight interviews were completed, including interviews conducted in the UK

CHAPTER ONE

Theory

INTRODUCTION

Traditional theories of international politics are unrealistic and irrational. They fail to explain the complex nature of international politics and fall short of scientific standards of reasoning. The most promising theoretical development has been Constructivist Realism, developed by James Gow, which attempts to ally the analytical strengths of Realism and Constructivism to come up with a theory of international politics that explains the role of social processes in a material world that is socially constructed, but available to Positivist verification. However, the designation of necessity in Constructivist Realism creates a fatal theoretical dilemma that negates its use of, and claim to, Positivist rationality. In response to this theoretical dilemma, this chapter attempts to revitalise Constructivist Realism with a Phenomenalist ontology, epistemology and causation. Doing so allows Constructivist Realism to reconcile the analytical strengths of Structural Realism and Social Constructivism and achieve a realistic and rational theory that succeeds in explaining the international system as socially constructed, but empirically verifiable phenomena.

This chapter has four sections. The first section appraises the logical rigour of traditional Realist, Idealist and Constructivist theories of international politics and demonstrates fatal theoretical dilemmas that make these theories unrealistic and irrational.¹¹ The second section appraises James Gow's Constructivist Realism, an approach that attempts to address the theoretical weakness of Realism, Idealism and

¹¹ This chapter does not examine theories of international relations beyond Realism, Idealism, Constructivism and Constructivist Realism. The reason for this is my principle interest in this chapter to build on previous work at undergraduate and graduate level on Constructivist Realism, and revise James Gow's theory of Constructivist Realism in order to establish a theoretical framework that is able to explain the concepts contained in this study.

Constructivism.¹² The fatal theoretical dilemma entailed by Gow's designation of necessity in a constructed international system is identified and explained. The third section outlines Positivist rationality based on Phenomenalist doctrine, which is used to resolve the theoretical dilemma identified in Gow's Constructivist Realist approach. The final section develops a revised version of Constructivist Realism that uses Phenomenalist doctrine to achieve a realistic and rational approach to international politics.

SECTION ONE: AN APPRAISAL OF REALISM, IDEALISM AND CONSTRUCTIVISM

Realism

Although political Realism has dominated international relations theory since the end of World War II, the philosophical roots of Realism can be found as far back as the 400s BC. In his history of the Peloponnesian War, Thucydides described politics as the pursuit of self-interest and conflict as a product of systemic change.¹³ In the 15th century AD, Nicolo Machiavelli, in his work *The Prince*, elaborated on Thucydides' Realism by describing virtuous government in terms of a monarch's ability to act selfishly: by ruthlessly pursuing self-interests and the maximisation of power, the prince is able to manoeuvre effectively within the political system.¹⁴ In 1651, Thomas Hobbes published *The Leviathan* in which he describes war as the state of nature. Hobbes regarded conflict as an inevitable result of the human condition, and considered the political system to be a perpetual struggle of all against all.¹⁵ Rational behaviour, therefore, meant looking after number one. Politics is about survival.

¹² James Gow mentions in *Defending the West* that he has been informed by Sir Lawrence Freedman that Peter Katzenstein called himself a 'constructivist realist' at a conference in the mid-1990s, but that Katzenstein has not used the term beyond this. Gow's is the only developed and branded theory of Constructivist Realism that is available for appraisal, so his will be the focus of this chapter.

¹³ Thucydides (2006). *The History of the Peloponnesian War*, BiblioBazaar.

¹⁴ Machiavelli, N. (2003). *The Prince*, Dante University of America Press.

¹⁵ Hobbes, T. (1982). *Leviathan*. London, Penguin.

In the 20th century, the introduction of international relations as an academic discipline saw political Realism reincarnated as a theory of political science, governed by objective laws that, although rooted in human nature, expressed scientifically-derived 'truths' about the international system. Realism conceives the world as a material object that can be known as necessarily true. Political Realism, as espoused by theorists such as Hans J. Morgenthau, and the subsequent Neo-Realism of Kenneth Waltz and his followers, attempts to achieve philosophy of science standards of theorizing by observing and providing facts about the material world, rather than express gut-feelings about the metaphysical properties of human nature.¹⁶ These 'facts' substantiate laws that govern state behaviour. The essential laws of Waltz's Neo-Realism are as follows¹⁷:

1. Politics is defined in terms of self-help.
2. 'Self-help is necessarily the principle action in an anarchic order'.¹⁸
3. Structures cause actions.

These statements expressing laws of international politics are theoretically problematic for three reasons. Firstly, Neo-Realism expresses statements of fact in the form of tautologies, which is literally nonsensical. The first statement 'politics is defined in terms of self-help', for example, is a tautology, because it equates literally to the statement 'politics means self-help'. However, the statement is used to describe a fact about the world, that is, it is used to provide new information about the international system. If we presently ignore this inconsistency and take the statement as tautological, then we are committed to condemn it as useless: we learn nothing from it, because it merely unpacks definitions. More significantly, the tautology is obviously false: 'politics' does not mean 'self-help'. According to the Oxford English Dictionary, in normal usage of the English language the word 'politics' means 'activities associated... with the political relations between states', not a type of activity. If, on the other hand, the statement is taken to be a statement of fact, which Neo-Realism

¹⁶ Morgenthau, H. J. (1948). Politics Among Nations: The Struggle for Power and Peace. New York, Alfred A. Knopf.

¹⁷ Waltz, K. (1979). Theory of International Politics. New York, McGraw-Hill.

¹⁸ Ibid.: 111

actually intends it to be, then it is meaningless for two reasons. The first reason is that the statement expresses a necessary relationship between politics and the act of self-help. According to the rule of logic, statements of facts express only contingent truths, not necessary ones. The second reason (if we pretend for a moment that the statement really invokes a contingent relationship, not a necessary one) is that there is no conceivable test to confirm whether politics are acts of self-help or not. As such, the statement made by Neo-Realism that 'politics is defined in terms of self-help' is nonsensical.

Secondly, the statement 'self-help is necessarily the principle action in an anarchic order' is fallacious. This statement does not increase our understanding of the international system, because it is neither a tautology that is known to be true *a priori*, nor a statement of fact that expresses a contingent truth obtained through empirical observation. In this case, Neo-Realism claims that there is a necessary relationship between 'anarchical order' and 'self-help' as a principle action. This equates to claiming that 'it is logically impossible for any type of action other than self-help to be the principle action in an anarchic order.' This, again, is clearly meaningless. In the first place, the statement is not a logical proposition, so it is not tautological; there is no sense in which Neo-Realism can meaningfully claim that a type of state action (self-help) logically entails from a type of political order (anarchy). In the second place, considering that it is purportedly a statement of fact, the truth that self-help is the principle action in an anarchic order is a contingent one, not necessary, and therefore subject to verification.

Thirdly, the statement expressing the law 'structures cause actions' reveals the causality of Neo-Realism. Just like Realism's conception of the material world, causality is understood to be something that can be known. This is despite the fact that Kenneth Waltz claimed in his book *Theory of International Politics* that observation and experience never lead directly to knowledge of causes.¹⁹ This concession by Waltz did

¹⁹ Waltz, K. (1979). Theory of International Politics. New York, McGraw-Hill.

not prevent him from creating a causal law between structures and actions that, whilst not described as necessary, is still nonsensical; it is impossible to state factually whether or not structures do cause actions, because the causal relationship between structures and actions is not capable of being perceived. The statement expressing the law that 'structures cause actions', therefore, has equal validity as the statement expressing the law that 'structures do not cause actions'. The causality of Neo-Realism, far from being scientifically construed, is a classic example of metaphysical nonsense that can be shown to be neither true nor false.

Idealism

The rise of political Realism to prominence in international relations theory was a response to the political approach that had flourished in the inter-war period of 1919 to 1939. In 1941, the British historian E.H. Carr coined the term 'Idealism' to describe the outlook on international politics between the two great wars of the twentieth century.²⁰ This so-called 'Idealism' expressed the hopes of many, including those conveyed by US President Woodrow Wilson in 1919, that mankind was basically peaceful, and that harmonious relations between states could be cultivated through observation of rules based on common values.²¹ When World War II broke out in 1939, these hopes of a naturally peaceful world were dashed, and a more 'Realistic' understanding of international politics emerged.

Despite the fact that the term 'Idealism' was conceived as part of a Realist attack against irresponsible utopianism, the doctrine that claims that mankind, given the choice, is fundamentally peaceful represents a long-standing tradition of political thought. At its heart is the assumption, directly contrary to the claims of political Realism, that values are more important than structure. In 1795, the great German philosopher Immanuel Kant published *Perpetual Peace*, in which he describes how the empirical construction of a 'universal community', over time, could eradicate war and

²⁰ Carr, E. H. (2001). The Twenty Years' Crisis 1919-1939: An Introduction to the Study of International Relations. Basingstoke, Palgrave Macmillan.

²¹ (8 January 1918). "President Woodrow Wilson's Fourteen Points." from <http://usinfo.state.gov/usa/infousa/facts/democrac/51.htm>.

consolidate harmonious relations between democratic republics of sovereign individuals, who are naturally interested in living in peace.²² The 'pacific federation' of states would be underpinned by a deontological system of shared values, entered into voluntarily, that establishes the rights and duties of all states within an anarchic political order. Perpetual peace is achieved when these values are universally-held within the international system. In the 20th century, Kant's ideas inspired the creation of the League of Nations and the United Nations, and purportedly moved Woodrow Wilson to claim that, 'Interest does not bind men together: interest separates men. There is only one thing that can bind men together, and that is common devotion to right.'²³

Political Idealism is not as naïve as Realists might suggest. Kant was an ardent empiricist who accepted that war is a feature of the international system.²⁴ But, he felt that peace was rational, given that the goal of all individuals is to enjoy a prosperous life.²⁵ Kant claimed that individuals would refuse to wage war for selfish and corrupt monarchs were they afforded the choice.²⁶ Woodrow Wilson is also clearly sober to the realities of politics by claiming, like Thucydides, that ingrained interests trigger conflict, not co-operation. The difference between Thucydides and Wilson is that Wilson had faith in mankind's natural moral inclination to behave peacefully; that is, peace is not only, as Kant asserts, rational, it is right.

Whilst it is understandable why Idealism, which is sometimes described as Liberalism, is considered to have rhetorical value in society, it mirrors the logical dilemmas of Realism as an explanatory theory. As a theory of international politics, it is aspirational, rather than descriptive²⁷. The central tenets of Idealism inspire and cajole,

²² Kant, I. (1983). Perpetual Peace, and Other Essays on Politics, History, and Morals. T. Humphrey. Indianapolis, Hackett.

²³ Cohen, R. (7 December 2005). The U.N.'s Next Problem - Who Succeeds Annan? New York Times. New York.

²⁴ Kant, I. (1983). Perpetual Peace, and Other Essays on Politics, History, and Morals

²⁵ Ibid.

²⁶ Ibid.

²⁷ Gow, J. (2005). Defending the West.

but are meaningless as statements that describe facts about the international system. The purpose of Idealism is to state how the world should be, not to state how the world is. Idealism does not increase our understanding of the world, because it does not express statements of fact that are empirically verifiable.²⁸

Firstly, rather than fallaciously claiming, as Realism does, that political structure defines values (i.e. 'self-help is necessarily the principle action in an anarchic order'), Idealism claims that values define political structure, which is equally meaningless. Moreover, the Kantian claim that co-operation is necessarily the rational action in an anarchic order is neither tautological nor a statement of fact expressing a truth that is capable of empirical verification, so it fails to describe anything at all.

Secondly, the Idealist claim that mankind is basically peaceful is a metaphysical proposition, not a statement of fact. It is on the same theoretical level as Hobbes' assertion that mankind is naturally quarrelsome. As such, the statement is nonsense. Similarly, the Idealist claim that to act peacefully is to act morally is logically vacuous, and on a par with Machiavelli's declaration that virtuous government means judicious acts of self-help and ruthless maximisation of power.

These criticisms levelled at political Idealism are mitigated somewhat by the fact that Idealists do not claim, as Realists do, to practice 'philosophy of science standards of theorising'. The value of Idealism is its rhetorical power, and it is used to inspire action rather than describe it. A more sophisticated theory of international politics that asserts the primacy of values and seeks to explain the international system is social Constructivism.

²⁸ Some work in the area of Democratic Peace Theory provides case studies that are available for empirical verification. However, the structure of Idealist meta-theory, which is what I am referring to here, does not meet philosophy of science standards of theorising because its assumptions about human motivations and its designation of the necessity of co-operation are not falsifiable. For empirical studies on democratic peace building see Chandler, D. (2005). *Peace without Politics? Ten Years of State-Building in Bosnia*. London, Routledge; Paris, R. (2004). *At War's End: Building Peace after Civil Conflict*. Cambridge, Cambridge University Press.

Constructivism

The term 'Constructivism' was coined in international relations literature by Nicholas Onuf in 1989.²⁹ It has since attracted a number of IR scholars including, most notably, Alexander Wendt and Emmanuel Adler. Whereas Structural Realism focuses on the material world and Idealism focuses on subjective perception, Constructivism focuses on inter-subjective ideas shared by groups that shape international politics. Both Wendt and Adler reject the claims of the inevitability of self-help in Structural Realist theory and highlight the role of social processes in defining and facilitating change in the international system. For Wendt in particular, social interactions are considered to be wholly constitutive of and efficacious in the international system, given that he regards them as having the ability to 'create and instantiate one structure of identities and interests rather than another; structure has no existence or causal powers apart from process'.³⁰ In his article 'Anarchy is What States Make of It: The Social Construction of World Politics', Wendt argues that anarchy does not necessarily entail self-help. Instead, the logic of anarchy is practice and process; anarchic political order is a permissive environment of self-help and co-operation: it is state interaction, not political structure that defines the international system.³¹

Wendt claims that there exist three major types of international system.³² The first type is competitive, in which states compete with each other and look after number one, much like in Hobbes' state of nature. Co-operation between states is impossible for fear of back-stabbing. A competitive security system is zero-sum: one state's gain is another state's loss. The second type of international system is individualistic, in which states still act self-interestedly, but are not directly in competition with each other. Co-operation between states is possible, but limited. An individualistic security system is not zero-sum; states are more concerned with achieving absolute gains rather than making gains relative to the interests of other states. The third and final type of

²⁹ Onuf, N. (1989). *World of Our Making*. Columbia, University of South Carolina Press.

³⁰ Wendt, A. (1992). "Anarchy is what States Make of it: The Social Construction of Power Politics." *International Organisation* 46(2): 394.

³¹ Ibid.

³² Ibid.

international system is co-operative, in which security is seen as the responsibility of all states. National interests mean international interests. A co-operative security system is sum-sum: one state's gain is another state's gain. Collective security is possible because politics are based on common values. Anarchy, claims Wendt, is able to accommodate different political systems by virtue of inter-subjective understandings that construct institutions.³³ These institutions describe and facilitate different patterns of state behaviour.

Statements that describe institutions are meaningful, because they are capable of being empirically verified; Constructivism invokes no necessary relationship between structure and action: institutions are conventions constructed through inter-subjective agreement. The truth of statements that describe institutions is, therefore, contingent upon state practice, not logically necessary. Constructivism does not claim that structures cause action; Constructivism claims that structure is permissive of action, whether it is self-help or co-operation. The reality of the world is constructed by process, not defined by an external material world.

Institutions are useful concepts for increasing understanding of the world because they tell us something new. For instance, the institution of collective security tells us something new about the way in which states behave. In this case, the institution tells us that states are co-operating to address common security concerns. The truth of the statement 'states are co-operating to address common security concerns' is empirically verifiable; we are able to observe state behaviour to verify whether or not it is true. The usefulness of the term 'collective security' in describing reality depends entirely on whether or not state co-operation to promote security is observed.

Much of Constructivism seems, on the surface, to make sense. Constructivist causality seems to use causal laws that are contingent on process, not necessarily imposed by objective laws. The epistemology of Constructivism seems coherent; knowledge of the international system is not known *a priori*: reality is constructed

³³ Wendt, A. (1992). "Anarchy is what States Make of it"

through practice. However, the logic of Constructivist theory suffers from an ontological dilemma. The Constructivist claim that reality is socially constructed entails the possibility that reality can be re-constructed, at any time, according to the whims of states.³⁴ This malleable nature of reality implies a theory whose ontology is at odds with its own apparent epistemological and causal frameworks.

Firstly, reality is conceived by Constructivism as the invention of states, not as phenomena that exist independent of state perception. This means that there are no discoverable facts about the world; the world is how states agree to perceive it to be. Constructivism uses Idealist ontology by defining reality in terms of subjective values: to be is to be perceived. The theoretical problems induced by this ontology are those suffered by Idealism. Most damagingly, if Constructivist theory conceives reality as dependent on perception, then it is incapable of describing the world in a meaningful way: there is no test that is capable of confirming whether statements describing reality in terms of perception are either true or false.

Secondly, Constructivist ontology unravels the apparently coherent and sensible Constructivist epistemology and causality. If to be is to be perceived, then there exist no phenomena independent of perception; if there are no phenomena that exist independent of perception, then knowledge of them is obtained *a priori*, not through empirical investigation of the material world; and, if knowledge of phenomena is known *a priori*, then statements describing reality are necessarily true, tautological and useless for increasing understanding of the world. This applies to statements describing causal relationships too.

As a sophisticated liberal response to Realism, seeking to explain the international system as a product of state perception is a conscious attempt, by Wendt at least, to eliminate the fallacious necessary connection between structure and process, in this case anarchy and self-help. By doing so, Constructivism succeeds in demonstrating that anarchy is a permissive environment and introduces the useful concept of a political

³⁴ Gow, J. (2005). Defending the West.

institution. However, Constructivism encounters its own theoretical difficulties by going too far. Instead of effectively negating Realism, Constructivism merely replaces a bogus ontology with another. Whilst Realists claim, in vain, that the nature of the international system is imposed by the political object of anarchy, Constructivists engage in a futile attempt to show that the international system is an inter-subjective invention.

SECTION TWO: AN APPRAISAL OF CONSTRUCTIVIST REALISM

Constructivist Realism: Attempting to bridge the Constructivist/Realist Divide

The central claim of Constructivist Realism is that necessity is the mother of invention. It maintains that political actors construct international politics in line with what is necessary to survive in a material international system. Constructivist Realism considers that Realist doctrine should complement Constructivist doctrine, not oppose it.³⁵ The theory seeks to combine the analytical strengths of Realist and Constructivist concepts to compose an approach to international politics that attempts to explain an increasingly 'fuzzy and complex world', in which both the Realist necessity to survive and Constructivist social processes are constitutive of an international system composed of states and non-state actors.³⁶ The difference between Constructivist Realism and Structural Realism is that the former considers political structure to be constructed by social processes, rather than a rigid object existing independently of social processes, as the latter contends. The difference between Constructivist Realism and Constructivism is that the former considers social processes to be necessary and part of a material world, rather than contingent and subjectively invented, as the latter contends.

A number of IR scholars have recently attempted to bridge the Realist-Constructivist divide. Nicholas Onuf has addressed the question of the nature of reality in his considerations over the philosophical difference between constructivism and

³⁵ Gow, J. (2005). Defending the West.

³⁶ Ibid.

postmodernism.³⁷ Although Onuf seems to concede that a material world might exist to constrain human behaviour, he remains steadfast in his assertion that 'it could never matter to us other than within our constructions', thus reducing material objects to the core Constructivist focus of inter-subjective beliefs.³⁸ Others, such as Barry Buzan, Ole Weaver and Jaap de Wilde, have taken Realist and Constructivist elements to produce a theory of 'securitization' that seeks to marry inter-subjective processes with 'post-sovereign realism'.³⁹ On the one hand, 'securitization' represents a process of social interaction that subjectifies threat perceptions and makes it hard for 'objective' threat assessments to be made.⁴⁰ On the other hand, the approach accepts the need for 'reasonableness' in securitization processes afforded by an appreciation of an objective understanding of what constitutes a 'real' threat.⁴¹ However, rather than creating a theory that explains inter-subjective processes in a materially objective world the 'securitization' approach aims to tailor Realism to fit a Constructivist framework. Instead of situating Realism in an inter-subjective context, Buzan et al appear to want to dilute the tenets of Realism with Constructivist assumptions to the point that 'securitization' corresponds with a Wendtian focus on identity and inter-subjective belief.

The only self-declared 'Constructivist Realist' is James Gow, who, in his book *Defending the West*, aims to amalgamate the Realist focus on necessity with the Constructivist focus on inter-subjective social processes. Gow, to an extent, follows on the heels of proponents of 'international society', such as Hugo Grotius and Hedley Bull, who accept the existence of self-interest and power-maximisation in a competitive, material world, as well as the efficacy of constitutive socially-constructed rules and institutions, such as sovereignty, that are formed and observed through inter-subjective agreement. In *The Anarchical Society* Bull describes the nature of the international system as a society of states that straddles the Realist and Liberalist

³⁷ Zehfuss, M. (2002). Constructivism in International Relations: The Politics of Reality. Cambridge, Cambridge University Press.

³⁸ Ibid.: 195

³⁹ Buzan, B., O. Weaver, et al. (1998). Securitization: A New Framework for Analysis. Boulder, Lynne Rienner: 47

⁴⁰ Ibid.: 30

⁴¹ Ibid.: 30

divide.⁴² The 17th century Dutch legal scholar Hugo Grotius claimed that although the international system was comprised of sovereign states and, therefore, anarchic, it was not characterised by a struggle of all against all; all-out competition was constrained by common institutions that promoted universal interests.⁴³ These institutions formed an international society in which states behaved according to operational 'rules of the game', but also values. On the one hand, Bull's conception of international society acknowledges the Grotian conception of the role of institutions in the anarchical sovereign state system; on the other hand, Bull does not go so far as Grotius in describing the order maintained by institutions as morally virtuous.⁴⁴ Rather, institutions are symbolic of an international order that exists as 'an actual or possible situation or state of affairs, not as a value, goal or objective'.⁴⁵ As such, the international system is capable of being described in terms of the Hobbesian element of war and power, the Kantian element of solidarity and the Grotian element of co-operation.⁴⁶ There is no type of state activity necessitated by values.

The difference between Bull et al and Gow is Gow's deliberate attempt to expose the weaknesses of Realism and Constructivism and synthesise their respective strong elements to create a theory that reconciles, rather than circumvents, traditionally opposing Realist and Constructivist approaches in order to explain necessity in a constructed world.

Gow's Constructivist Realism

Gow's Position on Realism

In his book *Defending the West*, James Gow, in preparation for his development of a Constructivist Realist approach, appraises the analytical strengths and weaknesses of Realism and Constructivism.

⁴² Bull, H. (1995). *The Anarchical Society: A Study of Order in World Politics*. London, Macmillan.

⁴³ Grotius, H. (2005). *The Rights of War and Peace: Including the Law of Nature and Nations*. London, Cosimo Classics.

⁴⁴ Bull, H. (1995). *The Anarchical Society: A Study of Order in World Politics*.

⁴⁵ Ibid.: xvi

⁴⁶ Ibid.

Gow condemns realism as ‘unrealistic’ because it ignores the complexity of the world. Gow recognises that international politics are comprised of a ‘range of factors interacting, making interests multiple and varied – and often contradictory’.⁴⁷ Some of these interests do not correspond with the Realist assumption that the State, which is viewed by Realists as the only significant type of political actor in the international system, is necessarily motivated to vanquish adversaries in an anarchical structure where material gains are zero-sum. Gow makes it clear, however, that this failure of Realism to adequately describe a spectrum of political motivations does not mean that some states and other political actors do not harbour ‘malign intentions’.⁴⁸ Rather, it means that neither innate human selfishness, as Traditional Realists contend, nor the anarchic structure of the international system, as Structural Realists contend, necessarily entails brutish competition and self-help. Indeed, co-operation, for instance, is also possible, even essential, in achieving Realist objectives of maximising power and security in a ‘world where threats and challenges entail more flux, can be perceived only dimly and certainly do not fall into any particular regular pattern’.⁴⁹ Accordingly, neither the nature nor motivation of political actors has *a priori* status incurred by structure or human nature. States and non-state actors, from the United States through the UN to al-Qaida, exhibit a range of behaviours designed to achieve a range of goals that express a range of interests.

In recognition of this fluid and multi-faceted international environment, Gow claims that the Realist assumption of a rigid, structurally-derived pattern of state-centric self-help doesn’t apply in a world where the major threats come from non-state actors⁵⁰. In the 21st century, it is impossible to sit in a chair and formulate an equation that succeeds in describing or, therefore, explaining the international system where actors are ‘fuzzy and hard to perceive’.⁵¹ The 9/11 attacks launched by al-Qaida, for instance, are not explained by Realism. Realism’s provision of an *a priori* rationale for state behaviour doesn’t fit the contemporary world because non-state actors ‘have no

⁴⁷ Gow, J. (2005). Defending the West: 21

⁴⁸ Ibid.: 21

⁴⁹ Ibid.: 29

⁵⁰ Ibid.: 32

⁵¹ Ibid.: 34

equivalent to the *a priori* status of structurally-based states', and their nature is only discerned *a posteriori* through empirical investigation.⁵²

However, even though the Realist, *a priori*-known equation of state-centric, self-help international politics is unrealistic, Gow identifies Realism's recognition of the importance of the State, structure and material interest in international politics as an analytical strength of Structural Realism.⁵³ The State is still the principle political actor in the international system; indeed, Gow claims that the predominance of the State has been reinforced by challenges that have sought to undermine its importance, from the problem of intrastate conflict to the emergence of non-state and transnational political actors. Each has served to highlight the importance of the State by harbouring state-like political intentions and triggering patterns of behaviour within the international system designed to protect the stability of a state-centric international order against non-state transgressions. For example, intrastate conflict is more often than not about concepts of statehood and waged by non-state actors seeking membership to the sovereign state 'club'.⁵⁴ The occurrence of intrastate conflict waged by sub-state groups harbouring statehood ambitions emphasises the centrality of the concept of the State in the international system. Additionally, non-state actors in the international system, especially networks such as al-Qaida that seek to impose a political order that necessitates the elimination of the sovereign State as the principle political unit, have galvanised efforts in the international community to bolster the power of the State and reinforce an international order based on state sovereignty.⁵⁵

The importance of non-state actors is derived from the threat some pose to a state-centric international order. The emergence of conditional sovereignty in a globalised,

⁵² Gow, J. (2005). Defending the West: 34

⁵³ Ibid.

⁵⁴ The literature on political economy and greed in international relations provides further insight into the motivations of actors to use force in this regard, especially within the context of civil war. See Collier, P. and A. Hoeffler (2001). Greed and Grievance in Civil War, The World Bank Group; Keen, D. (2000). Incentives and Disincentives for Violence. Europe's New Nationalism. R. Caplan and J. Feiffer, Oxford University Press; Duffield, M. (2001). Global Governance and the New Wars: The Merging of Development and Security, Zed Books; Reno, W. (1999). Warlord Politics and African States, Lynne Rienner.

⁵⁵ Gow, J. (2005). Defending the West: 32

interdependent world, which many commentators cite as evidence of the diminishment of the State, represents changes to traditional rules 'in order to preserve the position of the state, rather than to undermine it' against sub- or non-state threats to the international order.⁵⁶ In response to intrastate conflict and threats posed by sub- and non-state actors, states took 'action within or across borders in order to protect states and their order'.⁵⁷

Other than its recognition of the State as the principle political actor, the strength of Realism lies in its identification of structure as a material part of the international system. This is important ontologically because it entails the existence of phenomena that can be investigated and verified, and hypotheses about the world that can be tested. The Realist recognition of a material world enables a rational approach to the study of the international system, because it provides an objective reality that is available for Positivist testing and scientific falsification, rather than a subjective reality that is simply invented by the perceiver and unavailable for empirical verification. The Realist recognition of a material world is also important epistemologically, because it enables facts about the international system to be described. The Realist need for security is one such fact about the international system that Gow accepts. As such, the Realist focus on structure allows for necessity in international politics: security, for example, is a 'necessary part of the equation' of international politics given the nature of the 'real' world. The difference between Gow and Structural Realists, however, is that Gow believes that the structure that necessitates security-maximisation patterns of behaviour is a result of processes of construction, rather than a stand-alone object devoid of values entailing actors and behaviour which can be known *a priori*.⁵⁸

Gow's Position on Constructivism

The major flaws of Constructivism, as Gow sees it, are two-fold. Firstly, Constructivism suffers from the 'fallacious' reasoning that says that because reality is

⁵⁶ Gow, J. (2005). Defending the West: 32

⁵⁷ Ibid.: 32

⁵⁸ Ibid.: 35

constructed, it follows that reality can be reconstructed 'in whichever way a particular author or group wishes'.⁵⁹ This Wendtian position is considered by Gow to be shallow and posited exclusively as a counterpoint to Realism.⁶⁰ Other Constructivists who have sought to develop the theory further have failed to strengthen the ontological and epistemological aspects of the Constructivist approach.⁶¹ Constructivism, according to Gow, is far too Reflectivist and normative: Constructivists, akin to their Critical and Post-modern counterparts, reject the notion of an independent reality that can be empirically investigated and factually verified; instead, they base their rationality on the notion that facts are socially-agreed rather than empirically discovered. For Gow, this is no rationality at all; it is ideology, considering that it avails no opportunity for facts about reality to be falsified through Positivist testing.⁶²

Secondly, the Constructivist identification of construction with subjective invention is misguided. 'Any social construction', claims Gow, 'is still 'real' in two senses: in its underpinnings and in the way it is felt or perceived'.⁶³ Just because something is constructed does not mean that something is 'arbitrary, or necessarily wrong', including the tenets of Realism.⁶⁴ Gow supports George Schöpflin's response to the Constructivist claim that the international system is socially invented: 'So what? That does not make it any less real.'⁶⁵ The need for security and the power to achieve it, for instance, is still 'real' despite being the product of social processes.

Even though it is expressed in an analytically weak, ideological theory, the identification and understanding of social processes and values in the international system is an analytical strength. For Gow, structure is a product of social processes and it is around structure where values are constructed. The *a posteriori* status of political actors and threats within the international system necessitates social processes, such as empirical investigation. Political structure is conceived of as a social construct that

⁵⁹ Gow, J. (2005). Defending the West: 27

⁶⁰ Ibid.: 28

⁶¹ Ibid.: 28

⁶² Ibid.: 27

⁶³ Ibid.: 27

⁶⁴ Ibid.: 27

⁶⁵ Ibid.: 27

represents the interaction of agents with each other and with structure, rather than a rigid object necessarily entailing strict patterns of behaviour and political actors that can be known *a priori*.⁶⁶ As Gow reasons:

If there is no necessity that can be claimed for the mutual antipathy in al-Qaida's challenge to the West, then the relevant interactions and relationships must be constitutive. Only a socially constructed approach, based on empirical understanding of the relevant structures or agents, can provide the perspective needed to tackle the real security problems in the contemporary world.⁶⁷

Gow's appreciation of Constructivism's identification of the role of social processes in the international system mirrors the approach taken by proponents of 'international society', like Bull, who consider that socially constructed rules are both constitutive and descriptive of order in a society of states. Furthermore, Gow agrees with Bull in another area that marries values with structure. For Gow, the 'material world counts because that is where value is attributed': it is the 'construction of value around the material' that counts.⁶⁸ Without material structure, values would be inefficacious because ideas themselves have no causal properties; it is behaviour necessitated by material structure, constructed by social processes, that affects and reflects change in the international system, including values. As Gow states: 'ideas and values make a contribution but only when they reflect need and reality'.⁶⁹ This notion of a value-bound material structure echoes Bull's concept of institution-dependent rules: rules in themselves are merely 'intellectual constructs', unless they are enforced and executed through institutions – patterns of behaviour that constitute and protect the material international order.⁷⁰ The identification of a material structure that both reflects and necessitates the construction of values and social processes forms the basis of Gow's Constructivist Realism approach.

The Weakness of Gow's Constructivist Realism

⁶⁶ Gow, J. (2005). Defending the West.

⁶⁷ Ibid.: 34

⁶⁸ Ibid.: 29

⁶⁹ Ibid.: 36

⁷⁰ Bull, H. (1995). The Anarchical Society: A Study of Order in World Politics: 53

The four tenets of Constructivist Realism, as extracted from Gow's *Defending the West*, can be understood as thus:

1. Political structure is a product of construction;
2. Political structure can change;
3. Change is necessary: people act when they have to act, not because they want to ideologically;
4. Necessity is derived from a material structure constitutive of social processes

Necessity is the key to Gow's Constructivist Realism. Necessity in the international system is created by Constructivist social processes involving Positivist investigation, and is derived from Realist material requirements, Constructivist values or both. Although Constructivist and Realist concepts are used in this framework, they are theoretically allied to complement each other, rather than negate each other. The identification of threats, for example, involves a social process (a dynamic ignored by Realism), but that process 'is not without either empirical foundation or rationality' (two requirements for rigorous theory unfulfilled by Constructivism).⁷¹ Gow claims that only a constructed approach, based on Positivist investigation of a material world, can succeed in explaining a complex international system comprising state and non-state actors harbouring a range of interests and motivations and exhibiting various patterns of behaviour. Constructivist Realism intends to provide the perspective needed to tackle the real security problems in the contemporary world, where fuzzy, fluid and elusive actors abound. The focus on the empirical is fundamental and enduring – it applies even when there are problems of perception, where 'threats might exist, which might be unperceived, but nonetheless perceptible in principle', or where threats 'are perceived by some, but remain imperceptible to others, who might well be sceptical'.⁷²

Indeed, it is the focus on the empirical and the identification of the value of social processes in the international system that stands out as the principle analytical strength

⁷¹ Gow, J. (2005). *Defending the West*: 35

⁷² *Ibid.*: 35

of Constructivist Realism. These elements address and go far to resolve the fatal theoretical weaknesses inherent in Structural Realist and Constructivist approaches, as identified by Gow. The identification of actors and threats within the international system involves a social process that is rooted in Positivist rationality that limits the construction of values, rules and institutions to the empirical sphere, which is, in principle, observable and available for testing and verification. This adds an analytical rigour that is lacking in both Constructivism and Realism. Gow's recognition that actors and threats are perceivable but not necessarily perceived is a useful improvement on Realism and Constructivism, ontologically and epistemologically speaking. It means that the Realist assumption of a material world can be made without negating the importance of the Constructivist role of perception in understanding and explaining agents and structures – an especially valuable assertion considering the nature of fuzzy and fluid actors that operate and threaten covertly, but exist nonetheless. And the focus on the State as the principle political actor in the international system is evidently sensible.

However, as useful as Gow's approach is in these respects, it does suffer from a fatal theoretical flaw, and it arises out of his designation of necessity in his socially constructed world. The strength of Constructivist Realism, as mentioned above, is its focus on empirical social processes; this development adds Positivist rationality and analytical rigour to the Constructivist approach and rids Realism of an unrealistic and rigid equation of *a priori* international politics. By designating constitutive empirical social processes as necessary, however, Gow shoots himself in the foot by prohibiting Constructivist Realism from accomplishing the Positivist rationality and *a posteriori* status that it sets out to achieve. The reason for this is straightforward: the world cannot be both constructed and necessary. According to Positivist rationality, which Gow invokes, reality is constructed, empirical and known *a posteriori* or it is necessary, tautological and known *a priori*. To describe facts obtained empirically as necessary truths, as Gow does, entails a fundamental and irreversible contradiction in the Positivist rationality that he seeks to deploy.

In the first instance, statements of fact that result from empirical investigation are not, and can not, be necessary. The very point of Positivist rationality is to verify and falsify facts that are contingent on observation, not necessarily the case. This is not to say that contingent facts are subjectively invented, arbitrary and meaningless, as Gow's critique of Constructivism suggests; it is to say that meaningful statements of fact require processes involving empirical verification. Necessary truths do not require empirical verification, because they are not falsifiable. If facts about the international system are necessarily true, as Gow claims, then Gow inadvertently dispenses with the need to apply Positivist rationality to investigate the international system, which lies at the heart of his Constructivist Realist approach. Gow's claim of necessity negates the *raison d'être* of his theory that focuses on empirical social processes in a material world by removing the utility of Positivist rationality – Constructivist Realism's greatest analytical strength.

In the second instance, Gow's claim of necessity means that Constructivist Realism maintains an *a priori* status for the international system, despite claims that it resolves this Realist analytical shortfall through Positivist rationality involving empirical processes. According to the logic of Positivism, necessity, as a property, is known *a priori*. Gow's designation of necessity in the international system, therefore, means that the international system and the actors, processes and threats within it, are known *a priori*. For example, if prevention, a major theme in this thesis, is as Gow claims, 'necessary and inevitable' in the face of threats in the contemporary international system, then the threats that necessitate prevention have *a priori* status, contrary to Gow's claims, because they are part of a necessary relationship with a constitutive social process. Because prevention is necessary, so must be the threats that necessitate it. As such, threats, as well as other constitutive social processes like prevention, are not known *a posteriori*, through empirical investigation, but *a priori*, by definition. This internal inconsistency reduces Constructivist Realism to Structural Realist levels of rationality, which, by Gow's admission, are flawed and in need of remedy.

Making Constructivist Realism Rational

The intentions of Constructivist Realism are worthy and its overall approach is useful. As such, it remains for this chapter to solve the theoretical dilemmas of Gow's Constructivist Realist approach and provide a coherent theoretical framework that identifies empirically constructed social processes in a material world, in line with Positivist rationality.

The key to improving Gow's approach is replacing the concept of necessary action with the concept of rational action. The designation of rational action in the international system, as opposed to necessary action, will demonstrate the utility of Positivist rationality. It will also avoid the empirical/necessity dilemma, but still maintain the Constructivist Realist focus on the construction of non-arbitrary structures in a material political world, in accordance with strategic imperatives discovered through empirical investigation of social processes that threaten the security of political actors. According to Positivist ontology, the social processes constitutive of structure are phenomena existing independently of perception: they are capable of being perceived, but are not necessarily perceived, in line with Gow's ontology. These phenomena, however, are not themselves necessary, as Gow claims. Rather, empirically derived phenomena cause other phenomena, contingent on observations of fact that enable rational action, rather than entail necessary action. In order to make Constructivist Realism rational, a Phenomenalist ontology, epistemology and causation must be used. Material reality is socially constructed through empirical processes; the identification of actors and threats within the international system involves a social process that is rooted in Positivist rationality that limits the construction of values, rules and institutions to the empirical sphere, which is, in principle, observable and available for verification.

Adopting a Phenomenalist framework succeeds in explaining rational action and legitimate action in international society through the identification of Realist strategic imperatives and the role of socially-agreed values. Rational action represents behaviour designed to achieve basic security demands arising out of empirical investigation of material realities. As material realities changes, so does the rationale of action that seeks to achieve security aims. The strategic imperative to achieve security represents the

Realist identification of enduring self-interest to survive in a material international system. Rational action is about what is logical, given the strategic imperative to survive, in the face of security threats, be they caused by interstate war, intrastate war, terrorism or any other phenomena. Legitimate action reflects values that are constructed around the material reality that seek to enforce rational action and shape state practice in line with strategic imperatives. Whilst both rational action and legitimate action are constructed, the focus on the empirical is less important for legitimacy which tends to be codified in static, legal frameworks that serve the purpose of providing a normative, value-driven structure within which state practice can be judged. International order depends on rational action and legitimate action coinciding to the point that legitimising institutions have authority and control over patterns of state behaviour that are constitutive and descriptive of international order. Legitimising institutions lose authority and control if the values underpinning legitimate action do not reflect rational action in the face of strategic imperatives derived from empirical investigation of material realities.

Section three of this chapter examines in detail the Phenomenalist approach at the heart of Positivist rationality. The final section will outline a revised theory of Constructivist Realism that meets Positivist standards of rationality and achieves what Gow originally sought to accomplish – a theory of international politics synthesising the strengths of Realism and Constructivism that eliminates *a priori* Structuralism and provides Positivist rationality to social construction.

SECTION THREE: PHENOMENALISM

Logical Positivism: Setting the Parameters of Rationality

Logical Positivism refers to a philosophical movement that was created in the 1920s by a group of philosophers and scientists that took the name of the 'Vienna Circle'. The term 'logical' was appended to the term 'Positivism' by the Vienna Circle to reflect advances made in philosophical logic, in particular the work on symbolic logic by Gottlob Frege and Bertrand Russell, that added considerable value to the Positivist

approach. The outlook shared by members of the Vienna Circle was of philosophy as an analytic discipline that had the sole function of making the meanings of propositions clear. This approach to philosophy as an analytical activity, rather than a speculative doctrine, flew in the face of the traditional view of philosophy as a resource of moral guidance and a vehicle for metaphysical enquiry that sought answers to questions about the hidden depths of reality that science was unable to answer.⁷³ It was the intention of logical Positivists to eliminate metaphysics by imposing a limit on what philosophy could talk about, which, as Ludwig Wittgenstein described it, was to say nothing except what can be said, i.e. the propositions of natural science.⁷⁴ Leading members of logical Positivism included Moritz Schlick, Rudolf Carnap, Herbert Feigl, Bertrand Russell, G. E. Moore, Ludwig Wittgenstein, Carl Hempel and A. J. Ayer. Past philosophers such as David Hume, Jeremy Bentham and J. S. Mill are considered to have been Positivist in outlook.⁷⁵

Indeed, it was David Hume, writing two hundred years prior to the formation of the Vienna Circle, who declared in his major work *Enquiry Concerning Human Understanding*:

When we run over libraries, persuaded of these principles, what havoc must we make? If we take in our hand any volume; of divinity or school metaphysics, for instance; let us ask, Does it contain any abstract reasoning concerning quantity or number? No. Does it contain any experimental reasoning concerning matter of fact and existence? No. Commit it then to the flames: for it can contain nothing but sophistry and illusion.⁷⁶

This quote, as Alfred Ayer once noted, is as an excellent description of the Positivist position.⁷⁷ Positivism claims that the only meaningful types of statement that purport to contain truths about the world are either tautologies (that is, self-referential propositions, as explained below), or empirically verifiable propositions of fact. If a statement is neither tautological nor empirically verifiable then it is, quite literally,

⁷³ Schlick, M. (1959). What is the Aim of Ethics? *Logical Positivism*. A. J. Ayer. London, The Free Press.

⁷⁴ Wittgenstein, L. (2001). *Tractatus Logico Philosophicus*. London, Routledge.

⁷⁵ Ayer, A. J. (1959). *Logical Positivism*. London, The Free Press.

⁷⁶ *Ibid.*:10

⁷⁷ *Ibid.*:10

meaningless. The Positivist outlook on the world is based on an utter rejection of metaphysics, which, being expressed neither in tautological statements nor in verifiable propositions of fact is considered to be nonsense.⁷⁸ Metaphysics, unlike the investigative endeavour of science, does not deal in facts that can be tested and confirmed. That being the case, metaphysics does not contribute to our knowledge of the world, because we are unable to learn anything that we can show to be true. As Hume so instructed, the logical Positivists of the 20th century sought to commit metaphysics 'to the flames'.

This is not to say that metaphysics was perceived by members of the Vienna Circle to have no value at all.⁷⁹ The language of metaphysics often contains a beauty that is absent in scientific propositions. Many philosophers and scientists who have been inclined to take a Positivist outlook on the world concede that the metaphysical prose of poetry, for instance, inspires and cajoles in important ways.⁸⁰ Other forms of unverifiable forms of expression have merit in society, such as words of encouragement that do not relate to any facts, but may succeed in making a depressed friend, for instance, feel better. The central point that Positivists make is that metaphysical statements do not say anything that is either true or false, so, whatever value metaphysics has, it is not in increasing our understanding of the world. As Alfred Ayer pointed out, 'Metaphysical utterances were condemned [by logical Positivists] not for being emotive... but for pretending to be cognitive, for masquerading as something that they were not'.⁸¹ In terms of gaining knowledge of things, metaphysical statements are insignificant because they break the rules that any statement must satisfy in order to be to be meaningful.

Language and Meaning

⁷⁸ Carnap, R. (1959). *The Elimination of Metaphysics Through Logical Analysis of Language. Logical Positivism*. A. J. Ayer. London, The Free Press.

⁷⁹ Ayer, A. J. (1959). *Logical Positivism*:10

⁸⁰ *Ibid.*:10

⁸¹ *Ibid.*:10

The logical Positivist attack on metaphysics was launched from a position that viewed reality as something that could be described, not directly known. Any statement that seeks to describe reality must obey certain rules in order to be literally meaningful. These rules are based on the assumption that truth can be expressed only in language that relates either to logic or to facts. It has already been said that Positivism considers only two types of proposition meaningful: tautologies and statements that are empirically verifiable. Tautologies are statements of logic in which the subject of a sentence is contained in the predicate; instead of giving us new information, tautologies dismantle concepts we already know about. For instance, 'a triangle is a three-sided shape' is an example of a tautology. The statement is meaningful, in that it expresses a truth about the world. But it doesn't tell us anything new about triangles, it merely clarifies their definition. Bertrand Russell and Alfred Whitehead contended that beyond formal logical truths, even mathematical statements such as ' $2 + 2 = 4$ ' were tautological.⁸² Truths expressed in tautologies are necessary because they refer to identities and definitions; a 'triangle' necessarily is a 'three-sided shape', because the term 'triangle' means 'a three-sided shape': it is logically, factually and linguistically impossible for a triangle not to be a three-sided shape. Knowledge of necessary truths expressed in tautologies is obtained *a priori*, that is, by analysis alone. No empirical verification is required to give meaning to a tautology.

Truths expressed in statements of fact, on the other hand, do need to be empirically verifiable in order to be meaningful. Statements of fact differ from tautologies in that they tell us something new about the world. If someone tells us that 'the candle is triangular' we are being told something new about the candle. Knowledge of the truth that the candle is triangular is not derivable from mere analysis of the statement purporting to express it. For us to know that the candle is triangular, we are required to empirically verify the truth of the statement by observing the shape of the candle. It is the verifiable nature of this fact that gives the statement 'the candle is triangular' meaning. Truths expressed in statements of fact are not logically necessary – the word 'candle' does not mean 'triangular', and the candle could turn out to be square upon

⁸² Russel, B. (1959). Logical Atomism. Logical Positivism. A. J. Ayer. London, The Free Press.

inspection; knowledge of them is obtained *a posteriori*, that is, after they have been observed. Someone (most likely a metaphysician) who claims that statements of fact are either necessarily true or are contingent, but known to be true without empirical verification is literally speaking nonsense.

Although it has been said that tautologies can tell us nothing new about the world and still be meaningful, some logical Positivists contended that tautologies are pointless statements because they fail to contribute to an increase in knowledge.⁸³ Tautologies say nothing, so nothing can be learned from them. What, then, is the purpose of tautologies in our quest for knowledge? Apart from the pointlessness of tautologies, Wittgenstein identified the uselessness of contradictions in providing new information about the world.⁸⁴ Whereas a tautology would claim that ‘arsenic is poisonous or not’ and tell us nothing about the properties of arsenic at all, a contradiction would state that ‘arsenic is and is not poisonous’, which is equally hopeless in telling us facts about arsenic. In contrast, the statement ‘arsenic is poisonous’ tells us something about arsenic that, whether true or not, is at least verifiable. In terms of being able to describe reality through language, statements of fact mean more, or at least are more powerful, than tautologies, which are as useful as contradictions in increasing knowledge of the world. However, whilst tautologies may represent ‘degenerate cases of factual statements’, they are still of a higher order than metaphysical propositions, which bear no relation to fact whatsoever⁸⁵.

The ‘Verification Principle’

It has been explained that different statements are available to different methods of verification, and that the type of method of verification provides a statement its type of meaning. If a statement is verifiable through analysis and known to be true or false *a priori*, then it is a tautology expressing a necessary truth or falsehood. Whilst such statements are meaningful, they do not tell us anything new. We are unable to learn

⁸³ Hempel, C. G. (1959). The Empiricist Criterion of Meaning. Logical Positivism. A. J. Ayer. London, The Free Press; Wittgenstein, L. (2001). Tractatus Logico Philosophicus.

⁸⁴ Wittgenstein, L. (2001). Tractatus Logico Philosophicus.

⁸⁵ Ayer, A. J. (1959). Logical Positivism: 12

about the world from them. If, on the other hand, a statement is empirically verifiable and known to be true or false only after investigation, then it is a statement of fact expressing a contingent truth. This type of statement is meaningful because it tells us something new about the world, the truth of which we are able to test through observation. A statement that is neither a tautology nor a statement of fact is meaningless, because it is neither analytically nor empirically verifiable. It is the intimate relationship between meaning and verification that underpins the 'verification principle', as summarised in the famous slogan: 'the meaning of a proposition is its method of verification'.⁸⁶

The verification principle is a tool used by logical Positivism to build meaningful statements that describe everyday things. It is also used to evaluate the worth of other theories that seek to increase understanding of the world. The two rival philosophical doctrines, Realism and Idealism, are vulnerable to attack. Crudely speaking, the central claim of Realism is, 'reality exists beyond perception'. Conversely, the doctrine of Idealism claims that 'reality exists as perception'. According to the verification principle, both statements are meaningless because neither statement is verifiable. The kind of question put forth on this matter by Alfred Ayer is, 'What empirical test could decide whether things we perceive do or do not exist outside someone's mind?'⁸⁷ The statements made by Realism and Idealism are examples of statements of fact that are held to be necessarily true without being either tautological or empirically verifiable. According to logical Positivists, these statements are meaningless; accordingly, the doctrines of Realism and Idealism are nonsensical.

Whether or not a statement is capable of being verified is the key criterion for logical Positivists. It is in not being available to scrutiny that makes a proposition insignificant. It is a statement's availability to verification that is essential to the Positivist conception of knowledge and reality, and to the success of any theory that seeks to explain the nature of the world.

⁸⁶ Ayer, A. J. (1959). Logical Positivism: 13

⁸⁷ Ayer, A. J. (2001). Language, Truth and Logic. London, Penguin.

It follows, then, that for something to be considered real, it must be capable of being perceived. As such, a statement describing something must be verifiable. Critically, it is the capability possessed by something of being perceived that gives meaning to the statement expressing it; it is not in being perceived that makes something real. To say something is real because it is perceived is to endorse the unverifiable, metaphysical claim of Idealism that the world is a product of private perception. Logical Positivism, rather, renders the object of analysis and the analyst interdependent: the ontological meaning of something depends on its being observable by someone, and someone's knowledge of something depends on whether or not something is capable of being perceived. In other words, for someone to claim that something exists, it is required that the observer and the observable collude. The private perceptions of the observer and the public availability of the observable combine to construct a human conception of existence that is expressible in statements of fact. This is the Positivist approach to reality as something that we can describe, rather than something that we can 'know' in the Realist or Idealist sense of the word; rather than being either entirely objective or subjective, reality is a 'construction' of language, described through meaningful statements of verifiable fact. Material things are 'permanent possibilities of sensation' that human observation makes 'real'.⁸⁸

The way in which Positivists construct reality requires explanation. The ontology, epistemology and causation of Positivism are Phenomenalist. The doctrine of Phenomenalism is an approach taken by Positivism that attempts to avoid the theoretical problems suffered by Realism and Idealism in describing the nature of knowledge and existence.

Phenomenalism: The Construction of the Material World

The term 'Phenomenalism' refers to a philosophical doctrine that deals with phenomena. The central claim of Phenomenalism is that it is impossible to separate material things from 'sense-data', or phenomena that are capable of being perceived.⁸⁹

⁸⁸ Mill, J. S. (2002). A System of Logic: Ratiocinative and Inductive. University Press of the Pacific.

⁸⁹ Ayer, A. J. (1940). The Foundations of Empirical Knowledge. London, Macmillan.

The ontological relationship between material things and phenomena reflects the epistemic relationship between the private observer and the publicly observable: to say that something materially exists is to say that something is capable of being perceived. Considering that there is no conceivable test to ascertain whether a material thing exists outside of someone's mind, it is necessarily the case that a material thing is indistinguishable from what we perceive: we are unable to confirm the existence of something that lies beyond our senses, because the existence of something depends on our being capable of sensing it. But, to reiterate, this is not to say that material things are the products of perception, for such a claim is unverifiable and equally meaningless.

Instead of attempting to show that there exists either an external or an imaginary world, which is futile, Phenomenalism claims that there is simply no difference between material things and how we describe what we perceive. Material things are phenomena. Any statement that describes reality as something other than what is perceivable is nonsense, because the meaning of any statement that expresses a truth depends on verification. As Ayer declared:

It is indeed logically necessary that any situation that in any degree establishes the existence of a material thing should also establish the existence of a sense-datum; for we have constructed the sense-datum language in such a way that whenever it is true that a material thing is perceived, it must also be true that a sense-datum is sensed.⁹⁰

The constructed 'sense-datum language' to which Ayer refers is the type of statements that are meaningful according to the verification principle. In order for a statement that describes the existence of a material thing to be meaningful, phenomena relating to the material thing must be available so that verification of the statement can take place. The relationship held between a material thing and phenomena is necessary, in much the same way that the relationship between 'triangle' and 'a three-sided shape', as expressed in a tautological statement, is necessary. The type of relationship held between a material thing and phenomena is not factual, in the sense that it is factually

⁹⁰ Ayer, A. J. (1940). The Foundations of Empirical Knowledge: 79

the case that material things consist of phenomena; rather, it is linguistic: statements expressing sentences that describe material things can be expressed equally successfully by sentences that describe phenomena.

In addition to the interdependent relationship between the observer and the observable, relations held between phenomena themselves facilitate the ‘construction’ of a material world. The nature of things as ‘permanent possibilities of sensation’ is presented by the appearance of ‘constancy’ and ‘coherence’.⁹¹ ‘Constancy’ refers to the permanence of things. Say, for instance, that I am in a room and I observe a brown table. I then decide to leave the room for a few minutes. On re-entering the room I observe the table again, much as it was a short while ago. The existence of the brown table appears to be constant and presents itself to the mind as permanent.⁹² Over time, similar experiences of other things lead me to ‘construct’ an idea of a material world that consists of things that exist constantly, that is, independent of my sensing them.

‘Coherence’ refers to our sense of consistency about the material world. When, for example, I re-enter the room and re-observe the brown table, I perceive similar phenomena as I perceived before. The phenomena in this case are a collection of rectangular shapes, varying shades of brownness of colour and a hardness of touch, arranged in a way that can be described as ‘a brown table’. Sitting at the table I am able to look out of a window onto a group of silver birches. If I decide to turn my head a little to the left, different phenomena present themselves. In this instance, I see a fully-laden bookshelf and a lamp. When I turn my head further to the left the bookshelf disappears from view and I see a guitar. If I decide to turn my head back to the right, the bookshelf reappears much as it was a moment ago. When I reassume my original position I am able to see through the window onto a group of silver birches, as before. Not only do the phenomena seem to have repeated themselves, but the phenomena occurred in similar contexts. It is the ability to sense in reverse order similar phenomena within similar contexts that enables me to ‘construct’ an understanding of a permanent material world that endures through time and in space. My construction

⁹¹ Ayer, A. J. (1940). The Foundations of Empirical Knowledge: See Chapter 2

⁹² Ibid.: See Chapter 2

of reality as a constant and coherent material world enables me to describe it in a meaningful way and interact with it in a rational way.

Phenomenalist Ontology

Ontology refers to the existence of things in the 'real' world. It describes the objects of analysis that theory seeks to explain. It has been said that material things are phenomena. The objects of analysis that Positivism seeks to explain, therefore, are things that are observable. For instance, for me to say that 'there is a brown table' is for me to claim that I am able to observe phenomena and describe them in a statement of fact. As I have already described, the phenomena in this case are a collection of rectangular shapes, varying shades of brownness of colour and a hardness of touch, arranged in a way that can be described as 'a brown table'. I am able to claim the table exists because I am able to perceive these phenomena and describe them in a meaningful way. Furthermore, when I leave the room I am still able to claim that 'there is a brown table', because the table remains, in principle, perceivable. All I need to do is to re-enter the room in which I observed the table before and observe it again. The existence of the table is not dependent on being perceived, it is dependent on being perceivable. The table does not cease to exist when I stop observing it. The statement 'there is a brown table' only becomes meaningless when the table is incapable of being observed. Of course, it is possible that on re-entering the room I find that a vandal has smashed the table and that the table is no longer there. In which case, the statement 'there is a table' is false. The statement is still meaningful, however, because it is verifiable.

To claim that to be is to be perceivable is to describe the Phenomenalist ontology of Positivism. Positivism avoids the theoretical problems suffered by Realism and Idealism in explaining the world by describing reality as a construct contingent on empirical verification, rather than as a necessary truth that is neither tautological nor ever capable of being observed.

Phenomenalist Epistemology

Epistemology refers to how we obtain knowledge of things in the 'real' world. Positivism approaches reality as something that can be described. Accordingly, the Phenomenalist epistemology of Positivism is guided by the verification principle. Knowledge of reality is arrived at by verifying the truth of the statements expressing facts about the world. Whether the statement is judged to be meaningful depends entirely on its method of verification. If, for instance, a statement is analytically verifiable, then the statement describing reality is meaningful because it is a tautology expressing a necessary truth about the world. However, the statement is utterly useless for increasing knowledge, because it can only describe something that is already known about. In terms of its epistemic power, tautologies are insignificant. Only empirically verifiable statements of fact, such as 'the table is brown', enable someone to describe the 'real' world.

It is because material things are conceived to endure when unperceived that the material world can be thought of as a construction. Reality is constructed through the perception of phenomena that are available to the senses, but exist independent of them. The conception of reality as a construction designates the epistemic relationship between the mind that observes and the world that is observable: someone can state to know something when someone is capable of observing something. It is by perceiving phenomena, and constructing reality, that someone is able to describe the material world.

Phenomenalist Causation

Causation is the relationship between causes and effects. The causation of Positivism is the way in which Positivists understand the relationship between causes and effects in a world consisting of phenomena.

Like all statements that seek to describe things, statements that express causal relationships must fulfil the criterion of the verification principle in order to be meaningful. The difficulty in describing causality, however, is that the idea of a 'cause' is not a tangible thing that can be empirically observed. The idea of a cause is also

dissimilar from ideas like 'a triangle', knowledge of which can be acquired through logical analysis alone. A causal relationship seems, rather, to be a sort of 'secret connexion' held between objects and events, the nature of which is epistemologically elusive.⁹³ In order to solve the theoretical problem of causation, Positivists avoid asking unanswerable questions. Positivists approach causality as something that can be described, not as something that can be directly known; there is no test conceivable that can verify the nature of causality that exists beyond the senses, so causality can only be described in terms of phenomena. As Ayer wrote in *The Foundations of Empirical Knowledge*, 'To the question, What are the causes of sense-data in general? there can indeed be no significant answer. For it does not make sense to postulate a cause of phenomena as a whole.'⁹⁴ Ayer concludes that 'if a sense-datum has any cause at all it is to be sought among other sense-data'.⁹⁵

Causal relationships are inferred by observing the behaviour of things that are capable of being perceived. It is the consistency of one thing constantly following another that forms the impression of a causal relationship. According to the verification principle, statements that describe causal relationships must be either tautologies or statements of facts. The impression of one thing inevitably following on from something else, and the occurrence of one event being indispensable for the occurrence of another, is formed by observation of phenomena that follow a pattern of behaviour. For example, when I throw a ball up in the air, I expect it to fall back to the ground. My expectation of this has arisen because every time I have thrown a ball up in the air, I have observed it falling to the ground. My repeated observation of the relationship between the two events has led me to believe that it is inevitable. My belief of this causal relationship fits with my general understanding of the world. I am able to describe the causal relationship between the two events through statements expressing the law of gravity: what goes up must come down.

⁹³ Strawson, G. (1989). *The Secret Connexion: Causation, Realism and David Hume*, Clarendon Press.

⁹⁴ Ayer, A. J. (1940). *The Foundations of Empirical Knowledge*: 220

⁹⁵ *Ibid.*: 225

However, whilst the impression of necessity is formed through repeated observation of phenomena, the law of gravity is not expressible as a tautology; it is only expressible as a statement of fact. The statement 'what goes up must come down' is not a logical proposition that merely unpacks definitions: 'what goes up' does not mean 'must come down', if one can put it that way. The statement is not verifiable through analysis alone: the truth of the statement 'what goes up must come down' is not known *a priori*; it requires us to investigate and see whether what goes up does, indeed, come down. The statement also tells us something new about the way objects behave; we learn from it something about the nature of the world. As such, the statement 'what goes up must come down' is a statement of fact that describes phenomena that are capable of being perceived. And, like truths expressed in all statements of fact, the truth expressed in the statement is contingent, not necessary: it is logically possible that one day what goes up is observed to not come down. Indeed, the counter-statement 'what goes up does not come down' may be false, but it is meaningful because it is, in principle, verifiable. Causal relationships are constructed through language; they enable people to describe, explain and predict phenomena, and act rationally within the world. Someone who claims that a statement expressing a causal relationship is necessarily true is literally speaking nonsense.

SECTION FOUR: A REVISED THEORY OF CONSTRUCTIVIST REALISM

As has been explained, Constructivist Realism does not consider that Realism and Constructivism need to be at loggerheads. Constructivist doctrine should not be posited as a counterpoint to Realism, it should be developed to complement Realist doctrine and add value to the Realist approach by identifying the role of social processes in a material world. By attempting to apply Positivist rationality to Constructivism, James Gow tries to show how the Realist concepts of self-help and security are necessary within a socially constructed world. However, by designating necessity within a constructed international system, Gow fails to reach the Positivist standards of rationality he set out to achieve and, therefore, fails to make Constructivist Realism rational or realistic.

The Phenomenalist version of Constructivist Realism

A Phenomenalist ontology, epistemology and causation resolves the theoretical dilemmas suffered by Gow's Constructivist Realism, whilst maintaining the central tenets of his theory regarding the centrality of the State and the 'fuzzy and complex' nature of the world where threats are perceivable, but not necessarily perceived – a distinctly Phenomenalist perspective. As such, the main political claims of Gow's theory are not disputed; only the logical construction of his theory needs improvement. A Phenomenalist approach succeeds in describing the existence of security threats that lie beyond the perceptions of political actors, and in explaining the construction of institutions, the constitutive social processes of the international system, in response to empirical investigations of phenomena in line with Positivist rationality. The designation of rational action in the international system avoids the fatal necessity/construction contradiction that debilitates Gow's approach. It also enables Constructivist social processes to be allied with Realist concepts of security and survival by conceiving institutions as rational patterns of behaviour constructed to deal with threatening phenomena in the material world that exist independently of perception. Empirically derived strategic imperatives to deal with phenomena are not necessary, but the construction of institutions that serve strategic imperatives resulting from empirical investigation of reality represent non-arbitrary, rational action in response to verifiable, though 'fuzzy', security threats.

Revised Ontology

In terms of ontology, the reality of the international system is our description of it; to understand the international system is to be capable of describing it. Constructivist Realism should increase our understanding of the international system by describing it in statements that make sense. Phenomenalist ontology, when applied to the international system, mirrors the Social Phenomenalist assumption of a material world existing independently of political actors, and societies as socially agreed patterns of behaviour constructed over time. The existence of phenomena, including those that threaten international society, that exist beyond the perceptions of political actors gives

rise to the impression of risk in the international system. However, the reality of risk does not mean the perception of risk as Ulrich Beck and Anthony Giddens argue.⁹⁶ Rather, risk is rooted in the impact caused by phenomena that are capable of being perceived, but not necessarily perceived, and can be fully explained by a Phenomenalist approach (an in-depth examination of the concept of risk and its place in the Phenomenalist approach occurs in chapter 4).

The assumption of phenomena in a material world that exist independently of perception demonstrates the value of social processes involving empirical investigation in enabling rational behaviour. Indeed, the relationship between empirical verification of phenomena and the ability to act rationally is intimate: to act rationally is to understand reality; to understand reality is to describe facts; and, to describe facts is to be capable of verifying statements by observing phenomena that exist independent of perception. The ability of political actors to act rationally in the face of fuzzy security challenges depends on their capability of investigating and verifying phenomena that represent 'permanent possibilities' of harm. The value of empirical investigation in enabling political actors to construct rational institutions in the face of threats that are agreed to require prevention is even greater than its basic function in Positivist rationality (the role of empirical investigation as an enabler of rational action is examined in chapter 3).

Revised Epistemology

In terms of epistemology, knowledge of the international system is obtained exclusively through empirical investigation of phenomena that can be described in statements of fact. This approach succeeds where Gow fails in giving the international system *a posteriori* status. Because there is no designation of necessity in the international system, the international system cannot be known *a priori* – facts about the international system must be observed, verified and are, in principle, falsifiable.

⁹⁶ See, for example, Giddens, A. (1990). *Consequences of Modernity*. Cambridge, Polity Press; Beck, U. (1998). *World Risk Society*. Cambridge, Polity Press.

Revised Causation

The causation of the revised Constructivist Realist approach flows from its ontology and epistemology, and is thus: phenomena cause phenomena. The causal connections between phenomena are contingent, not necessary. Prevention, for example, is not, contrary to Gow's claim, necessitated by threats. However, it is possible for prevention to represent rational action in line with strategic imperatives derived from empirical investigation of threats (prevention as rational action will be examined in chapter 2, and the causal properties of threats will be looked at in chapter 4).

Again, proponents of 'international society' offer a useful insight into the nature of causation in the international system. Bull claims that 'institutions are part of the efficient causation of international order... they are among the necessary and sufficient conditions of its occurrence'.⁹⁷ Bull explicitly rejects the notion of a necessary causal relationship; institutions are among the necessary conditions that cause international order, but institutions themselves are not necessary. Indeed, it is the socially contingent nature of institutions that leads Bull to dismiss 'structural-functionalist' conceptions of causality, as used in Gow's Constructivist Realism:

In 'structural-functionalist' explanation the statement that these rules and institutions fulfil 'functions' in relation to international order might be taken to imply that international society, for its own survival or maintenance, has certain 'needs', and that the rules and institutions in question are fulfilling those needs. If we can make the additional assumptions that fulfilment of these needs is essential to the survival of international society, and that fulfilment of them cannot be carried out in any other way, then to say that these rules and institutions fulfil these functions is tantamount to endorsing them.⁹⁸

International Order

⁹⁷ Bull, H. (1995). The Anarchical Society: A Study of Order in World Politics: 71

⁹⁸ Ibid.: 72

According to Hedley Bull, order is 'a pattern that leads to a particular result, an arrangement of social life such that it promotes certain goals or values'.⁹⁹ Institutions are symbolic of an international order that exists as 'an actual or possible situation or state of affairs, not as a value, goal or objective'. The particular patterns of state behaviour observable in international society lead to three general states of affairs. The first is the primacy of sovereign states and the preservation of international society itself; states are capable of being observed to behave in a way that protects their ability to manage the international system.¹⁰⁰ The second is independence; states are capable of being observed to behave in a way that protects their independence within the international system from outside interference.¹⁰¹ The third is peace; states are capable of being observed to behave in a way that encourages peace by restricting the occurrence of violence.¹⁰² These three states of affairs – primacy, independence and peace – can be described as the primary goals of the society of states, because it is a matter of observable fact that states collaborate in a way such that it actively promotes their existence. Accordingly, the concept of international order can be understood as being 'a pattern of activity that sustains the elementary or primary goals of the society of states, or international society'.¹⁰³ International order is maintained by institutions, or a 'set of habits and practices shaped towards the realisation of common goals'.¹⁰⁴

The revised version of Constructivist Realism developed here regards international order to be based on security imperatives encapsulating the goals of primacy, independence and peace, as described by Bull. The Realist imperative for states to achieve security within the international system is assumed to be universal and enduring, notwithstanding changes in material realities. The social construction of institutions that seek to achieve these strategic aims, however, do change in line with evolving material realities and the emergence of new security challenges.

⁹⁹ Bull, H. (1995). The Anarchical Society: A Study of Order in World Politics: 3

¹⁰⁰ Ibid.: 16

¹⁰¹ Ibid.: 16

¹⁰² Ibid.: 17

¹⁰³ Ibid.: 8

¹⁰⁴ Ibid.: 71

Threats are phenomena that cause other phenomena. As such, threats cause the construction of institutions in line with strategic imperatives. Institutions that seek to maintain international order through the facilitation and legitimisation of state practice undertaken 'towards the realisation of common goals' adapt to the demands of changing material realities. For example, the institution of sovereignty has continually adapted to fit evolving situations comprising different threats, from religious conflict and war in the national interest to intrastate war and terrorism. The erosion of states' right to exercise absolute sovereignty in the post-Cold War period, for instance, reflected the strategic imperative to intervene in conflict occurring inside state borders – a situation that was anathema to the authors of the treaties of Münster and Osnabrück at the 1648 Peace of Westphalia who established sovereignty as a political and legal principle.

The Rational Action/Legitimate Action Astigmatism

Accordingly, institutions can be described as rational but not necessary. The rationality of state behaviour is derived from empirical investigations of ever-changing phenomena that are perceivable, but not necessarily perceived. State practice is rational when it succeeds to facilitate action that achieves security aims within material situations. Rational action represents logical behaviour in line with strategic imperatives and the nature of observable security threats. Prevention, for instance, in the face of unconstrained phenomena that are not subject to coercion or deterrence, is rational given the material need to address threats pro-actively. However, prevention is not necessary because the preventive state practice is contingent on empirical investigation of threats that cannot be determined *a priori*. Legitimate action represents state practice that observes the social agreement of values that seek to enforce rational action through legal and socio-political instruments, in support of the strategic imperatives essential to international order. Legitimising institutions, such as the self-defence and collective security institutions enshrined in the UN Charter are contingent on social agreement of what valid and acceptable behaviour is and what is not. If legitimising institutions, such as the UN Charter, do not reflect rational action in light of material realities – such as prevention in the face of unconstrained threats – then a rational

action/legitimate action astigmatism ensues. In this case, international order is hard to sustain considering the emergence of state practice that challenges legal notions of valid and acceptable behaviour and, therefore, the authority and control of international law.

CONCLUSIONS

The principle analytical strength of Constructivist Realism is its focus on the empirical and its identification of the value of social processes in the international system. Recognising that actors and threats are perceivable but not necessarily perceived, as well as the continued importance of the State, are particularly useful insights given the complexities and nuances of the contemporary international system. The target to provide analytical rigour to Constructivism and make Realism realistic is correct, but Gow falls short of it by inflicting his theory with a fatally problematic relationship between necessity and construction. The revitalisation of Constructivist Realism with Phenomenalist ontology, epistemology and causation, means, however, that the target can be reached. The elimination of necessity from Constructivist Realism means that phenomena in the international system can be meaningfully described, and rational action in a constructed world can be explained.

CHAPTER TWO

Prevention

INTRODUCTION

The emergence of prevention as rational action in international society reflects the construction of institutions in line with changes in material realities. Prevention is not, however, necessary.¹⁰⁵ The rationality of prevention is empirically rooted and in line with strategic imperatives derived from investigation of threats that are perceivable, rather than perceived. Empirical verification of the existence of unconstrained and extremely violent terrorist groups operating covertly in the post-9/11 era has led to a re-rationalisation of the principles of sovereign independence and the non-use of force that underpin international order, as well as a re-conceptualisation of the danger posed by WMD proliferation.

Indeed, the institution of prevention has adapted to meet evolving material security demands. The post-World War One strategic imperative to react to occurrences of attack by coercible, risk-averse states was enshrined in the UN Charter in the face of the threat posed by interstate war. Subsequently, the logic of deterrence that characterised the Cold War situation supported a coercive strategy that relied on reactive mechanisms to protect a UN order based on the mutual recognition of sovereignty. In the post-Cold War world, however, an observable material reality consisting of non-state threats to international order operating inside and across state borders prompted the construction of a new strategic imperative to prevent conflict from occurring within states, not just between states. Pro-active mechanisms taken as part of a strategy to control threats supported the post-Cold War imperative of conflict

¹⁰⁵ As explained in Chapter 1, necessity is a metaphysical claim that can be expressed only in tautological statements. Since politics cannot be expressed in tautological statements, but only in statements of fact, institutions cannot be described as necessary.

prevention, which, although preventive in ambition, was strictly limited to the diplomatic sphere. After 9/11, however, the strategic imperative to prevent attacks by unconstrained actors has made prevention more urgent. A coercive strategy in the face of risk-taking, non-state terrorist groups that embrace death and aim to cause mass destruction fails to make sense¹⁰⁶. Rather, a controlling strategy that seeks to address threats before they materialise through pro-active mechanisms, including the option of military force, represents rational action in recognition of undeterrable and incoercible threats of potentially catastrophic magnitude¹⁰⁷.

However, despite its strategic rationality, prevention does not represent, *per se*, legitimate action in the post-9/11 era. The establishment of strategic imperatives based on empirical verification of the post-9/11 material reality has not been accompanied by social agreement on the rules that regulate action taken in anticipation of threats that are determinable through the assessment of information, as opposed to action taken in reaction to actual attacks. Socially-agreed values have not been constructed around the post-9/11 material reality. Consequently, preventive state action represents *de facto* state practice that tests the authority and control of the legitimising institutions in light of new strategic imperatives.¹⁰⁸ This situation marks a rational action/legitimate action astigmatism in the face of ever-changing strategic realities. Resolving this astigmatism by reconstructing legitimising institutions to enable states to take rational action based on the assessment of information is the foremost challenge for states seeking to maintain international order against unconstrained threats that demand prevention.

This chapter has four sections. Section one examines the concept of prevention and establishes a definition of 'prevention' that is to be used in this thesis.¹⁰⁹ Section two examines the status of prevention in the post-1945 and Cold War eras. Section three

¹⁰⁶ Freedman, L. (2004). Prevention, Not Preemption. Reshaping Rogue States: Preemption, Regime Change, and US Policy toward Iran, Iraq and North Korea. A. T. J. Lennon and C. Eiss. London, MIT Press.

¹⁰⁷ Ibid.

¹⁰⁸ The concepts of 'authority' and 'control' of international law are contained in Arend, A. C. (2004). International Law and the Preemptive Use of Force. Reshaping Rogue States: Preemption, Regime Change, and US Policy toward Iran, Iraq and North Korea. A. T. J. Lennon and C. Eiss. London, MIT Press.

¹⁰⁹ The definition of 'prevention' used in this study builds on the definition of 'prevention' used by Lawrence Freedman. See Freedman, L. (2004). Prevention, Not Preemption.

examines the status of prevention in the post-Cold War era. And, section four examines the status of prevention in the post-9/11 era.

SECTION ONE: DEFINING PREVENTION

Prevention vs. Pre-emption

In a way, prevention has been the strategic imperative of international society since its inception at the Peace of Westphalia. The principle of sovereignty was constructed, and has since been re-constructed, to prevent war from occurring for a variety of reasons, ranging from religion and dynasties to national interests. However, ‘prevention’ in strategic terms means something more than the wish to avoid violence. Prevention is action taken in anticipation of threats, rather than in reaction to the materialisation of threats. The term encapsulates action that seeks to both prevent and pre-empt threats, as each action is often understood. This broad definition of ‘prevention’ is important because it diminishes the starkness of the distinction cited by scholars between preventive and pre-emptive action, and enables a clearer distinction to be made between coercive, reactive action and controlling, proactive action, which is the important dichotomy in strategic terms.¹¹⁰ This approach does not ignore the differences between prevention and pre-emption, it merely subordinates the importance of these differences to the more crucial distinction between coercive strategies designed to react to attacks by risk-averse actors that are, in principle, deterrable, and controlling strategies taken proactively in anticipation of attacks by unconstrained actors.¹¹¹ These concepts will be explored below.

Before the differences between coercive/reactive and controlling/proactive strategies are examined, the distinction between prevention and pre-emption is worth noting, if only to affirm the range and type of action that is meant by ‘prevention’ here. Lawrence Freedman offers the most effective description of the differences between action that intends to pre-empt threats and action that intends to prevent threats, and

¹¹⁰ Freedman, L. (2004). Prevention, Not Preemption.

¹¹¹ Ibid.

he articulates it along the following lines.¹¹² Imagine State A is in conflict with State B. State A's firm intentions and robust capabilities to defend its interests have made State A feel confident that it has deterred State B, given that State B knows that it would face either tough resistance from State A (Freedman calls this deterrence by denial) or 'punitive retaliation' (deterrence by punishment) if it launched an attack. Now imagine State A perceives State B is growing stronger to the point that State B would soon be powerful enough to overwhelm State A's resistance or effectively cushion the blow of any retaliatory action. State A may decide to take action in order to prevent State B from reaching the position of being able to feel bold enough to strike. Freedman claims that State A's action would qualify as prevention if, at a minimum, it had the objective of either disarming State B in order to keep it militarily less powerful, or changing the character of the political regime of State B so that whatever State B's military capability, it would no longer pose a threat.¹¹³ On the other hand, State A might decide to not take preventive action and, in doing so, might allow State B to acquire a superior capability. At this stage, State A might judge that State B is no longer subject to deterrence, regret not taking action before and decide to take action immediately in order to pre-empt an imminent attack. Freedman claims that 'a pre-emptive war takes place at some point between the moment when an enemy decides to attack – or, more precisely, is perceived to be about to attack – and when the attack is actually launched'.¹¹⁴

For Freedman, preventive action and pre-emptive action have different rationales and cause different effects. Prevention is 'cold-blooded' and 'intends to deal with a problem before it becomes a crisis'.¹¹⁵ Preventive action nips inferior threats in the bud before they grow in strength by exploiting 'existing strategic advantages by depriving another state of the capability to pose a threat', or by bringing about regime change.¹¹⁶ The desired effect of addressing factors that may contribute to the development of threats is the creation of situations where threats do not have the chance to become

¹¹² Freedman, L. (2004). Prevention, Not Preemption.

¹¹³ Ibid.

¹¹⁴ Ibid.: 39

¹¹⁵ Ibid.: 39

¹¹⁶ Ibid.: 38

imminent, and deterrence is maintained. In contrast, pre-emption is 'a more desperate strategy employed in the heat of crisis'.¹¹⁷ Pre-emptive action is more likely to trigger unintended consequences, including starting a possibly unnecessary and undesirable war with a highly capable adversary, and creating an adverse change in the very balance of power that pre-emption sought to protect.¹¹⁸

Whilst Freedman makes it clear that prevention and pre-emption are different, their differences exist really as tactical variations of the same strategy, namely to deal with threats 'as they develop rather than after they are realised'.¹¹⁹ The substantial difference between prevention and pre-emption is that prevention is taken to address threats early, whilst pre-emption is taken to address threats later.¹²⁰ Preventive action and pre-emptive action represent two tokens of a single type of strategy that anticipates attack, and seeks to control events by pro-acting against perceivable threats. This type of controlling, proactive strategy stands in contrast with the type of strategy that reacts to attack.¹²¹ In the contemporary strategic environment, it is the dichotomy between controlling/proactive strategies taken against a range of adversaries, including non-state actors, and coercive/reactive strategies executed primarily in the face of state adversaries that is important. However, it is understanding the rationale of preventive action as a type of strategy *vis a vis* deterrence, rather than as a means of reinforcing scenarios governed by the logic of deterrence, whether it is taken early to address a weak but strengthening threat or later to address a strong threat that is perceived to be imminent, that is essential to succeeding in defining prevention as an institution that represents rational action in the face of perceivable non-state threats that are unconstrained by balance of power politics, undeterrable in principle and potentially catastrophic if allowed to materialise. The definition of 'prevention' used here encapsulates both preventive action and pre-emptive action as described by Freedman, and is used to describe controlling strategies that seek to pro-act, at either early or late stages of development, threats that require tackling prior to their realisation.

¹¹⁷ Freedman, L. (2004). Prevention, Not Preemption: 39 - 40

¹¹⁸ Ibid.: 40

¹¹⁹ Ibid.: 37

¹²⁰ Ibid.

¹²¹ Ibid.

Coercion vs. Control

In order to understand prevention, it is important to explain the differences between coercive and controlling strategies.¹²² The aim to control events and situations is an essential feature of strategies that seek to prevent threats, and it constitutes one of the two major qualitative differences between prevention and the coercive security strategy that is currently codified in international law. The other major difference is pro-action, which, along with the reactive self-defence and collective security institutions that are enshrined in the UN Charter, is examined later below.

Coercive Strategies

Coercive strategies, such as deterrence, aim to maintain existing balances of power by containing threats through the instilment of fear over potential adverse consequences of non-compliance with the *status quo*. As such, coercive strategies assume the existence of threats and adversaries that are, both in principle and practice, deterrable.

Consider State C and State D. State C is confident that it has the might to coerce State D into observing the *status quo*, despite the fact that State D is developing a strong military capability. In recognition of this security dilemma, State C, in response to State D's rate and scale of military growth, acquires a nuclear weapon in order to deter State D from launching an attack. State D mirrors State C's behaviour and develops a nuclear capability of its own. In time, State C and State D have 1,000 nuclear weapons each, some of which are hidden. State C considers pre-empting a nuclear attack by State D by attacking and eliminating State D's nuclear capability, but decides that the approach is too risky: if the attack fails to destroy all of State D's nuclear assets, then State D could retaliate with its remaining nuclear weapons to potentially catastrophic effect and bring about the very war that State C's pre-emptive action sought to prevent. As such, State C and State D remain locked in a symmetrical military stand-off, each afraid of attacking the other for fear of assuring its own destruction.

¹²² See Freedman, L. (2004). Prevention, Not Preemption.

Actors that adopt coercive strategies such as deterrence outlined above ‘assume that an adversary’s relevant calculations can be influenced’ in light of the self-interest of the adversary to survive and prosper.¹²³ An adversary is deterred when the potential cost of attacking outweighs the benefits of not attacking, in line with its self-interest to ensure its own well-being. Its decision-making processes err on the side of caution, and its cost-benefit strategic calculations are informed by the context within which they make them. Deterrence works between two or more risk-averse adversaries whose power relations are balanced either in favour of one power, which is able to coerce other powers to comply with the *status quo*, or symmetrically where powers are equally matched and coerced to maintain the *status quo* through fear of mutually assured destruction.¹²⁴

Controlling Strategies

In contrast, controlling strategies, as the name suggests, aim to control adversaries that cannot be relied upon to take cautious decisions. The type of anticipatory strategy represented by State A’s preventive and pre-emptive actions against State B, in Freedman’s scenarios, is a controlling strategy, in that each action seeks to deal with actors that are not risk-averse. In Freedman’s example, State A perceives State B to be developing, or to have developed, a military capability that would enable it to fend off concerns over State A’s ability to resist or retaliate against an attack. As such, State A takes action early to prevent a weak threat from becoming stronger, or later to pre-empt an attack that is deemed to be imminent. To continue Freedman’s narrative further, were State A to decide to take neither preventive nor pre-emptive action, and State B were to invade State A, then State B’s victory reflects the result of unconstrained behaviour: State B decides to attack State A because it judges that the benefits of attack outweigh the potential costs. In this case, the originally weak and coerced State B becomes undeterred in practice as the balance of power changes and circumstances allow State B to become a risk-taker. However, State B remains undeterrable in principle; even after State B’s victory, another State could emerge as a

¹²³ Freedman, L. (2004). Prevention, Not Preemption: 38

¹²⁴ Ibid.

stronger rival in the balance of power and deter State B in the way that State A had succeeded previously. Furthermore, to clarify the status of State B as deterrable in principle, the preventive and pre-emptive actions taken by State A to avoid a scenario where it is invaded by State B, in Freedman's original illustration, are examples of a controlling strategy taken solely in support of a coercive one. State A uses force to prevent or pre-empt an attack by State B in order to maintain the *status quo* in which State A is able to coerce State B in the existing balance of power. This controlling/coercive strategic mix works because State B is deterrable in principle, considering State B's enduring self-interest to survive and the ever-present constraint placed on its behaviour by context-dependent cost-benefit calculations.

Indeed, the fundamental difference between coercive and controlling strategies is that controlling strategies are taken against actors that are not afraid of any adverse consequences entailing from non-compliance with the *status quo*. Controlling strategies can support coercive strategies, as explained above. However, in the face of actors that are undeterrable in principle – not just sometimes in practice – controlling strategies are taken as the primary means of maintaining the *status quo* against threats that cannot be coerced by the prospect of either tough resistance or punitive retaliation. Unconstrained non-state actors, such as al-Qaida, represent a different type of adversary. They gamble rather than mitigate risk.¹²⁵ They embrace death through martyrdom rather than maximise chances of self-survival. And, they view weapons of mass destruction as weapons of choice, rather than devices that entail deterrence based on the fear of mutually assured destruction.¹²⁶

Consider again State A, this time pitted against non-state adversary Terrorist E. State A's firm intentions and robust capabilities to defend its interests have, nevertheless, made State A feel vulnerable to Terrorist E, given that Terrorist E has been shown to be undeterred by the prospect of tough resistance or punitive retaliation. Unlike State A, Terrorist E has no territorial integrity and population to protect, or international laws to observe, and is motivated by the prospect of achieving death through a

¹²⁵ Freedman, L. (2004). Prevention, Not Preemption.

¹²⁶ Stern, J. (1999). The Ultimate Terrorists. London, Harvard University Press.

martyrdom operation whose end objective is to cause the utmost destruction and loss of life. State A's calculations are no longer context-dependent, as they were against State B. A coercive strategy is irrational by virtue of the existence of an adversary that is undeterrable in principle, not because of the emergence of an undeterred adversary within a shifting balance of power. Terrorist E's behaviour is not influenced by balance of power cost-benefit calculations, nor is it constrained by warnings of punishment were it not to comply with the *status quo*.

In this context, the usefulness of the distinction made by Freedman between prevention and pre-emption is eliminated, considering that the corresponding distinction between weak and strong threats disintegrates with regard to unconventional, undeterrable adversaries whose conventional military weakness constitutes their main operational strength. Any variation of a controlling strategy that anticipates an attack by Terrorist E seeks to eliminate the threat of attack at whatever stage of development, rather than support a coercive strategy that either reinforces or re-establishes a balance of power governed by deterrence, because the assumption that Terrorist E cannot be coerced endures. The important dichotomy here is between coercive and controlling strategies, not between prevention and pre-emption. In the case of State A against Terrorist E, State A's use of a controlling strategy is the only rational option open to it, given that any coercive activity by State A will not enable it to achieve its security goals. State A will not profit by waiting to see whether Terrorist E will be deterred; the onus on State A is to deny Terrorist E the capability to carry out the attack it intends to launch. This is not to say longer-term, diplomatic initiatives by State A to counter the root causes of terrorism are not rational; it is to say that if Terrorist E is perceived to constitute a threat, notwithstanding its stage of development, it would be irrational to attempt to coerce Terrorist E to comply with the *status quo*. Only a controlling strategy that addresses the threat posed by undeterrable Terrorist E before it materialises makes sense.

Re-visiting the scenario involving nuclear powers States C and D, with the involvement of Terrorist E, clarifies the rationale of controlling strategies in the face of an undeterrable terrorism threat. Consider State C and Terrorist E. State C and State D

are locked in a symmetrical nuclear stand-off, each afraid of attacking the other for fear of assuring its own destruction through retaliatory strikes. Now consider Terrorist E, who is perceived by State C to be seeking, or perhaps possessing, a nuclear weapon. State C is not certain whether Terrorist E has a nuclear weapon or not, but it is certain that Terrorist E wants one. The rational choice faced by State C between prevention and pre-emption dissolves in this case; what matters is not whether the threat posed by Terrorist E is at its early or late stage of development, but whether the threat posed by Terrorist E can be controlled. State C will glean no strategic benefit by choosing to act either early or late against Terrorist E, because coercion is not a factor in State C's strategic calculation. The assumption is that Terrorist E will use a nuclear weapon if it acquires one – it is assumed that for Terrorist E, unlike States C and D, acquisition of a nuclear weapon means deployment.¹²⁷ Therefore, strategically-speaking, there is no distinction between prevention and pre-emption when it comes to addressing the threat posed by Terrorist E. Preventing Terrorist E from acquiring a nuclear capability, and pre-empting an imminent attack by Terrorist E involving a nuclear weapon, are equivalents given the assumption that acquisitions means deployment. The crucial security imperative for State C is to control the enduring and constant threat posed by Terrorist E in order to prevent the threat from materialising.

The nuclear deterrent that balances power between States C and D does not explain the strategic relationship between State C and Terrorist E, for two reasons. Firstly, Terrorist E is a risk-taker who is not motivated by self-survival. Whereas State D considers it too risky to attack State C for fear of triggering a potentially catastrophic response and bringing about a situation it seeks to prevent, Terrorist E is constrained neither by fears of retribution nor by concerns over an undesirable war, considering Terrorist E plans to die in the attack. Secondly, State C and Terrorist E hold an asymmetric strategic relationship. In addition to being unconstrained by fear over punitive responses, Terrorist E's strategic goals are served best through the use of nuclear weapons, not through their exhibition for deterrence purposes. In order to

¹²⁷ Benjamin, D. and S. Smith (2005). The Next Attack: The Globalization of Jihad. London, Hodder and Stoughton. Kenneth Waltz's argument that the very possession of WMD imposes constraints on their use does not apply to 'gambler' actors, like al-Qaida, that are assumed to view WMD as offensive weapons.

compensate for its lack of any second-strike capability and its weak conventional military power, Terrorist E is willing to use its nuclear capability as an offensive weapon in support of its strategic objective to maximise fear and destruction. A nuclear weapon is useful to Terrorist E as an offensive instrument in a way that it is not useful to both States C and D. As such, State C assumes that Terrorist E, a conventionally-weak actor unconstrained by the laws of war or the logic of deterrence, and motivated by the desire to die whilst causing wanton mass destruction, will use a nuclear weapon given the opportunity.

The assumption that an adversary will use force given the chance makes preventing that adversary from acquiring the means to do so a strategic imperative. This imperative is all the more important considering the prospect of an unconstrained actor utilising weapons of mass destruction. In the case of State C vs. Terrorist E, as with the case of State A vs. Terrorist E, a controlling strategy represents rational action in support of the goal of achieving security against an undeterrable and incoercible adversary that, it is assumed, will use force once the means to do so are acquired. The imperative to control this type of threat entails the need for a strategy that pro-acts to address potential attacks, rather than one that reacts to attacks that have already occurred.

Reaction vs. Pro-action

After control, the second definitive characteristic of prevention is pro-action. In order to be effective, controlling strategies that are designed to prevent threats need to be capable of pro-acting against undeterrable adversaries. A controlling strategy that reacts to an attack signals a strategic failure. The capability to pro-act against adversaries in order to prevent attacks before they materialise is essential to the success of controlling strategies against threats that cannot be coerced through deterrence. Indeed, it is impossible to control undeterrable threats without pro-acting; acting rationally to control undeterrable threats, therefore, requires the capability to act pro-actively. The strategic requirement to pro-act to control contemporary threats is

highlighted further by the recognition of the potentially catastrophic WMD terrorism threat.

Reactive Mechanisms

Reactive mechanisms facilitate coercive strategies such as deterrence, which are based on the assumption that adversaries are deterred from attacking by the prospect of potentially damaging reactions to non-compliance with the *status quo*. The fear of potential reaction by others is an essential feature of coercive strategies: nuclear deterrence, as illustrated in the scenario involving States C and D above, works because State C and State D each fear the reactions of the other to a nuclear attack. The risk of second strike capabilities reacting to a first strike deters each state from using nuclear weapons offensively. As such, the threat posed by nuclear war between States C and D is contained. Coercive strategies, such as nuclear deterrence, therefore, operate through reactive mechanisms. Security and stability are maintained by the effect of deterrence caused by the mechanisms in place to react to non-compliance with the *status quo*.

Reactive mechanisms are also at play in the scenario involving States A and B, as illustrated above. State A is able to deter State B from attacking because it is capable of coercing State B into complying with the *status quo* by threatening it with tough resistance or punitive measures if and when it decides to launch an attack. State A is confident that it can deter State B because State A knows that State B fears its military capability to react powerfully against any potential attack. State A might wish to reinforce or re-establish this coercive strategy by taking preventive or pre-emptive measures in order to showcase its power and demonstrate the type of reaction State B would face if it chose to launch an attack. Were State A to implement a controlling strategy in this way, the pro-active measures taken would be in support of State A's over-arching coercive strategy that operates on reactive mechanisms.¹²⁸

¹²⁸ Freedman, L. (2004). Prevention, Not Preemption.

Reaction is important not only as a facilitating mechanism for coercive strategy; the concept of reaction also represents legitimacy within contemporary international society. International law regulating the use of force between states remains based on the principle of 'strike if and when struck upon'. Reaction defines the kind of military action that is legitimate. A state acts legitimately only if an armed attack occurs against it. This precept underpins the self-defence and collective security institutions that are enshrined in the UN Charter and, thus, codified in international treaty law. State A, for example, is able to use force in self-defence against State B only if State B first attacks State A. The type of preventive and pre-emptive actions taken by State A against State B, as illustrated in Freedman's original scenario, are illegitimate uses of force, according to the self-defence criteria. For State A to act legitimately, State A would need to be reacting to an actual attack by State B in order to use force against it. The condition that states use force only in reaction to attack is also fundamental to the UN's collective security institution. The UN Security Council, the body uniquely responsible for maintaining international peace and security, is, too, constrained by the self-defence criteria. The UNSC is able to authorise the use of force only in the event of a material breach of the peace, namely an act of aggression involving armed force by one state against another. Reactive mechanisms frame the entire legitimising framework for the use of force in the international system. As such, reactive mechanisms facilitate coercive strategies between deterrable actors, as well as define the type of action, as prescribed by international law, that is legitimate. Section two examines further the concept of legitimacy in international relations and the institutions enshrined in the UN Charter that regulate the use of force between states and sustain international order.

Pro-active mechanisms

In contrast with reactive mechanisms, pro-active mechanisms facilitate controlling strategies in the face of unconstrained adversaries. As explained above, unconstrained adversaries, such as death-embracing non-state terrorist phenomena like al-Qaida, cannot be coerced and deterred from attacking by the prospect of potentially damaging reactions to non-compliance with the *status quo*. As such, threats posed by

unconstrained actors must be controlled through pro-active mechanisms. Pro-action is action that is taken in advance to deal with an expected difficulty, and is anticipatory in nature. Unlike the use of force in coercive strategies, force in controlling strategies operating through pro-active mechanisms is not used in reaction to the occurrence of an attack, but in anticipation of an attack, in order to prevent a threat from materialising in the first instance. Pro-action is an essential component of controlling strategies.

Imagine again State A and Terrorist E. State A's perceived vulnerability to unconstrained Terrorist E means that State A's use of a controlling strategy against Terrorist E is the only rational option open to it, given that any coercive activity by State A will not enable it to achieve its basic security goals. As explained above, only a controlling strategy that addresses the threat posed by Terrorist E before it materialises makes sense for State A, because Terrorist E is assumed to be undeterrable by either the prospect of tough resistance or punitive retaliatory action. Accordingly, State A cannot afford to rely on reactive mechanisms to ensure reasonable levels of security in the face of Terrorist E – State A must take pro-active measures in order to control the threat before it has a chance to materialise. These pro-active measures do not share with reactive mechanisms the principle of 'strike if and when struck upon'; rather, they are guided by the imperative to strike unconstrained adversaries prior to the launch of an attack, based on the empirically-derived impression that unconstrained adversaries will use force once they have the capability to do so.

The strategic imperative to prevent threats that drives pro-action applies to an even greater degree in the scenario involving State C and Terrorist E. Terrorist E is perceived by State C to be seeking, or perhaps possessing, a nuclear weapon. Given that Terrorist E is considered by State C to be undeterrable, the rational option for State C is to act pro-actively in order to prevent Terrorist E from achieving the means to deploy a nuclear capability. Calculations assessing first and second-strike capabilities do not feature in State C's strategic planning. The perception that Terrorist E will use a nuclear weapon if it possesses it is a strategic corollary, and the onus is on State C to ensure its own security by anticipating an attack and acting forcefully in advance of its

occurrence. As with State A, State C cannot rely on reactive mechanisms to ensure Terrorist E's compliance with the *status quo*, since Terrorist E does not share State C's interest in survival and prosperity that may entail from any balance of power. As such, Terrorist E is incoercible; the crucial security imperative for State C is to prevent the threat posed by Terrorist E from materialising. The only way for State C to deal with the perceived threat posed by Terrorist E is to control it, and the only way to control it is through pro-active mechanisms.

Pro-action facilitates controlling strategies that define rational action in the face of unconstrained threats that demand prevention. However, pro-action does not define legitimate action as prescribed by international law, in the way reaction does. Indeed, pro-action contravenes the self-defence and collective security institutions, codified in Articles 39 and 51 of the UN Charter respectively, which govern the use of force in international society. The material reality of threats posed by unconstrained, non-state actors in the international system has no corresponding value system, as the material reality of threats posed by interstate war has. The UN Charter reflects values constructed around the material reality that existed in the wake of the First and Second World Wars. The principle threat to international security at that time was interstate war, and reactive mechanisms to regulate the use of force between war-weary, deterrable states were developed to maintain international security in the face of that threat within a coercive framework. If a state breached the peace through the use of force, it would face harmful consequences. The Cold War reinforced this coercive framework by upping the ante: if a state used nuclear force, it could face consequences that might assure its own destruction. Pro-active mechanisms constructed by states to deal with a different reality contravene this coercive framework by supporting an approach that seeks to control adversaries that can't be trusted to obey the rules.

Indeed, the relationship between current international law and pro-action is highly problematic. First and foremost, pro-active measures contravene the condition that force may be used only 'if an armed attack occurs'.¹²⁹ For a controlling strategy, such a

¹²⁹ Article 51 of the UN Charter states that 'Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations...'.

condition is irrational; unconstrained threats that demand controlling require pro-active action that seeks to prevent armed attacks from occurring in the first place. Secondly, demonstrating the necessity of pro-action against a threat that has yet to materialise is more difficult than demonstrating the necessity of a reaction against an attack that has already happened. The necessity requirement for self-defence is hard to fulfil in the face of threats that risk damage. In relation to this, it is difficult to ascertain what proportion of threat is necessary to eliminate threats like terrorism that endure (see Section Two).

Indeed, pro-active measures are generally not accepted as legitimate strategic mechanisms. The controversy surrounding pro-active measures taken by states in support of controlling strategies indicate that pro-action is an exception in international relations that proves the rule that reactive mechanisms, not pro-active ones, define the legitimising institutions of international society. The 1962 Cuban Missile Crisis involving the US and the Soviet Union, the 1967 Six-Day War between Israel and the United Arab Republic, the 1981 Israeli attack on Iraq's Osirak Reactor, NATO's 1999 Kosovo campaign, and US and UK's 2003 action against Iraq all exemplify controversial threatened or actual pro-active uses of force. Today, in a world where threats posed by unconstrained non-states actors demand prevention, a fault line exists between not only coercive/reactive strategies and controlling/pro-active strategies, but between rational action and legitimate action in a material reality where values underpin legitimising institutions that fail to reflect rational action in line with contemporary strategic imperatives.

To conclude and reiterate, 'prevention' is defined here as a controlling strategy that seeks to address through pro-active mechanisms unconstrained threats, at whatever stage of development, before they materialise. Prevention represents rational action in the face of undeterrable and incoercible threats of potentially catastrophic magnitude.

The remaining sections of this chapter examine threats, rational action, legitimate action and the status of prevention in three different eras: the post-1945/Cold War era; the post-Cold War era; and, the post-9/11 era. They show how prevention evolved

from pariah activity to a strategy that influenced and then later defined rational action, against the backdrop of a static legitimising institutional framework that created a rational action/legitimate action astigmatism in the face of ever-changing strategic realities.

SECTION TWO: THE UN ORDER AND PREVENTION

In 1945, the reality of the devastating threat posed by interstate war led to the construction of an international order designed to prevent conflict between states. This international order was codified in the UN Charter, a treaty that was signed by 50 states in June 1945 and ratified by the leading founding states – the US, UK France, China and the Soviet Union – and other signatories in October of that year. The UN Charter enshrined customary laws governing, for instance, the use of force in self-defence, and established an order that was based on the mutual recognition of sovereignty and protected by a system of collective security. Today, the UN order endures; over 60 years after its foundation, the UN has 192 member states bound by the provisions of its Charter. The US, UK, France, China and, now, Russia, remain as the permanent members of the UN Security Council, the body uniquely responsible to authorise action to protect order against threats in line with a coercive security strategy that uses reactive mechanisms to address material breaches of the *status quo*.

Threats

The horrors of the First and Second World Wars caused states to take steps to build institutions that made interstate war less likely. At the cost of 60 million lives, war between states in the first half of the 20th century had left states war-weary and reluctant to accept war as normal practice, especially in light of the invention of highly-destructive weaponry that was capable of being produced on an industrial scale. By 1945, the cost of war had come to outweigh its benefits in human, political and economic terms, and states sought to establish both practical and normative measures in support of the strategic imperative to prevent interstate conflict. The declared aim of the UN to ‘save successive generations from the scourge of war’ reflects this

strategic imperative, and the institutions constructed to achieve this aim – self-defence and collective security – represented rational action in light of this strategic imperative. Rules were imposed on all UN signatories to ensure compliance with the post-1945 *status quo* as represented by the new UN order based on the mutual recognition of sovereignty.¹³⁰

In addition to the threat posed by conventional interstate conflict, the post-1945 material reality involved the existence of a threat posed by nuclear war. Whilst Cold War competition between the US and the Soviet Union led to paralysis in the UN Security Council, the East-West nuclear rivalry underscored the rationality of the UN institutions. The value of observing the principles of sovereign independence and the non-use of force in international relations was bolstered by the threat of nuclear Armageddon. Whilst states remained averse to the risk of engaging in costly conventional war, the prospect of a nuclear exchange was an unacceptable risk that neither the West nor the East was prepared to countenance as a viable strategic end-game. The imperative to prevent interstate war, which provided the rationale for the UN order and the rules and institutes that maintained it, was reinforced by a strategic situation in which war between states could entail the destruction of both victim and aggressor in a single exchange.

Rational Action

Faced by a post-1945 material reality comprising threats posed by conventional and nuclear interstate war, risk-averse states constructed rules and institutions that sought to prevent conflict from occurring. The ensuing rational framework that supported the strategic imperative to prevent war between states was based on a coercive strategy designed to deter states from non-compliance with the post-1945 international order. It operated on mechanisms that were set to react, possibly through force, to any occurrence of attack.¹³¹ The mantra ‘strike only if struck upon’ represented the central

¹³⁰ Roberts, A. and B. Kingsbury, Eds. (2000). United Nations, Divided World: The UN's Role in International Relations. Oxford, Oxford University Press.

¹³¹ Ibid.

pillar of the UN order entailed from the principles of sovereignty and the non-use of force, and codified by the self-defence and collective security institutions. These are detailed below.

Sovereignty

The UN order was constructed around the principle of popular national sovereignty. The predominance of sovereignty in the UN order reflects the evolution of the sovereignty principle as the primary organising concept in international politics. Sovereignty was first established in 1648 at the Peace of Westphalia. The treaties of Münster and Osnabrück, which marked the end of the Thirty Years War in 1648, created a number of governing provisions for the conduct of international relations, given the strategic imperative to prevent religiously-motivated war. The most significant of these provisions were the principles of self-determination and non-intervention. These principles came to constitute the internal and external aspects of sovereignty: the internal aspect allows the sovereign to determine the political governance and religious disposition of a state within demarcated territorial boundaries; the external aspect disallows any sovereign to interfere with the internal religious practices or political governance of another sovereign power.¹³² This dual-aspect principle of sovereignty provided the building block for a new international order based on the 'mutual recognition of sovereigns' that was codified by international legal practice.¹³³

Although it removed religion as a *casus belli*, the Westphalian international order did not prevent war between states from breaking out – Princes' ambitions and dynastic interests provided ample motivation to justify war in the name of the state in the post-Westphalian period. In 1789, the notion that war should be fought in the name of the dynastic state was challenged by French revolutionaries. Indeed, the French Revolution triggered a seismic shift in the sovereignty principle away from governing dynasties and

¹³² Shaw, M. (1997). International Law. Cambridge, Cambridge University Press.

¹³³ Ibid.

toward governed populations.¹³⁴ The replacement of dynastic sovereignty with popular sovereignty relocated the source of sovereignty to the people, but did not alter the nature of sovereignty as a political and legal precept. The mutual recognition of sovereignty, based on self-determination and non-intervention, endured as the basis of international order throughout the great wars of the first half of the 20th century, which were fought in accordance with the notion that war in the name of the nation was a justifiable enterprise.¹³⁵ In the wake of the First World War, efforts by the League of Nations to promote national self-determination whilst enforcing non-intervention failed, as testified by the further loss of life incurred by the Second World War.

In line with the strategic imperative to prevent interstate war and maintain international order based on the mutual recognition of sovereignty, the UN was set up to enshrine the two aspects of the sovereignty principle in conjunction with serious punitive mechanisms that would react to state aggression. The two relevant articles of the UN Charter that codified the internal and external aspects of the sovereignty principle were articles 2(7) and 2(4), respectively. Article 2(7) reads:

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

Whilst Article 2(4) reads:

All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

The strategic imperative to maintain a UN order based on self-determination and the non-use of force reflected the type of threats perceived by states in the post-1945

¹³⁴ Gow, J. (2000). "A Revolution in International Affairs?" *Security Dialogue* 31(3): 293 -306.

¹³⁵ Howard, M. (1994). War and Nations. *Nationalism*. J. Hutchinson and A. D. Smith. Oxford, Oxford University Press.

environment. In the face of the threat posed by interstate war, the strategic imperative was to construct an order founded on territorial independence and the prohibition of force in international relations with the aim of preventing the 'scourge' of conflict between states. Rational action in line with this strategic imperative was institutionalised to protect the UN order. The right to self-defence and collective security machinery, the 'enforcement measures under Chapter VII' as referred to in Article 2(7), were codified to enable states to act against the threat posed by interstate war in support of rational framework based on the mutual recognition of sovereignty.

Self-defence

The principle of self-defence, as codified in the UN Charter, presents the clearest indication of the coercive nature of UN security strategy and the reactive mechanisms that states have at their disposal to act against threats that fail to observe the rules.

The roots of the self-defence principle can be traced back to the early 19th century when, in 1837, the British attacked a ship called the *Caroline*.¹³⁶ At the time, Britain, who enjoyed peaceful relations with the US, was engaged in conflict with insurrectionists in Canada, over which it then ruled. British authorities learned that a ship owned by US nationals and moored on the US side of the Niagara River, the *Caroline*, was providing assistance to the anti-British rebels in Canada. On 29 December 1837, British forces entered the US by crossing the Niagara River, boarded the *Caroline*, killed several US nationals, set the ship ablaze and despatched it over Niagara Falls.¹³⁷ The British claimed that they had acted in self-defence, to the protests of US Secretary of State Daniel Webster.¹³⁸ In order to resolve the ensuing British-US dispute, and avoid any similar disputes in the future, Britain and America arrived at an agreed determination over what constituted acts of self-defence.¹³⁹ Two criteria that entitled a state to act in self-defence – necessity and proportionality – came to be recognised as

¹³⁶ Shaw, M. (1997). International Law.

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ Ibid.

the fundamental elements of the right to self-defence and formed the basis of customary law.¹⁴⁰

The requirement to prove that the use of force in self-defence is necessary was laid-out by Webster in a letter to Lord Ashburton, a British representative in Washington, in the wake of the *Caroline* crisis.¹⁴¹ In it, Webster declared that a state seeking to claim the right to act in self-defence would need to demonstrate that the ‘necessity of that self-defence is instant, overwhelming, and leaving no choice of means, and no moment of deliberation’.¹⁴² In other words, the threat against which self-defence is sought must be shown to be imminent and serious, and a military response must be taken as a last resort. In addition, states would be required to respond in a way that was proportionate to the threat it perceived. Any action that was taken in self-defence should not be ‘unreasonable or excessive’, and the act ‘justified by the necessity of self-defence, must be limited by that necessity, and kept clearly within it’.¹⁴³ The parameters of the use of force in self-defence were thus cast, and they remain in place today. According to the current international legal framework, a state uses force legitimately in response to a perceived threat if and when that state is able to demonstrate the necessity of such action; any response taken by a state must be the last resort and not exceed what is necessary to relinquish the immediate threat. A state would be acting illegitimately were these conditions not met (see Legitimate Action, below).

The *Caroline* formula that underpins the self-defence institution is provided for by Article 51 of the UN Charter, which protects ‘the inherent right of individual or collective self-defence if an armed attack occurs’:

Article 51 reads:

¹⁴⁰ Arend, A. C. (2004). International Law and the Preemptive Use of Force. The condition of ‘necessity’ in this context is not a metaphysical claim, as discussed in Chapter 1, but a principle in international law relating to the use of armed force in international relations. This thesis refers to ‘necessity’ as a metaphysical claim and a legal principle in different contexts, and these usages should not be confused.

¹⁴¹ Shaw, M. (1997). International Law.

¹⁴² Ibid.: 787

¹⁴³ Ibid.: 787

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

Given the strategic imperative to prevent the use of force between states, the self-defence institution as codified in Article 51 represents rational action. It services the strategic imperative to prevent interstate war and supports the UN order. The right to self-defence is limited by the duty of states to observe the sovereignty of others. The use of force in self-defence is allowed only if and when it is in reaction to an attack that has already taken place. Any use of force taken by a state against another state prior to the occurrence to an attack violates the pivotal UN articles 2(7) and 2(4), and challenges, rather than supports, that rationale and aims of the UN order. The self-defence institution, as codified in Article 51, provides an exclusively reactionary mechanism that supports an order that seeks to coerce states that are assumed to be interested in maintaining order and, therefore, deterred from breaking the rules.¹⁴⁴

Collective Security

The other pillar of the UN security framework is collective security. Whilst the right to self-defence provided for by Article 51 codifies a customary law that evolved from the *Caroline* case, the UN's collective security machinery is enshrined in treaty law as an institution established specifically to maintain the UN order. The concept of collective security is based on the logic that an attack against one is an attack against all. The UN Security Council was created to assume the responsibility to determine threats to international peace and security and take action to maintain order in the face of breaches of the peace.¹⁴⁵ The UNSC held its first session in London in 1947; the five

¹⁴⁴ Gow, J. (2000). "A Revolution in International Affairs?"

¹⁴⁵ Shaw, M. (1997). International Law.

permanent members of the UNSC at that time were the US, UK, France, the Republic of China and the Soviet Union. Today the 'P5' remain the same, except that the People's Republic of China and Russia have succeeded the Republic of China and the Soviet Union, respectively. Each permanent member has power of veto over UNSC decisions. The veto overrules any majority decision arrived at by the ten elected members of the UNSC, which are elected by the UN General Assembly to serve two-year terms each on a rotational basis.¹⁴⁶

Like the self-defence provisions of Article 51, collective security is provided for by Chapter VII of the UN Charter. Article 39 of Chapter VII reads:

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

The corresponding Articles 41 and 42 read, respectively:

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

and,

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

¹⁴⁶ Roberts, A. and B. Kingsbury, Eds. (2000). United Nations, Divided World: The UN's Role in International Relations.

The rationale of the UNSC is derived from the strategic imperative to prevent interstate war, and it represents the institutionalisation of the UN's coercive strategy to deter states from fighting each other by making available punitive mechanisms that are designed to react to attacks. The UNSC's responsibility to determine and take action against threats to peace and security is qualified by the same requirements of necessity and proportionality that limit the right to self-defence. The authority of the UNSC under Article 42 to 'take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security' is, as indicated, restricted by the requirement to demonstrate the necessity of force. In accordance with articles 2(7), 2(4) and 51, the use of force is necessary only if and when an armed attack occurs. In the event of an attack, the UN's collective security machinery can kick to life. In addition to the requirement to demonstrate necessity, the UNSC's action must be proportionate to what is required to achieve what is it is that is necessary 'to maintain or restore international peace and security'.

The Cold War Situation

The Cold War situation provided another *raison d'être* for an international security framework based on a coercive strategy and reactive mechanisms. The existence of two rival nuclear blocks engaged in ideological competition, spearheaded by the United States and the Soviet Union respectively, paralysed the UN's collective security machinery for most of the latter half of the 20th century.¹⁴⁷ The Cold War conflict between the US and the Soviet Union meant that the power of veto possessed by these two permanent members of the UNSC caused the UNSC to lock-down. Indeed, 279 vetoes cast by a divided Permanent 5 rendered the UNSC powerless to prevent over 100 major conflicts during the Cold War era, at the cost of 20 million lives.¹⁴⁸ However, the logic that underpinned the UN order was reinforced by the Cold War strategic situation. The coercive strategy that drove the UN order, and the reactive

¹⁴⁷ Gazarian, J. (2007). The Role of the Secretary-General: Some Reflections from the Past. **UN Chronicle Online Edition**.

¹⁴⁸ Voeten, E. (2002). "Outside Options and the Logic of Security Council Action." American Political Science Review 95(4).

mechanisms that protected it, corresponded with the reality of deterrence ensued by the logic of mutually assured destruction.

Although best described as a situation rather than a strategy, nuclear deterrence shared the same assumptions as the UN's coercive strategy. States were risk-averse actors that were deterrable in the face of the prospect of punitive action taken in reaction to any non-compliance with the *status quo*.¹⁴⁹ However, the consequences for Cold War protagonists were greater than the consequences provided for by the authors of the UN Charter; instead of the prospect of 'such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security', nuclear states that entertained the idea of launching an attack faced the prospect of nuclear retaliation. Like the UN strategy, the Cold War situation coerced states into observing the principles of sovereign independence and the non-use of force through fear of severe punitive reactions to occurrences of attack.¹⁵⁰ Reaction represented rational action given the strategic imperative to prevent nuclear exchange between coercible states.

Legitimate Action

Reaction represented not only rational action in the post-1945 era; it also defined legitimate action. The UN Charter was developed to achieve the strategic aim of preventing the 'scourge of war' between states and to provide a normative framework that sought to shape state practice based on socially-agreed values. The international legal precepts enshrined in the UN Charter represent the values that were constructed around the post-1945 material reality. These values, based on the principles of sovereign independence and the non-use of force, were instilled in the self-defence and collective security mechanisms. These serve as the legitimising institutions in international society. However, the UN order was not created on the assumption that interstate war was wrong; on the contrary, the use of force by states is an integral part of the UN's punitive system. Rather, the UN order was created on the calculation that

¹⁴⁹ Freedman, L. (2004). Prevention, Not Preemption.

¹⁵⁰ Ibid.

the cost of interstate war outweighed its previous benefits. The strategic imperative to prevent interstate war was arrived at through empirical observation of the post-1945 situation. The legitimising institutions represent the socially-agreed values that were constructed around this material reality, in support of empirically-derived strategic imperatives.

Whilst rational and legitimate actions are qualitatively different, their correspondence is important to the maintenance of order. In the post-1945 era, the strategic imperative to prevent interstate war was supported by a UN order sustained by institutions that legitimised rational action – it was logical and legal to limit the use of force to reactions against external attacks. The international law codified in the UN Charter succeeded in having authority and control in international society because states perceived it as law and it succeeded to shape state behaviour, respectively.¹⁵¹ The Gulf War of 1990-1991 showcased the UN order as authoritative and in control. The use of force by the US-led coalition against Iraq, acting under Chapter VII of the UN charter in reaction to Iraq's invasion of Kuwait, represented legitimate enforcement measures against an act of illegitimate aggression. The successful marriage of rationality with legitimacy in this case signalled that the UN order had authority and control in a material world in which the prevention of interstate war remained the strategic imperative.

Prevention in the Post-1945 and Cold War Situations

In conclusion of this section, the authority and control of the legal framework enshrining the UN's coercive strategy, and the reactive mechanisms through which it was executed, left little room for states to use controlling strategies that involved proactive uses of force. In the 1950s, for instance, the Eisenhower administration entertained the notion of acting preventively against Moscow in order to stop the Russians from achieving a nuclear capability.¹⁵² The decision was made by the Americans that the potential costs of such a strategy outweighed the potential

¹⁵¹ Arend, A. C. (2004). International Law and the Preemptive Use of Force.

¹⁵² Freedman, L. (2004). Prevention, Not Preemption.

benefits.¹⁵³ Eisenhower was also evidently concerned that any preventive action against Russia would be construed as illegal aggression.¹⁵⁴ A decade later, President John F. Kennedy deliberated over whether to use force against Beijing to prevent China from becoming a nuclear power.¹⁵⁵ The Kennedy administration rejected such a move and condemned any other attempts by states, specifically the Soviet Union, to take preventive action to this end.¹⁵⁶ In addition, during the tumultuous event of the 1962 Cuban Missile Crisis, the option mooted by US Secretary of State, Dean Rusk, of preventive action against the Soviet Union was not taken up, considering that members of the UNSC did not accept that ‘a necessity of self-defence, instant, overwhelming, leaving no choice of means and no moment of deliberation’ had been demonstrated.¹⁵⁷ Indeed, the Ghanaian delegation of the UNSC contested at the time that ‘incontrovertible proof is not yet available as to the offensive character of military developments in Cuba. Nor can it be argued that the threat was of such a nature as to warrant action on the scale so far taken, prior to the reference of this Council’.¹⁵⁸

When preventive action was taken by a state, it was deemed illegitimate by the vast swathe of the international community. Israel’s pre-emptive action in 1967 against Egypt, Jordan, Iraq and Syria, for instance, was heavily criticised by members of the UNSC as an illegal act of aggression.¹⁵⁹ However, the action had a measure of support from pivotal states including the US and UK.¹⁶⁰ The anti-/pro-Israeli divide in the UNSC over the Six Day War was principally political, with Moscow condemning pro-Western Israel and the West supporting a strategic partner in the Middle East.¹⁶¹ Nevertheless, neither the US nor the UK pledged support for prevention as a viable strategic doctrine, and the UNSC, in general, did not accept the legitimacy of Israel’s use of force in the interests of anticipatory self-defence against an alleged imminent

¹⁵³ Freedman, L. (2004). Prevention, Not Preemption.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ Arend, A. C. (2004). International Law and the Preemptive Use of Force. 25

¹⁵⁸ Ibid.: 25 - 26

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

¹⁶¹ Ibid.

Arab attack.¹⁶² Another preventive action by Israel, this time in 1981 against the Osirak reactor in Iraq, was again presented by Israeli delegates to the UNSC as anticipatory self-defence.¹⁶³ The British delegate, Sir Anthony Parsons, was not convinced by the Israelis contention that Israel had reacted in self-defence out of necessity to an imminent threat. Sir Anthony reflected the general UNSC view by arguing that the Israeli action 'was not a response to an armed attack on Israel by Iraq'.¹⁶⁴ As such, there 'was no instant or overwhelming necessity for self-defence'.¹⁶⁵ Furthermore, Israel's pro-action could not be 'justified as a forcible measure of self-protection'.¹⁶⁶ Ultimately, Sir Anthony, in line with the general consensus of the UNSC, concluded that the 'Israeli intervention amounted to a use of force which cannot find a place in international law or in the Charter and which violated the sovereignty of Iraq'.¹⁶⁷

The controversy that surrounded Israel's preventive actions against anticipated attacks shows that pro-action in the post-1945 and Cold War periods was the exception that proved the general rule that force could and should be used only in reaction to attacks that had already occurred.

SECTION THREE: THE POST-COLD WAR ORDER AND PREVENTION

At the end of the Cold War states observed a new strategic reality. The 1990s saw the emergence of security threats distinct from the threat posed by interstate war. The collapse of the Soviet Union in 1991 led to the disintegration of the Cold War rivalry between Washington and Moscow and the degradation of the threat posed by conventional as well as nuclear military conflict between East and West.

Threats

¹⁶² Arend, A. C. (2004). *International Law and the Preemptive Use of Force*.

¹⁶³ *Ibid.*

¹⁶⁴ *Ibid.*: 27

¹⁶⁵ *Ibid.*: 27

¹⁶⁶ *Ibid.*: 27

¹⁶⁷ *Ibid.*: 27

The emergence of the US as the lone superpower in the post-Cold War international system created a military asymmetry.¹⁶⁸ Unlike the symmetrical strategic reality of the Cold War, the post-Cold War strategic reality failed to naturally entail deterrence strategies. Instead of a fixed, nuclear-capable, superpower adversary sharing similar strategic imperatives, the US, and the international community at large, faced a range of threats including mobile, relatively small and weak, but dangerous non-state actors that challenged international stability across and from within state borders.¹⁶⁹ Violent flashpoints that occurred underneath the umbrella of Cold War rivalry developed their own dynamics within a post-Cold War context, and fault lines suppressed by the Cold War situation, such as those in the former Yugoslavia, were activated by shifts in political and economic realities.¹⁷⁰ By the early 1990s, ethnic conflicts within states were killing more civilians than soldiers, at an estimated rate of 9 to 1, with belligerents deliberately targeting non-combatants including women and children.¹⁷¹ The proliferation of WMD within an asymmetric strategic environment riddled with conventionally weak actors posed its own problem. The logic of deterrence did not fit a strategic equation involving actors that might be inclined to use WMD to compensate for their inferior conventional capabilities. As such, the assumption that actors would not utilise WMD as a first strike weapon was less concrete. The need to prevent states from proliferating WMD became more urgent, considering this new strategic reality. In the post-Cold War world, conflict involving innocent civilians caused by non-state threats existing within and across state borders, as opposed to interstate war, represented the scourge that states and the UN sought to prevent.

In January 1992, the UNSC confirmed a perceivable new, post-Cold War strategic reality. A declaration issued at the level of Heads of State and Government read:

¹⁶⁸ Steinbruner, J. (1998). Can the United States Lead the World? Statecraft and Security: The Cold War and Beyond. K. Booth. Cambridge, Cambridge University Press.

¹⁶⁹ Blechman, B. M. (1998). International Peace and Security in the 21st Century. Statecraft and Security: The Cold War and Beyond. K. Booth. Cambridge, Cambridge University Press.

¹⁷⁰ (1997). Preventing Deadly Conflict, Final Report of the Carnegie Commission on Preventing Deadly Conflict.

¹⁷¹ Ibid.

The absence of war and military conflict amongst States does not in itself ensure international peace and security. The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security.¹⁷²

In addition to economic, social, humanitarian and ecological threats to peace, the threat posed by weapons of mass destruction in an asymmetric, post-Cold War context was identified, alongside the threat posed by non-state terrorist groups:

The members of the Council express their deep concern over acts of international terrorism and emphasize the need for the international community to deal effectively with all such acts... The proliferation of all weapons of mass destruction constitutes a threat to international peace and security.¹⁷³

Rational Action

The strategy underpinning the post-1945 and Cold War order was irrational in a world in which non-state actors threatened states from within and across sovereign borders.¹⁷⁴ The UN Charter dealt exclusively with states, and did not provide for action that aimed to control events and situations involving non-state actors that lay beyond classic balance of power politics. The value, therefore, of mechanisms that were designed to react to the use of force between states dwindled in the face of security challenges that were less likely to be posed by interstate war and more likely to be posed by intrastate war, proliferation issues and non-state actors. The strategic imperative to ensure security, therefore, was less likely to be served sufficiently by reactive strategies that depended on deterrable and coercible states; rather, pro-active strategies that sought to prevent violence by seeking to control situations inside and transcending state borders were more logical.

The rationality of preventive institutions in light of the strategic imperative to manage non-state threats and intrastate violence in the post-Cold War reality impacted

¹⁷² United Nations Security Council Statement S/23500, 31 January 1992

¹⁷³ (31 January 1992). Statement by the Heads of State and Government (S/23500), UN Security Council.

¹⁷⁴ Glennon, M. J. (2003). "Why the Security Council Failed." *Foreign Affairs* 82(3).

on the fundamental principles of sovereign independence and the non-use of force, despite the fact that these principles remained integral to international order.¹⁷⁵ Most markedly, the determination by the UNSC of threats to peace that emanated from within states challenged the concept of absolutely inviolable sovereign borders and the rationale of the self-defence institution.¹⁷⁶

The Sovereignty Revolution

The reality of events and situations threatening international security from within state borders brought into question the rationale of the sovereignty principle, as enshrined in the UN Charter in 1945. In order to achieve strategic aims in the 1990s, states needed to be able to deal with threats occurring within states, as well as between states. Recognising the strict inviolability of sovereign borders, therefore, didn't make sense within the new strategic context. The sanctity of the sovereignty precepts of domestic jurisdiction and non-intervention became irrational in the post-Cold War reality, where international law enforcement and intervention were essential components of conflict prevention in the face of disruptive intrastate violence and transnational threats.

In the post-Cold War era, the sovereignty principle, which had evolved through time from a 'dynastic' to a 'popular' concept, adapted to its environment once more by becoming 'internationalised'.¹⁷⁷ States' right to enjoy 'sovereign impunity' and do as they pleased within their own borders, irrespective of other sovereign powers, faced new limitations. In a more interdependent and volatile post-Cold War world, pressure was applied on state governments to behave in a manner that was conducive to the good of international society as a whole. The internationalisation of the internal aspect of sovereignty – self-determination – affected the external aspect of sovereignty which precluded intervention in the domestic affairs of states.¹⁷⁸ The duty for states to behave positively and in support of international order entailed the right for states to intervene in the affairs of states if internal situations were perceived to constitute a threat to

¹⁷⁵ Gow, J. (2000). "A Revolution in International Affairs?"

¹⁷⁶ Ibid.

¹⁷⁷ Gow, J. (2000). "A Revolution in International Affairs?": 296

¹⁷⁸ Ibid.

international peace and security, or threaten the human rights of domestic populations. This 'revolution' in the sovereignty principle reflects a re-rationalisation of the sovereign rights and duties of states within the post-Cold War strategic reality, and opened up the possibility for states to conduct 'humanitarian' interventions and operations to address internal threats to stability.¹⁷⁹

The principle of sovereignty in the 1990s has been characterised as, amongst other things, 'contingent' and 'equilibrant'.¹⁸⁰ Given the perception of threats emanating from within and across state borders, state sovereignty became conditional, rather than absolute. The sovereign right to self-determination was provided for only if the exercising of that right did not threaten other states or international order. The strategic imperative to address internal threats entailed this conditionality. NATO action against Serbia in 1999 over atrocities in the province of Kosovo, for instance, reflected state practice that was designed to respond to the breach of this conditionality, rather than a material breach of the peace, conventionally understood as an attack by a state against another state under the terms of the UN Charter.¹⁸¹ Serbia had not attacked another state; NATO's operation was characterised as an act of crisis management. And, whilst equilibrium in the symmetrical Cold War international system was achieved through a balance of power between two coerced, risk-averse superpowers, equilibrium in the asymmetrical post-Cold War international system, in which intrastate phenomena succeeded in challenging international order, depended on states' internal characteristics and the ability of states to control them if and when they were perceived to threaten international society. International order based on the mutual recognition of sovereignty was re-conceptualised in order to accommodate the strategic imperative to intervene in the internal affairs of states and prevent escalations of conflicts that threatened, or had the potential to threaten, the security of other states. This internationalised version of sovereignty provided the basis of the UN order in the post-Cold War period.

¹⁷⁹ Roberts, A. (2002). "The So-Called "Right" of Humanitarian Intervention'." Yearbook of International Humanitarian Law 3; Gow, J. (2000). "A Revolution in International Affairs?"

¹⁸⁰ See Feinstein, L. "UN-Divided." National Interest 2005/06(Winter); Gow, J. (2000). "A Revolution in International Affairs?"

¹⁸¹ Gow, J. (2000). "A Revolution in International Affairs?"

The declaration by the UNSC in 1992 that the ‘absence of war and military conflict amongst States does not in itself ensure international peace and security’ opened the door for a re-rationalisation of the self-defence institution.¹⁸² Given that the UNSC determined that non-state threats to peace and security exist, some argued, it made sense to adapt the right to self-defence to fit with threats that extended beyond the narrow description of interstate war. Indeed, as James Gow has argued, ‘a situation that can be identified as a threat to international security also constitutes a threat to the individual and common security of states’.¹⁸³ As such, as well as the ability to defend itself against an armed attack, a state needed the ability to protect itself from ‘disorder and disruption emerging from within other states’.¹⁸⁴ This ability was not about the duty to ‘do good things’ through acts of humanitarian intervention; it related to the *jus cogens* right of states to defend themselves against material security threats.¹⁸⁵ Considering that in the post-Cold War world, cases of ethnic conflict waged by non-state actors within states quickly grew to outnumber cases of conflict between states, the right to self-defence encompassing action taken in response to threats posed by phenomena other than interstate war gained a level of rationality that was absent in the post-1945 and Cold War eras.¹⁸⁶ Since the materialisation of post-Cold War threats was not demonstrable exclusively through the occurrence of an external armed attack, the use of force in self-defence could be construed to require pro-active strategies that could control events and situations occurring within the borders of other sovereign states that threatened the security of others.

Despite the re-rationalisation of the self-defence institution in light of new threat perceptions, pro-action in the UN’s strategy of conflict prevention was strictly limited to the diplomatic sphere. The strategic imperative to prevent conflict caused by non-

¹⁸² Gow, J. (2000). “A Revolution in International Affairs?”

¹⁸³ Ibid.: 300

¹⁸⁴ Ibid.: 300

¹⁸⁵ Ibid.: 301

¹⁸⁶ (1997). Preventing Deadly Conflict.

state actors through controlling strategies did not lead to the replacement of reaction with pro-action as the defining rationale of the UN order. To the contrary, preventive doctrines in the 1990s reinforced the UN's coercive strategy based on sovereign independence and the non-use of force, and complemented, rather than challenged, the reactive mechanisms of the self-defence and collective security institutions. The post-Cold War threats determined by the UNSC in 1992 were generally not perceived by the US or other great powers to require military prevention as a matter of course. Rather, military force was conceived as a supporting component of diplomatic measures designed to contain conflicts, coerce adversaries and constrain actors through the enforcement of international law. Adversaries remained coercible and interested in maintaining the *status quo*. Indeed, state-centric threats still loomed large and remained subject to coercion, as the US policy of 'dual containment' towards Iran and Iraq demonstrated.¹⁸⁷ Irresponsible states were still subject to the logic of deterrence, and non-state actors, many of whom acting violently to achieve statehood within state borders, remained explicable by theories predicated on the principle of sovereignty.

However, the rationality of limiting pro-action to diplomatic mechanisms faltered when diplomacy failed to achieve its stated strategic aim of preventing conflict, especially when the control of crises was observed to require military pro-action. When force was used to prevent the escalation of conflict within states, such as military action by NATO within the Federal Republic of Yugoslavia over Kosovo in 1999, it was deemed controversial, given that it contravened the legal provisions of the self-defence and collective security institutions (see Legitimate Action below).¹⁸⁸ Indeed, the rationality of pro-active military action in support of strategic aims in the face of threats that proved unconstrained by diplomatic coercion challenged the rationale of the reactive legitimising institutions of international order. To be sure, the post-Cold War asymmetrical strategic reality, and the imperative to prevent intrastate war, created an astigmatic relationship between strategic logic and legal legitimacy which entailed

¹⁸⁷ Gause, F. G. (1994). "The Illogic of Dual Containment." *Foreign Affairs* 73(2).

¹⁸⁸ Roberts, A. (1999). "NATO's 'Humanitarian War' Over Kosovo." *Survival* 41(3).

controversial state practice.¹⁸⁹ However, military prevention never became a strategic doctrine *per se*. Forceful interventions in intrastate war for the purposes of conflict prevention in the 1990s were taken as a last resort in support of a coercive strategy against threats that were assumed to be constrainable. Pro-active military action served exclusively as the stick in support of the carrot of diplomacy. NATO action in Kosovo, although pro-active according to the logic of the UN Charter, occurred in reaction to ongoing conflict that diplomacy had failed to prevent. Prevention as defined in this thesis – a controlling strategy implemented to address unconstrained threats before they materialise through pro-active mechanisms – was not a strategy adopted in the post-Cold War situation. Military force was conceived primarily as a back-up for diplomatic initiatives seeking to prevent threats presented by constrainable actors that were capable of being negotiated with.

Preventive Diplomacy

Preventive diplomacy sought to utilise diplomatic mechanisms in order to prevent conflict within states from erupting, and enforce peaceful settlements if and when conflict arose. On 27 June 1992, the UN Secretary General Boutros Boutros-Ghali presented to the UNSC ‘An Agenda for Peace’. The document acknowledged the existence of new strategic imperatives in a post-Cold War era and outlined ways of acting in accordance with them. The five-fold objective of ‘An Agenda for Peace’ was to:

1. ‘Seek to identify at the earliest possible stage situations that could produce conflict, and to try through diplomacy to remove the sources of danger before violence results’;¹⁹⁰
2. ‘Engage in peacemaking aimed at resolving the issues that have led to conflict’;¹⁹¹
3. ‘Preserve peace, however fragile, where fighting has been halted and to assist in implementing agreements achieved by the peacemakers’;¹⁹²

¹⁸⁹ Arend, A. C. (2004). International Law and the Preemptive Use of Force.

¹⁹⁰ (17 June 1992). An Agenda for Peace, Report of the United Nations Secretary General.

¹⁹¹ Ibid.

¹⁹² Ibid.

4. 'Stand ready to assist in peace-building in its differing contexts';¹⁹³
5. 'And, in the largest sense, to address the deepest causes of conflict'.¹⁹⁴

Although preventive diplomacy sought to reinforce the long-standing rules and institutions of the UN Charter, it did introduce new mechanisms that attempted to facilitate rational state action in light of the strategic imperative to prevent conflict occurring within state borders. These mechanisms included confidence-building measures, to help prevent the root causes of violence from taking shape, and 'fact-finding' missions, in order to fulfil the requirements for 'timely and accurate knowledge of the facts' and sufficient 'understanding of developments and global trends, based on sound analysis' on which preventive action depended¹⁹⁵. Such fact-finding missions also supported early warning systems that flagged up potential hot-spots.¹⁹⁶ Furthermore, preventive deployment of military forces, taken exclusively with state consent and in accordance with limited rules of engagement, was provided for in order to keep and enforce peace settlements and establish demilitarized zones designed to keep belligerents apart.¹⁹⁷

Conflict prevention through pro-active diplomacy represented a rational controlling strategy, limited to the diplomatic sphere, in the face of apparently constrainable threats. However, preventive diplomacy suffered from severe limitations, and was not terribly successful in achieving its strategic aims. Threats that turned out to be unconstrained by diplomacy failed to be prevented. Ethnic conflict that broke out in places such as Rwanda, Bosnia and Somalia failed to be constrained by diplomatic initiatives or preventive deployment of military forces with restrictive rules of engagement. By 1997, 39 intrastate conflicts around the world had claimed at least 1,000 lives each, leaving hundreds of thousands dead and millions displaced.¹⁹⁸ Some conflicts claimed more lives than others; in Rwanda, for example, the UN failed to prevent the deaths of around one million people during the Rwandan genocide of

¹⁹³ (17 June 1992). *An Agenda for Peace*.

¹⁹⁴ *Ibid.*

¹⁹⁵ *Ibid.*

¹⁹⁶ *Ibid.*

¹⁹⁷ *Ibid.*

¹⁹⁸ (1997). *Preventing Deadly Conflict*.

1994.¹⁹⁹ By 1995, over 100,000 people were killed and nearly 2 million displaced during ethnic conflict in Bosnia-Herzegovina.²⁰⁰ And, the UN-sanctioned, US-led *Operation Restore Hope* and other UN operations in Somalia failed to prevent 500,000 deaths and 1.5 million people becoming displaced in Somalia between 1991 and 1994.²⁰¹

Restrictive rules of engagement for troops deployed inside states to prevent conflict did not help the efforts of diplomats to coerce parties into peaceful settlements. UN-endorsed forces instructed to keep or enforce the peace were not permitted to carry out offensive operations without first acquiring specific approval.²⁰² Troops were entitled, according to the rules, to fire only if fired upon, in line with the provisions of Article 51 of the UN Charter.²⁰³ Moreover, troops were not allowed to retaliate to attacks; they were allowed only to defend themselves from attacks, having to cease fire when the attacker ceased fire.²⁰⁴ In Bosnia, this meant that hostile forces could ‘ratchet up their provocation to just under the threshold’ beyond which UN troops could use force, and ‘draw UN forces into a vulnerable position and then attack them’ without fear of retribution.²⁰⁵ These restrictive rules of engagement led many to question the efficacy of UN action to achieve conflict prevention aims and doubt the rationale of limiting pro-action to the diplomatic sphere, given the strategic imperative of preventing intrastate war often brutally waged by non-state belligerents commonly against non-combatant adversaries.

The rationality of limiting pro-action to diplomacy was challenged further considering that the major cases of intrastate war in Bosnia and Kosovo ended only after decisive use of military force in contravention of the UN’s rules of engagement and the institutions of international order. In 1995, NATO’s *Operation Deliberate Force*, aimed at Bosnian Serb positions and in response to Bosnian Serb shelling of the Sarajevo marketplace in August of that year, was NATO’s first military operation since

¹⁹⁹ (1997). Preventing Deadly Conflict.

²⁰⁰ Ibid.

²⁰¹ Ibid.

²⁰² See Rose, G. S. M. (1998). *Fighting for Peace: Bosnia 1994*, The Harvill Press.

²⁰³ Berkowitz, B. D. (1994). "Rules of engagement for U.N. peacekeeping forces in Bosnia." *Orbis* 38(4): 635-646.

²⁰⁴ Ibid.

²⁰⁵ Ibid.: 643

its inception in 1949. The military action succeeded in Bosnia where diplomacy had failed by forcing a peace settlement, which was finalised in Dayton, Ohio in December 1995. NATO's second ever operation, *Operation Allied Force*, was taken against Slobodan Milosevic's Federal Republic of Yugoslavia in 1999 to end Serbian aggression against ethnic Albanians in the province of Kosovo, again achieving a strategic aim that diplomacy had consistently failed to accomplish. These actions did not demonstrate a strategic doctrine of military pro-action, but they did indicate the instrumentality of military force in strategies seeking to achieve the aim of preventing conflict within state borders and a level of international acceptance of pro-action as rational state practice that was absent in the post-1945 and Cold War eras.

Legitimate Action

Despite burgeoning acceptance of the rationality of military action extending beyond the remit of Article 51 of the UN Charter, the use of force against non-state threats remained governed by the legitimising institutions of self-defence and collective security as codified in the UN Charter. Irrespective of the official identification of non-state threats to peace and security and the scourge of intrastate war, states' obligation, in accordance with the *Caroline* formula, to demonstrate the necessity of military action and act in proportion to the threat at hand remained crucial to the maintenance of international order. Military action taken in response to anything other than an external armed attack or without specific UNSC approval to restore international order remained illegitimate uses of force. Indeed, the UNSC's 1992 statement reaffirmed the international community's commitment to a UN order based on a coercive security strategy. The document reads:

The members of the Council pledge their commitment to international law and to the United Nations Charter. All disputes between States should be peacefully resolved in accordance with the provisions of the Charter. The members of the council reaffirm their commitment to the collective security system of the Charter to deal with threats to peace and to reverse acts of aggression.²⁰⁶

²⁰⁶ (31 January 1992). Statement by the Heads of State and Government (S/23500).

Accordingly, in the 1990s, the post-1945 values underpinning the UN order did not comfortably match the post-Cold War material reality. The value system enshrined in the UN Charter failed to legitimise action that was occasionally deemed rational in the face of new strategic imperatives. The empirical observation of threats in the 1990s was not accompanied by the construction of socially-agreed values in support of the empirically-derived strategic imperative to maintain order in the face of disruption caused by non-state actors emanating from within and across state borders, as opposed to interstate war. Sovereign independence and the non-use of force, although re-rationalised, remained at the heart of the UN order which continued to be maintained by the self-defence and collective security institutions which entitled state to use force only in the event of an external armed attack.

Post-Cold War astigmatism in the relationship between rationality and legitimacy weakened international order, but only to a point. As mentioned above, military pro-action was not the strategic doctrine of any state in the post-Cold War period; prevention was limited to the diplomatic sphere, and threats were assumed to be constrainable through coercive strategies of which military force was only a component, although increasingly efficacious, part. The UN Charter retained authority because the vast majority of states continued to perceive it as law, and, for the most part, it had control because it continued to shape state behaviour. The controversy surrounding NATO's operation in Kosovo confirmed the authority and control of the UN Charter, despite some questions posed about its rationale given new strategic imperative of managing internal crises.

Nevertheless, NATO's action over Kosovo arguably constituted *de facto* confirmation that pro-action had become acceptable state practice in the new security environment, especially in the absence of decisive UNSC action, despite the reactive *de jure* legal framework of the UN Charter.²⁰⁷ The controversy surrounding NATO's Kosovo campaign arose precisely because of the clash between pro-action in support of strategic imperatives and reaction as the defining characteristic of legitimising

²⁰⁷ Arend, A. C. (2004). International Law and the Preemptive Use of Force.

institutions. The self-defence criteria of necessity and proportionality were adapted by NATO to justify military action despite the absence of any demonstrable attack on a NATO member state and the lack of UNSC approval.

On the one hand, NATO's argument for the necessity of *Operation Allied Force* was rooted in its perception of the situation in Kosovo as a threat to regional stability. The NATO Council stated on 5 March 1998 that 'the international community have a legitimate interest in developments in Kosovo, *inter alia* because of their impact on the stability of the whole region which is of concern to the Alliance'.²⁰⁸ As such, NATO justified its action by appealing to its responsibility to maintain regional stability under Articles 2 and 4 of NATO's charter. NATO also claimed, prior to the operation, that the use of force against the Federal Republic of Yugoslavia would be consistent with UNSC resolutions 1160 and 1199, which condemned Serbian offences in Kosovo. NATO argued that the military campaign had limited objectives and was proportionate to what was necessary to removing the debilitating regional threat.²⁰⁹ On the other hand, critics of NATO's intervention, including the UNSC permanent members Russia and China, claimed that the necessity of military action against FRY was not demonstrated and that the use of military force was far from proportionate.²¹⁰ Kofi Annan, the UN Secretary-General, astutely presented the dilemma of the rational action/legitimate action astigmatism that created the controversy, by lamenting both the illegitimate NATO intervention and the failure of the UN to act rationally to achieve security aims:

On the one side, the question of the legitimacy of action taken by a regional organisation without a UN mandate; on the other, the universally recognized imperative of effectively halting gross and systematic violations of human rights with grave humanitarian consequences. The inability of the international community in the case of Kosovo to reconcile these two equally compelling interests was a tragedy.²¹¹

²⁰⁸ (5 March 1998). NATO Council Statement.

²⁰⁹ Roberts, A. (1999). "NATO's 'Humanitarian War' Over Kosovo."

²¹⁰ Ibid.

²¹¹ (20 September 1999). Statement by UN Secretary-General Kofi Annan to the UN General Assembly.

The dysfunction of the UNSC was highlighted in the UN Secretary-General's Report of the Panel on United Nations Peacekeeping Operations, otherwise known as the Brahimi report after the Panel's chairman Lakhdar Brahimi. In it, the UN's inability to fulfil the information collection and analysis requirements of preventive diplomacy, as set out in 'An Agenda for Peace' in 1992, was identified as an issue that needed resolving in a strategic reality that called for responses to threats that were demonstrable through the analysis of information regarding crises in progress, as well as through instances of external armed attack.²¹² The failure of the UNSC in making determinations of processes and situations that constituted threats to peace and security impaired the UNSC's capacity to facilitate rational action to prevent conflict through the requisite legitimising institutions.

Prevention in the Post-Cold War Situation

In conclusion of this section, prevention in the post-Cold War era represented a strategic aim that relied on pro-action limited to diplomatic initiatives in the face of threats that were assumed to be constrainable through coercive strategies. Although the logic of controlling strategies executed through pro-active mechanisms gained currency within a strategic environment comprising non-state actors and the threat of intrastate war, the legitimising institutions of the UN order retained authority and control. As such, military pro-action that contravened the reactive mechanisms of self-defence and collective security remained controversial, despite the fact that the *de facto* use of force in support of conflict prevention aims indicated a growing acceptance of pro-action as a viable rationale.

SECTION FOUR: THE POST-9/11 ORDER AND PREVENTION

The attacks against the World Trade Centre and the Pentagon on 11 September 2001 confirmed the existence of a new strategic reality in the 21st century. The strikes by the terrorist organisation al-Qaida claimed 2,973 innocent lives and cost the US stock

²¹² (21 August 2000). Report of the Panel on United Nations Peace Operations.

market \$1.2 trillion in the space of one week.²¹³ The use of commercial jet aircraft as mass-destructive weapons in co-ordinated suicide attacks against soft targets that aimed to cause utmost death and devastation signalled a new type of actor with motivations, methods and strategic aims that deviated wildly from those of the UN order. The al-Qaida operation represented the mark of an unconstrained, non-state actor uninterested in maintaining international order based on the mutual recognition of sovereignty.²¹⁴

Threats

The arrival of 'new' terrorism heralded a new challenge to international peace and security that was undeterrable in principle and unconstrained by pro-active mechanisms that sought to control threats through military-backed diplomacy.²¹⁵ Al-Qaida is not a sovereign state with diplomatic representation or an evident willingness to engage in negotiation, unless in the event of the conversion of its enemies to Islam.²¹⁶ The group has no sovereign independence to preserve or borders to protect, thus no obvious vested interest in complying with an international order designed specifically to uphold sovereignty principles. As non-state actors uninterested in complying with the *status quo*, 'new' terrorists like al-Qaida, unlike 'old' terrorists and risk-averse states operating in the post-1945, Cold War and post-Cold War periods, are unafraid to gamble in their attempt to achieve strategic aims.²¹⁷ As 9/11 showed, al-Qaida's strategy is not dependent on cost-benefit calculations within the context of balance of power politics. Despite al-Qaida's relatively inferior conventional strength, the group nonetheless chose to attack US targets irrespective of the US's robust military capability to resist or retaliate against the attack. Indeed, the asymmetry of the

²¹³ Makinen, G. (2002). The Economic Effects of 9/11: A Retrospective Assessment. Washington DC, Congressional Research Service.

²¹⁴ Barber, B. R. (2002). Democracy and Terror in the Era of Jihad vs. McWorld. Worlds in Collison: Terror and the Future of Global Order. K. Booth and T. Dunne. Basingtonstoke, Palgrave Macmillan.

²¹⁵ See Freedman, L. (2002). A New Type of War. Worlds in Collison: Terror and the Future of Global Order. K. Booth and T. Dunne. Basingstoke, Palgrave Macmillan; (2004). The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States. New York, Norton.

²¹⁶ Burke, J. (2003). Al-Qaeda: Casting a Shadow of Terror. London, I.B. Tauris.

²¹⁷ Spencer, A. (2006). "Questioning the Concept of 'New Terrorism'." Peace, Conflict and Development(8); Freedman, L. (2004). Prevention, Not Preemption.

post-Cold War environment was extended to new levels within a 21st century strategic reality consisting of mobile, non-state actors that used their non-sovereign status as strength. Al-Qaida exploits the territorial rigidity and behavioural constraint to which the US and other sovereign states operating in international society are subject.²¹⁸ Al-Qaida's attack on 9/11 represented the culmination of a transnational phenomenon with a 'flock of birds' organisational characteristic that was hard to pin-point and retaliate against.²¹⁹ Furthermore, al-Qaida's embracement of martyrdom invalidated the logic of deterrence, considering the irrationality of assuming that an adversary that aims to die in an attack can be deterred with the prospect of death in the event of an attack taking place.²²⁰

In the face of conventionally weak, risk-taking adversaries that embraced death and sought to maximise casualties and destruction through indiscriminate attacks, the logic of mutually assured destruction was, likewise, effectively negated. The utility of WMD as offensive instruments became a viable proposition for terrorist groups that, unlike risk-averse states, were not driven by the overwhelming interest to survive. The incoercible nature of new terrorist groups triggered a fundamental shift in threat perceptions after 9/11, given that the 'motivations of these new adversaries, their determination to obtain destructive powers hitherto available only to the world's strongest states, and the greater likelihood that they will use weapons of mass destruction' created a new strategic reality in which 'wanton destruction and the targeting of innocents' constituted the scourge that required prevention.²²¹

Rational Action

The assumption that an adversary will use force given the chance makes preventing that adversary from acquiring the means to do so a strategic imperative.²²² This

²¹⁸ Barber, B. R. (2002). *Democracy and Terror in the Era of Jihad vs. McWorld.*

²¹⁹ The phrase 'flock of birds' as a description of the nature of the al-Qaida organisation is attributable to Sir Richard Dearlove.

²²⁰ Benjamin, D. and S. Smith (2005). *The Next Attack: The Globalization of Jihad.*

²²¹ (September 2002). *The National Security Strategy of the United States of America*, The White House:

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²²² Freedman, L. (2004). *Prevention, Not Preemption.*

imperative is all the more important considering the prospect on an unconstrained actor utilising weapons of mass destruction. Whether the threat is deemed to be in the early stages of development or at the cusp of materialisation is irrelevant; what is important is the capability to control the threat and mitigate the risk of it coming to fruition.

Considering the strategic imperative to prevent violence caused by unconstrained non-state terrorist groups, the rational framework provided for by preventive diplomacy required overhauling after 9/11. The assumption that security threats could be coerced into complying with the *status quo* was irrational in the face of actors like al-Qaida that operated in contravention of the logic of the UN order. After 9/11, controlling strategies were more urgently needed and pro-active mechanisms, as opposed to reactive ones, have become essential to the management of incoercible threats that are too dangerous to be allowed to materialise. Prevention of the terrorism-WMD threat nexus after 9/11 became more urgent than prevention of intrastate war during the post-Cold War period.

The Irrationality of the UN Order

By failing to adequately describe the phenomena that threaten international security, the UN order based on sovereign independence and the non-use of force fails to sufficiently address post-9/11 strategic imperatives. The threat posed by al-Qaida and other like-minded terrorists cannot be understood in terms of the framework of sovereignty that was constructed after World War Two and enshrined in the UN Charter. Other long-standing threats, such as the proliferation of WMD, have become more ominous given the existence of actors that are observed to act without normal constraints. As John Foster Dulles noted, the UN Charter is a 'pre-atomic' document and does not countenance the threat posed by WMD proliferation, especially amongst non-state actors.²²³ Terrorism did not feature in the minds of the authors of the UN Charter when they were devising Chapter VII. The assumption of state-exclusivity and

²²³ Kacerauskis, V. (2005). "Can a Member of the United Nations Unilaterally decide to use Preemptive Force against another State without Violating the UN Charter?" International Journal of Baltic Law 2(1).

the threat of conventional interstate attack lay at the heart of the post-1945 UN system, and continued to be salient in the Cold War security landscape. In the post-9/11 world this assumption is unrealistic. As such, the rational framework entailing from the assumption doesn't make sense.²²⁴ The *Caroline* formula, which defines the logical structure of the self-defence and collective security institutions, fails to explain the type of threat posed by the terrorism-WMD threat nexus or the type of behaviour that is rational in order to achieve security aims.

Firstly, necessity of action is difficult to demonstrate in the face of the murky threats of terrorism and WMD proliferation. Terrorists and proliferators prefer to act in the shadows and deliberately conceal their activities from public view. It is extremely challenging for states, for example, to determine whether a state or terrorist group operating covertly has a WMD capability, and by the time an adversary acquires such a capability it could be difficult to defend against it, especially if it is a trigger-happy terrorist group that achieves the acquisition. Rather than demonstrating necessity through the observation of actual attacks, the onus is on states to demonstrate necessity through the analysis and assessment of information pertaining to potential attacks.²²⁵ This burden entails from the post-9/11 imperative to pro-act to prevent attacks, as opposed to the post-1945/Cold War imperative to react only to their occurrence. The strategic requirement highlighted in the 2000 Brahimi report on UN conflict prevention for an information-based capacity to determine threats and demonstrate necessity of action became more urgent in the post-9/11 era against threats that states could not afford to let materialise.²²⁶ The requirement to demonstrate necessity extended to action that could be judged essential to the management of risk. In light of this new strategic imperative, the US national security strategy of 2002 argued that '[t]he greater the threat, the greater the risk of inaction – and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy's attack'.²²⁷

²²⁴ Glennon, M. J. (2003). "Why the Security Council Failed."

²²⁵ Mackmurdo, C. (2004). "Getting Facts: Intelligence and the UN." *World Today* 60(8/9): 23-25.

²²⁶ (21 August 2000). Report of the Panel on United Nations Peace Operations.

²²⁷ (September 2002). The National Security Strategy of the United States of America: 15

Secondly, the *Caroline* formula's proportionality requirement became more difficult to demonstrate in the post-9/11 strategic reality. Determining what sort of action and how much is needed to achieve what is necessary to maintain international security is trickier in the face of enduring and hidden terrorism threats. The 'flock of birds' nature of terrorist groups like al-Qaida and proliferators means that demonstrating the removal of a threat is more complicated than in cases of state aggression, such as Iraq's invasion of Kuwait in 1990. In that case, the eviction of Iraqi forces from Kuwaiti territory clearly indicated the reversal of the threat posed by Iraq's invasion of Kuwait and the achievement of the limited strategic aims of the military operation that was undertaken to restore peace and security. In the case of the 'war on terrorism', however, proportionality is less easy to demonstrate considering that the achievement of strategic objectives necessary to the elimination of terrorism is much harder to display.²²⁸

The impact of post-911 imperatives on the institutions of self-defence and collective security has been deep and far-reaching. The post-Cold War argument for an extension of the right to self-defence against non-state threats has been reinforced after the 9/11 attacks. Indeed, the US-led operation in Afghanistan was described by the US as an act of self-defence in response to the al-Qaida strikes.²²⁹ Hypothetically, if action against a terrorism threat perceived by a state is deemed to require the use of force, and the issue is not dealt with by the UNSC, then the only recourse available to that state is the right to self-defence. This eventuality is the rational outcome of the post-9/11 strategic reality, in which judgements regarding the necessity of action to address non-state terrorism threats extends beyond the framework of interstate war in which threats are demonstrable exclusively through occurrences of attack. The implications for the rationale of collective security are likewise affected by the logical extension of the right to self-defence. The UNSC's fulfilment of its unique responsibility to maintain international peace and security against the threat of terrorism requires that it is

²²⁸ Gardam, J. G. (2005). "A Role for Proportionality in the War on Terror." Nordic Journal of International Law 74(1): 3-26.

²²⁹ (25 September 2001). Rumsfeld: 'This is about self-defense'. CNN.com.

capable of determining threats that demand prevention through information assessment, and controlling them through pro-active mechanisms. The current collective security framework of limiting the use of Chapter VII measures to responses to actual state attack is irrational considering the strategic imperative to prevent threats to international peace and security posed by incoercible non-state actors.

Prevention as Rational Action

The perception of unconstrained threats to international peace and security has led to a re-rationalisation of security strategies at the state and UN levels. In light of the post-9/11 situation, security strategies need to be controlling and executed through pro-active mechanisms. Indeed, post-9/11 strategic imperatives and the rationality of prevention are acknowledged in a number of official security strategies, including those of the US, UK and the UN (which are examined in Chapter 5). The well-known and oft-cited 2002 US national security strategy sets out the ‘Bush Doctrine’ of pre-emption, and multilateral organisations such as the EU describe the imperative to prevent as a central component of strategic thinking. The 2003 EU security strategy ‘A Secure Europe in a Better World’, reads:

Our traditional concept of self-defence – up to and including the Cold War – was based on the threat of invasion. With the new threats, the first line of defence will often be abroad. The new threats are dynamic. The risks of proliferation grow over time; left alone, terrorist networks will become ever more dangerous. State failure and organised crime spread if they are neglected – as we have seen in West Africa. This implies that we should be ready to act before a crisis occurs. Conflict prevention and threat prevention cannot start too early.²³⁰

Indeed, the effect on international order by new strategic imperatives is demonstrated in the UN’s own strategy documents. The 2004 report of the UN Secretary-General’s High Level Panel of Threats, Challenge and Change reads:

²³⁰ (2003). A Secure Europe in a Better World: European Security Strategy. Brussels, The European Union: 7

The attacks of 11 September 2001 revealed that States, as well as collective security institutions, have failed to keep pace with changes in the nature of threats... The primary challenge for the United Nations and its members is to ensure that, of all the threats in the categories listed [economic and social threats, environmental degradation, interstate conflict, internal conflict, nuclear, radiological, chemical and biological weapons, terrorism, and transnational organised crime], those that are distant do not become imminent and those that are imminent do not actually become destructive. This requires a framework for preventive action which addresses all these threats in all the ways they resonate most in different parts of the world.²³¹

Legitimate Action

Despite state- and UN-level recognition of the rationality of prevention in the post-9/11 era, prevention remains an illegitimate strategy according to conventional understanding of the institutions of the UN order. The scope of the right to self-defence has not been extended to provide for action taken in anticipation of attacks, and the UN's collective security machinery lacks the capability to determine threats based on information of potential attacks. The rational action/legitimate action astigmatism marked by NATO's intervention over Kosovo during the post-Cold War period worsened after 9/11 as the imperative to prevent became more urgent and the gap between state practice and legitimising institutions widened. This astigmatism accounts for the emergence of preventive action in the post-9/11 period that posed a direct challenge to international order. New rules have not been constructed around the material reality of the 21st century. This situation has eroded the authority and control of international law as enshrined in the UN Charter.

Legitimacy is essential to the maintenance of international order. In the post-9/11 situation, the values enshrined in the UN Charter do not correspond with security imperatives; as a result, controversial patterns of behaviour ensue. The US and UK action against Iraq in March 2003 marked the most controversial case of state action that sought to control a threat posed by Iraq's development of a WMD capability

²³¹ (December 2004). *A More Secure World*: 2-3

identified through the assessment of information through pro-active mechanisms involving the use of force.

US and UK action against Iraq

The Iraq War was, technically, illegal.²³² Unable to claim the right to self-defence and without authorisation from the UNSC, the US and UK military action against Iraq contravened the legitimising institutions of international society. The use of force by the US and UK, as well as South Korea, Australia, Denmark and Poland which, along with 43 other supporting states, constituted a 'coalition of the willing', was not in response to an armed attack by Iraq.²³³ Opponents of the Iraq war within the UNSC claim that the necessity of military action had not been demonstrated, despite a presentation by US Secretary of State Colin Powell of evidence, based on intelligence material, of the Iraqi threat to the UNSC on 5 February 2003.²³⁴

The purpose of the presentation was claimed by Powell to share with the UNSC 'what the United States knows about Iraq's weapons of mass destruction, as well as Iraq's involvement in terrorism'.²³⁵ The intelligence claims made in the presentation included a long-running Iraqi campaign of denial and deception over WMD programmes and links between the Iraqi regime and al-Qaida. The US 'intelligence file' on Iraq's biological weapons programme was said to contain 'first-hand descriptions of biological weapons factories on wheels and on rails' which, in a matter of months, 'can produce a quantity of biological poison equal to the entire amount that Iraq claimed to have produced in the years prior to the Gulf War'.²³⁶ Intercepted conversations between Iraqi military officials were presented as evidence of a conspiracy to conceal chemical weapons activity. Powell also claimed that Saddam Hussein had 'made repeated covert attempts to acquire high-specification aluminium tubes from 11

²³² (16 September 2004). "Iraq war illegal, says Annan." From http://news.bbc.co.uk/1/hi/world/middle_east/3661134.stm.

²³³ (March 2003). "Operation Iraqi Freedom: Coalition Members." from <http://www.whitehouse.gov/news/releases/2003/03/20030327-10.html>.

²³⁴ Spencer, R. (6 March 2003). China hardens its opposition to an invasion. *The Daily Telegraph*.

²³⁵ Powell, C. (5 February 2003). Iraq: Failing to Disarm, Remarks to the UN Security Council.

²³⁶ Ibid.

different countries' in an effort to develop a nuclear capability, which corroborated US 'intelligence from multiple sources that Iraq is attempting to acquire magnets and high-speed balancing machines' for the purpose of enriching uranium.²³⁷ Furthermore, as evidence of a material breach of the conditions imposed on Iraq by UNSC Resolution 687 (see below), Powell declared that the US had evidence of an Iraqi programme 'pursuing a liquid fuel missile that would be able to fly more than 1,200 kilometers'. Powell also rejected Iraqi denials of ties with al-Qaida as 'simply not credible', based on evidence of al-Zarqawi's presence in Iraq and the assumption that 'ambition and hatred are enough to bring Iraq and al-Qaida together, enough so al-Qaida could learn how to build more sophisticated bombs and learn how to forge documents, and enough so that al-Qaida could turn to Iraq for help in acquiring expertise on weapons of mass destruction'.²³⁸ Faced with such a threat, Powell declared to the UNSC, 'the United States will not and cannot run that risk for the American people. Leaving Saddam Hussein in possession of weapons of mass destruction for a few more months or years is not an option, not in a post-September 11th world.'²³⁹

Although the UK did not present evidence of the Iraqi threat before the UNSC, it did publish a dossier on Iraq's WMD based on intelligence material that sought to make a case for war. The September Dossier, fully entitled 'Iraq's Weapons of Mass Destruction: The Assessment of the British Government', was declared by Blair's administration to show that 'Saddam Hussein attaches great importance to possessing weapons of mass destruction which he regards as the basis for Iraq's regional power', and that 'that he does not regard them only as weapons of last resort'.²⁴⁰ Intelligence was said to substantiate judgements that Iraq continued to produce chemical and biological weapons, some of which were 'deployable within 45 minutes of an order to use them'.²⁴¹ The dossier also made the claim that Saddam Hussein had 'sought

²³⁷ Powell, C. (5 February 2003). Iraq: Failing to Disarm, Remarks to the UN Security Council.

²³⁸ Ibid.

²³⁹ Ibid.

²⁴⁰ (24 September 2002). Iraq's Weapons of Mass Destruction: The Assessment of the British Government, The Stationary Office: 5

²⁴¹ Ibid.: 5

significant quantities of uranium from Africa' for the purposes of acquiring a nuclear capability.²⁴²

The remaining members of the UNSC, however, were not convinced by the evidence of an Iraqi threat. France, a permanent member of the UNSC, promised to veto a UNSC resolution that specifically authorised military action against Iraq, thus depriving the US and the UK of any prospect of UN authorisation.²⁴³ With the self-defence and collective security avenues unavailable, the invasion of Iraq was rendered illegitimate according to the provisions of the UN Charter.

Some, on the other hand, claim otherwise. The US, UK and their supporters appealed, prior to the invasion, to the combined legitimising effect of UNSC Resolutions 678, 687 and 1441, as well as 13 other UNSC resolutions either reaffirming the need for weapons inspections or condemning Iraqi non-compliance with them.²⁴⁴ Resolution 678, issued in 1990, authorised 'all necessary measures' – UN code for Chapter VII mechanisms encompassing the use of force – to restore peace and security in the Gulf region in the face of Iraq's invasion of Kuwait. Resolution 678 sanctioned the US-led military action during the Gulf War in 1990/91 and provided the roots for subsequent Iraq-related resolutions. One of these subsequent resolutions, Resolution 687 of 1991, established ceasefire terms and imposed the obligation on Iraq to destroy all 'chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities', as well as 'ballistic missiles with a range greater than 150 kilometres'.²⁴⁵ Further down the line in 2002, Resolution 1441 declared that Iraq was in material breach of the ceasefire terms presented under the terms of Resolution 687; as such, 'all necessary measures' to restore international peace and security, as provided for by Resolution 678, became available. Thus, backers of the US and UK action

²⁴² (24 September 2002). Iraq's Weapons of Mass Destruction: The Assessment of the British Government:

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²⁴³ (10 March 2003). "France will use Iraq veto." from http://news.bbc.co.uk/1/hi/world/middle_east/2838269.stm.

²⁴⁴ See Gow, J. (2005). *Defending the West*; (29 September 2004); Roberts, A. (2003). "Law and the Use of Force after Iraq." *Survival* 45(2); "Blair insists Iraq war justified." from http://news.bbc.co.uk/1/hi/uk_politics/3699510.stm.

²⁴⁵ (3 April 1991). UN Security Council Resolution 687.

against Iraq argue that the invasion was legally justified by the string of UNSC resolutions citing Iraqi non-compliance.

Ultimately, though, the Bush administration has not been shy in presenting *Operation Iraqi Freedom* as an act of prevention that represented the rational and responsible thing to do, in spite of the limitations of the UN Charter.²⁴⁶ British Prime Minister Tony Blair also argued in the House of Commons that the risk of the potential 'coming together' of WMD and terrorism required preventive military action, despite the failure of UK-driven efforts to secure specific authorisation from the UNSC.²⁴⁷ The determination of a threat posed by Iraq's WMD programmes through the assessment of secret intelligence material provided the basis of a controlling strategy that sought to nip a developing threat in the bud through a pro-active use of force. The risk of inaction against the threat of irresponsible proliferation of WMD in the post-9/11 context, considering the existence of unconstrained terrorist groups assumed to be seeking the chance to deploy WMD, was too great to entertain as a viable option.

Scholars, including Adam Roberts, have disputed the idea that the US and UK action against Iraq signified a controlling strategy, claiming that the legal authority provided by the string of UNSC resolutions succeeded in characterising the Iraq invasion as a controversial, but conventional, coercive operation.²⁴⁸ However, that the US and UK sought to control a situation, rather react to an actual attack, is indisputable – it was this strategic aim that provided the rationale of the invasion. Combined with the pro-active use of force in the face of a threat determined through the assessment of intelligence, the aim to control a threat in order to prevent a potential attack rendered the US and UK operation qualitatively preventive. The US and UK, in the absence of UN authorisation and in contravention of Article 51, took action based on an overarching post-9/11 controlling strategy that seeks to address threats before they

²⁴⁶ (23 September 2003). "President Bush Addresses United Nations General Assembly." from <http://www.whitehouse.gov/news/releases/2003/09/20030923-4.html>.

²⁴⁷ (18 March 2003). "Prime Minister's statement opening Iraq debate." from <http://www.number-10.gov.uk/output/Page3294.asp>.

²⁴⁸ Roberts, A. (2003). "Law and the Use of Force after Iraq."

materialise through pro-active mechanisms. Military action against Iraq was considered by US President Bush and British Prime Minister Blair, against the tide of significant internal and external opposition, to present responsible, as well as rational, action in the face of an incoercible threat presented by a terrorism-WMD threat nexus.

Legitimacy and Intelligence-driven Action

In the wake of the Iraq war, however, it turned out that the available information on the threat posed by Iraq's WMD programmes was wrong. In the US, a plethora of post-war reviews of US intelligence on Iraq's WMD revealed fundamental failures in intelligence collection and drastic mistakes in intelligence analysis and assessment. David Kay, who led UN weapons inspections in Iraq after the first Gulf War, was appointed as head of the Iraq Survey Group in 2003. The ISG was an organisation spearheaded by members of the US Central Intelligence Agency and the Defense Intelligence Agency with British and Australian support, and tasked to unearth the predicted WMD programmes that had presented the *casus belli*. At the time of his resignation in January 2004, David Kay claimed that such WMD programmes had ever existed, telling the Senate Armed Services Committee that 'we were all wrong'.²⁴⁹ According to Kay's testimony, 'based on the intelligence that existed, I think it was reasonable to reach the conclusion that Iraq posed an imminent threat. Now that you know reality on the ground as opposed to what you estimated before, you may reach a different conclusion'.²⁵⁰ Charles Duelfer, who succeeded Kay as head of the ISG, began his tenure with the admission that the chances of finding Iraqi WMD programmes were 'close to nil'.²⁵¹ The prediction was confirmed in the Duelfer Report, as the final report of the ISG is commonly known, which declared that Iraq had no deployable WMD of any kind as of March 2003 and had no production since 1991.²⁵² Numerous reports by the US Senate Intelligence Committee, in addition to an

²⁴⁹ (28 January 2004). "Testimony of David Kay before the US Senate Armed Services Committee." from <http://www.globalresearch.ca/articles/KAY401A.html>.

²⁵⁰ Ibid.

²⁵¹ (24 January 2004). "US chief Iraq arms expert quits." from <http://news.bbc.co.uk/1/hi/world/americas/3424831.stm>.

²⁵² (September 2004). Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD, Central Intelligence Agency:

independent report by the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, reject the veracity of pre-war intelligence claims of Iraqi WMD programmes and links between Saddam Hussein and al-Qaida.²⁵³

In the UK, similar scrutiny of the intelligence that made the case for war occurred. An inquiry by Lord Hutton into the apparent suicide of UK government official Dr. David Kelly, who had accused the Blair administration of 'sexing up' the September Dossier, concluded that 'the wording of the dossier had been altered to present the strongest possible case for war within the bounds of available intelligence'.²⁵⁴ The Butler Report, the popular name given to the Review of Intelligence on Weapons of Mass Destruction, went further by claiming that the central judgements included in the September Dossier had stretched available intelligence 'to the outer limits', and that the desire to demonstrate the necessity of military action against Iraq meant that 'more weight was placed on the intelligence than it could bear'.²⁵⁵

The controversy surrounding the pre-war and post-war situations in 2003 signals the extremely problematic relationship between rational action and legitimate action in the post-9/11 era. The strategic imperative to prevent is widely recognised at state and UN levels. Rational action is dependent on observation of phenomena that are perceivable. In the post-9/11 strategic reality, these phenomena include unconstrained actors that have been observed to pose serious and potentially catastrophic threats to international peace and security. Rational action is defined by strategies that seek to control these threats and mitigate the risk of their materialisation through pro-action, including the option of military force. The problem is that controlling strategies depend on the determination of threats through information, most likely secret intelligence, not through occurrences of attack. Waiting to determine threats through occurrences of attack is irrational considering the strategic imperative to prevent unconstrained actors

²⁵³ See, for example, (9 July 2004). Report on the U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq, Senate Select Committee on Intelligence.

²⁵⁴ (28 January 2004). Report of the Inquiry into the Circumstances Surrounding the Death of Dr David Kelly C.M.G. London, The Stationary Office.

²⁵⁵ (14 July 2004). Review of Intelligence on Weapons of Mass Destruction: Report of a Committee of Privy Counsellors. London, The Stationary Office: 114

from using force. In order to legitimise information-driven action, encapsulating the right to apply military force, against threats whose effects have yet to materialise, requires, in conjunction with the *Caroline* formula, the demonstration of necessity and proportionality. Moreover, trust in the information that purports to provide the *casus belli* is essential to achieving legitimacy for information-driven action. The demonstration of these conditions is more difficult when the information seeking to achieve it is open to interpretation and, in intelligence cases, normally closed to public scrutiny. Furthermore, there is no question that the Iraq war damaged the case for controlling strategies that rely on information that has a good chance of turning out to be wrong.²⁵⁶

Indeed, the demonstration of necessity by information is based on context-dependent assessment. As such, as contexts change, assessments of information that purport to indicate the necessity of action also change. This situation differs markedly from threats that are demonstrated through observations of attack: such threats exist because they are perceived, not because they are perceivable. In the post-9/11 strategic reality, however, threats that operate covertly – such as unconstrained terrorist plotters – exist because they are perceivable, not because they are perceived. In order to act rationally against them, the onus is on states to empirically investigate their existence and determine their nature. Necessity of action in this strategic context is, therefore, demonstrable only through the assessment of information gleaned from empirical investigations.

The problem is that it cannot be known for certain whether the contexts within which these investigations take place are capable of providing information that is able to evidence clandestine threats beyond the threshold of reasonable doubt. As David Kay stated, the determination of Iraqi WMD ‘based on the intelligence that existed’ was reasonable; as such, the necessity of action within a post-9/11 strategic reality was, although open to argument, demonstrable. In the post-invasion context, however, empirical investigations produced information that supported a different conclusion. And this is the primary problem with demonstrating necessity through information:

²⁵⁶ See Suskind, R. (2006). *The One Percent Doctrine*. New York, Simon and Schuster.

information depends on context, and context is changeable; therefore, information is changeable too. Necessity, as the term implies, is hard to demonstrate through context-dependent information on the reality of threats that is contingent, in principle, on observation.

Crucially, though, in line with Constructivist Realist theory, the fact that information is subjective does not mean that it is not realistic. It does mean, however, that trust in the veracity of information is a requirement for the legitimisation of controlling strategies that seek to prevent attacks whose effects are yet to be perceived. Trust is also vital to legitimising the proportionality of any action taken in anticipation of threats determined through the assessment of information, and is particularly important when such action involves the use of force. The requirement of trust is a 21st century addition to the 19th century *Caroline* formula, and is a crucial component of the social processes that bequeath legitimacy. Trust is essential in the post-9/11 environment, where the focus on the empirical is fundamental and problems of perception of threats that ‘might be unperceived, but nonetheless perceptible in principle’, or ‘are perceived by some, but remain imperceptible to others, who might well be sceptical’, complicate threat determinations and make the role of intelligence in strategic planning and responses far more important than ever before²⁵⁷.

Prevention after 9/11

Prevention, in the post-9/11 material reality, is not, as James Gow contends, necessary. It is, nevertheless, rational. In order to facilitate and legitimise prevention, a better linkage between information and the legitimising institutions of international society is required so that unconstrained and dangerous threats demanding preventing can be determined and acted upon legitimately in conjunction with strategic imperatives. In light of the rationality of prevention and the failure of the UN Charter to maintain authority and control over *de facto* preventive state practice, the challenge for international society, as Gow rightly asserts, is ‘to work out the best possible terms for

²⁵⁷ Gow, J. (2005). Defending the West: 35

its emergence and satisfactory adoption'.²⁵⁸ A critical factor in meeting this challenge is accommodating the possibility of rationalising and legitimising preventive action through the assessment of information, most likely secret intelligence, of threats that are perceivable rather than perceived, as opposed to the perception of the occurrence of actual armed attack.

CONCLUSIONS

The existence of unconstrained actors led to the emergence of prevention as rational action in the post-9/11 world. Coercive strategies in the face of non-state gamblers that seek their own death through causing mass casualties and destruction do not make sense. Prevention – a controlling strategy that seeks to address unconstrained threats, at whatever stage of development, before they materialise through pro-active mechanisms - represents rational action in recognition of undeterrable and incoercible threats of potentially catastrophic magnitude. Enabling rational action in recognition of the post-9/11 strategic imperative to prevent threats depends on the acquisition and application of information. Moreover, legitimising prevention depends on the determination of threats and the demonstration of the necessity through the assessment of information. The power of intelligence to enable rational action and legitimise prevention is a feature of the post-9/11 era, and it is examined in Chapter three.

²⁵⁸ Gow, J. (2005). Defending the West: 132

CHAPTER THREE

Intelligence Power after 9/11

INTRODUCTION

The facilitation and legitimisation of post-9/11 controlling strategies, in line with the strategic imperative to prevent threats, depends on the acquisition and application of information on phenomena that are perceivable, but not necessarily perceived. In order to be able to act in advance to prevent expected threats from materialising, states must be capable of investigating and empirically verifying risk. Accordingly, controlling strategies that seek to prevent threats through pro-active mechanisms have strategic intelligence requirements. The determination of threats whose materialisation states can ill-afford to allow relies on the assessment of information on potential attacks, rather than observations of attacks that have already happened.

As an instrument of statecraft, intelligence power, as described by Michael Herman, is a facet of national power.²⁵⁹ States' levels of intelligence power have traditionally varied according to the seriousness with which states have taken intelligence in achieving national security goals.²⁶⁰ States that have perceived vulnerability to threats have generally taken intelligence more seriously in national security efforts than states that have felt relatively secure.²⁶¹ After 9/11, however, perceptions of a 'new' terrorism threat have universalized and the imperative to prevent terrorism threats has provided a new-found rationale for pro-active action against anticipated attack. International society as a whole, therefore, has a newly acquired interest in taking intelligence seriously, considering intelligence has the potential power to facilitate and legitimise

²⁵⁹ Herman, M. (1996). Intelligence Power in Peace and War. Cambridge, Cambridge University Press.

²⁶⁰ Ibid.

²⁶¹ Ibid.

pro-action by determining burgeoning, covert threats and demonstrating the necessity of preventive action in anticipation of attack.

To be sure, the post-9/11 strategic reality has affected the way in which Michael Herman's concept of intelligence power – the use of intelligence by states to produce advantageous effects in the international system – is understood.²⁶² The possibility for states to facilitate and legitimise rational action, given the imperative of prevention, through the assessment of information has made intelligence more important than ever to the maintenance of international peace and security.²⁶³ Intelligence has the potential power to enable states to act rationally by providing the means to investigate material reality and verify the existence of fuzzy threats that, according to Constructivist Realism, are perceivable, but not necessarily perceived. Intelligence also has the potential power to enable states to legitimise prevention by demonstrating the necessity of preventive measures that seek to manage unconstrained and incoercible threats identified through the assessment of information gleaned by empirical investigation. These new levels of potential intelligence power have brought pressure to bear on intelligence organisations by imposing roles on intelligence knowledge that transcend the traditional boundaries of intelligence activity. For instance, efforts to meet the challenge to prevent threats to international peace and security have, despite severe limitations, entailed increased intelligence co-operation between states in order to promote rational government of unconstrained transnational threats.²⁶⁴

The role identified by Herman of intelligence organisations to enable rational government is explained by the Constructivist Realist conception of rational action as a product of social processes involving empirical investigation, in line with Positivist rationality. Indeed, Constructivist Realism succeeds in providing a theory of intelligence power by describing the power of intelligence in terms of Positivist rationality. In much the same way that empirical investigation has the power to bestow meaning on statements expressing verifiable facts, intelligence – a social process

²⁶² Herman, M. (1996). Intelligence Power in Peace and War.

²⁶³ Mackmurdo, C. (2004). "Getting Facts: Intelligence and the UN."

²⁶⁴ Herman, M. (2002). "11 September: Legitimising Intelligence?" International Relations 16(2): 227 - 241.

involving empirical investigation – has the power to describe reality and enable rational government of phenomena that are perceivable, but not necessarily perceived.

This chapter is divided into four sections. Section one develops a theory of intelligence power based on Constructivist Realism. Section two examines the nature of Michael Herman's concept of intelligence power, and explores how understanding of the concept has changed after 9/11. Section three looks at how the imperative of prevention has affected the nature of intelligence power and outlines the new international roles of intelligence. And, section four looks at how the need to co-operate to prevent serious transnational threats has affected the nature of intelligence power and examines developments in, and the limitations of, intelligence co-operation.

SECTION ONE: A CONSTRUCTIVIST REALIST THEORY OF INTELLIGENCE POWER

The Lack of Intelligence Theory

Apart from providing a realistic and rational theory of international politics, Constructivist Realism succeeds in providing a much needed theory of intelligence power. Intelligence as a feature of the international system is notoriously under-theorised, and attempts to create a theory of intelligence have been inadequate.²⁶⁵ The best conceptual framework for intelligence was developed by Michael Herman in his book *Intelligence Power in Peace and War*, which is examined in Section 2, below. Whilst his framework succeeds in elucidating the empirical evolution, structures, dynamics and effects of intelligence power, it doesn't, however, make explicit the ontological or epistemological claims required for serious theory. The assumptions that are bundled in Herman's concept of 'intelligence power' are avowedly Realist: Herman focuses exclusively on the State as the primary actor in a competitive international system in which intelligence, as an instrument of sovereign state power, is used to maximise

²⁶⁵ Andrew, C. (2004). "Intelligence, International Relations and 'Under-theorisation'." Intelligence and National Security 19(2): 170 -184.

national interests and achieve strategic advantage.²⁶⁶ Nevertheless, Herman, as a former intelligence practitioner, is reluctant to locate intelligence in international relations theory fearing, as he informed me in an interview, of appearing ‘pretentious’.²⁶⁷ For Herman, definitions of ‘intelligence power’ go far enough in providing a theoretical base, and this definitional basis has proved adequate for his purpose of raising awareness of intelligence as a subject worthy of academic study. Despite the lack of theoretical depth, Herman’s approach continues to provide the best practical framework for understanding intelligence as a feature of statecraft – but it doesn’t provide a robust academic theory of intelligence.

In order to fill the gap in intelligence theory, Peter Gill and Mark Pythian, in their book *Intelligence in an Insecure World*, sought to develop a systematic theoretical framework for intelligence with its own ontological and epistemological approaches.²⁶⁸ Gill and Pythian reject Positivism and Post-modernism as being too evidence-reliant and too Reflectivist, respectively.²⁶⁹ On the one hand, according to Gill and Pythian, the apparently ‘Behaviouralist’ ontology of Positivism is inadequate because ‘it requires ‘observability’ as a criterion for evidence and ‘actors’ who cause events’.²⁷⁰ As such, any ‘attempt to develop a theory of intelligence is doomed if we can theorize only on the basis of what we can observe, whether or not it is from ‘official’ sources’.²⁷¹ On the other hand, the inter-subjectivity of Post-modernism, such as the approach taken by James Der Derian’s ‘meta-theory’ on intelligence which examines ‘ambiguous discourse, not objective truth’, gets in the way of attempting to develop a useful framework within which to gain a practical understanding of intelligence.²⁷² Post-modern claims of subjective reality does not support Gill and Pythian’s purpose of seeking out ‘ways of understanding and explaining intelligence, including by way of analysing texts, believing that useful knowledge (that which has some real existence beyond the text) can be ascertained and made use of by those seeking to improve the

²⁶⁶ Herman, M. (1996). *Intelligence Power in Peace and War*.

²⁶⁷ Personal Interview with Michael Herman at Nuffield College, Oxford University on 5 November 2003

²⁶⁸ Gill, P. and M. Pythian (2006). *Intelligence in an Insecure World*. Cambridge, Polity.

²⁶⁹ Ibid.

²⁷⁰ Ibid.: 22

²⁷¹ Ibid.: 22

²⁷² Ibid.: 24

human condition'.²⁷³ In light of these concerns, Gill and Pythion settle for an approach that they call 'Critical Realism', which 'avoids the major pitfalls of both positivism and post-modernism'.²⁷⁴ The basic ontological claim of their Critical Realism is that there 'is some 'reality' in the world, but the process of understanding it requires critical self-reflection on *how* we understand'.²⁷⁵

Like Constructivist Realism, Gill and Pythion's Critical Realism is a bold effort to reconcile Realist and Constructivist processes. However, unlike a Phenomenalist-based Constructivist Realism, Critical Realism is based on misguided ontology and epistemology and, therefore, suffers from problematic dilemmas. In addition, Gill and Pythion seek to explain the academic study of intelligence, not intelligence as a phenomenon of the international system. Consequently, it fails to provide a theory of intelligence and succeeds in merely establishing a methodological framework for research into intelligence that identifies the opportunities and limitations for researchers studying a secretive branch of government.²⁷⁶

There are five major problems with Gill and Python's approach. Firstly, Gill and Pythion reject the requirement of 'observability' for evidencing the existence of phenomena. In terms of theory, Critical Realism is, according to Positivist standards of reasoning, meaningless nonsense. As David Hume would ask, does Critical Realism contain any experimental reasoning concerning matter of fact and existence? According to Gill and Pythion, the answer is 'no', since facts are not discoverable – only 'new connections and relations that are not directly observable and by which we can analyse already known occurrences in a novel way' are available for discovery.²⁷⁷ This is good example of a theory that can express only tautologies. As such, it is no theory at all because it is incapable of describing new facts about the world. That being the case, Critical Realism does not contribute to our knowledge of the world, because

²⁷³ Gill, P. and M. Pythian (2006). Intelligence in an Insecure World: 24-25

²⁷⁴ Ibid.: 26

²⁷⁵ Ibid.: 26

²⁷⁶ Ibid.

²⁷⁷ Ibid.: 26

we are unable to learn anything that we can show to be true. A Constructivist Realist is, in this case, forced to commit Critical Realism to the flames.

Secondly, if facts do not require being observable in principle then they are free to be invented. This Post-modern ontology negates, rather than assists, Gill and Pythion's attempt to construct a useful theory. Rather than synthesising Critical and Realist strengths to create a stronger theory, Gill and Pythion's Critical Realism suffers from a bizarre ontology that confuses what they mean by 'reality' and prevents their theory from clarifying the ontological status of their objects of analysis. Indeed, it is unacceptable for serious theory to claim that there is 'some reality in the world'. It is impossible for 'some reality' to be available for empirical testing and 'some reality' that is not. Seeking to create a theory that 'distinguishes elements of reality that are relatively unchanging and exist independently of the scientific process from those that change more frequently, being produced (socially constructed) as part of the scientific process' reveals a fundamental misunderstanding of scientific processes that seek to verify material realities through empirical investigations (social processes) of facts that are falsifiable through observation.²⁷⁸ A theory must either consider reality to be describable in empirically verifiable statements of fact or invented: it is impossible to consider both ontological situations to be equally valid without incurring fatal contradictions. The confused ontology of Gill and Pythion's Critical Realism represents a significant weakness in the level of theoretical rigour that they claim is at the heart of their initiative to wed Realism with Critical thinking.

Thirdly, if facts do not require being observable to be real, then they are not falsifiable. This position is untenable for a theory that purports to seek to explain intelligence, since it does not allow for the discovery of facts. Gill and Pythion's acceptance that 'not all social phenomena can be observed' directly contradicts Gill and Pythion's mission to conduct research that must 'therefore also seek out underlying mechanisms of events'.²⁷⁹ If these 'underlying mechanisms' are

²⁷⁸ Gill, P. and M. Pythian (2006). Intelligence in an Insecure World: 26-27

²⁷⁹ Ibid.: 26-27

unobservable, then what is the point of carrying out the research when no facts are discoverable?

Fourthly, the confused and weak ontology of Critical Realism affects the theory's epistemology and causation. In terms of Gill and Pythion's epistemology, knowledge of the international system is unobtainable through empirical investigation, since unobservable phenomena are indescribable in statements of fact. Not only does this epistemological approach negate the explanatory power of their theory, it also challenges the rationale of intelligence as a state instrument of power designed to uncover phenomena that are perceivable, but not necessarily perceived. If the world does not contain observable facts, then what is the point of intelligence as an instrument of statecraft? More crucially in terms of the logic of Critical Realism, how can a theory that rejects the idea of observable reality explain the function of intelligence? Unfortunately for Gill and Pythion, it cannot. The same problem is at the centre of Critical Realism's causation. If causal connections are assumed to be unobservable, in line with the idea of 'secret connexions' expounded by David Hume, then how can Critical Realism identify the efficacy of intelligence to cause anything or explain the function of intelligence to investigate phenomena that cause actors to collect, analysis and disseminate information in order to ensure security aims in the face of perceived threats? In assuming that material phenomena do not possess causal powers, Critical Realism is incapable of explaining intelligence's function to investigate threats that are perceived to have the power to cause harm. As a theory that seeks 'ways of understanding and explaining intelligence', Critical Realism is ill-equipped and inadequate.

Finally, although Gill and Pythion claim to want to understand and explain intelligence, their primary concern is to 'suggest a framework for research into intelligence'.²⁸⁰ Critical Realism is more about explaining research methodology and the special nature of intelligence as a subject of academic study. The Critical Realist theoretical approach is adopted in light of the reality that studies into intelligence affairs are hampered by limited access to information. This information, as Gill and

²⁸⁰ Gill, P. and M. Pythian (2006). Intelligence in an Insecure World: 35

Pythion attempt to theoretically put it, represents 'new connections and relations that are not directly observable'. Indeed, as Gill and Pythion assert, 'we shall never be able to theorize in a way that behaviouralists would regard as methodologically credible'.²⁸¹ This may be true considering the secrecy surrounding intelligence and the restrictions faced by academic outsiders who seek to research intelligence issues. However, this situation does not excuse theories that are not methodologically credible. A credible theory of intelligence that explains the function of intelligence in empirically verifiable statements of fact is possible and, in terms of filling the intelligence theory gap, essential. Gill and Pythion fail in their mission to provide a credible theory of intelligence because they do not believe that a credible theory of intelligence is possible.

Constructivist Realism: A Theory of Intelligence Power

Constructivist Realism succeeds where Critical Realism fails in providing a rigorous theoretical framework for Michael Herman's concept of 'intelligence power'. Whereas Critical Realism seeks to identify a framework of intelligence research methodology, Constructivist Realism seeks to explain the institution of intelligence through empirically verifiable statements of fact that adhere to Positivist rationality. Indeed, Positivist rationality describes the nature of intelligence power and explains its function as an enabler of rational action within the international system. The Constructivist Realist conception of rational action explains the function of intelligence in facilitating rational government in the face of threats that are perceivable, but not necessarily perceived: empirically derived strategic imperatives are established through the investigation of material reality; the ability to act rationally within the material world depends on the capability to verify phenomena that exist independent of perception. This assertion follows the Phenomenalist logic that to act rationally is to understand reality, to understand reality is to describe facts, and, to describe facts is to be capable of verifying phenomena through empirical investigation. Intelligence power represents the capability of states to act rationally by understanding threats through the empirical investigation of material phenomena.

²⁸¹ Gill, P. and M. Pythian (2006). Intelligence in an Insecure World: 22

Moreover, the requirement to investigate the existence of fuzzy and complex phenomena in line with the post-9/11 strategic reality has bestowed even greater value on intelligence as an enabler of rational action in the contemporary international system.²⁸² In the post-9/11 world, controlling security strategies that seek to prevent the materialisation of threats posed by unconstrained actors depend on intelligence power to investigate and verify phenomena, considering that rational action in the face of unconstrained actors requires the determination of threats through the assessment of information, rather than the perception of attacks that have already occurred. The potential power of intelligence in the post-9/11 strategic reality, therefore, amounts to more than the institutionalisation of Positivist rationality. The strategic imperative to prevent threats relies on intelligence power to facilitate and legitimise action taken in anticipation of attack, by providing the potential means of demonstrating the necessity of preventive action against threats that have yet to materialise. In the post-9/11 era, rational action – encompassing the need to pro-act against risk of attack – depends on intelligence power more than ever before.

As it was stated in Chapter 1, the assumption of phenomena in a material world that exist independently of perception demonstrates the value of social processes involving empirical investigation in enabling rational behaviour. This is where Gill and Pythion are wrong to create a dichotomy between facts that are ‘real’ and social constructs that are produced. On the contrary, facts are real precisely *because* they are socially produced. As the Positivist motto goes, ‘the meaning of a proposition is its method of verification’. ‘Facts’ are accorded meaning because they are verified through social processes involving empirical verification. The relationship between empirical verification of phenomena and the ability to act rationally is intimate.

In the international system, the ability of states to act rationally in the face of clandestine and unconstrained challenges depends on their capability of investigating and verifying phenomena that represent risk-like ‘permanent possibilities’ of harm. The value of empirical investigation in enabling actors to construct rational institutions is of fundamental importance within a material international system that is perceivable but

²⁸² Mackmurdo, C. (2004). "Getting Facts: Intelligence and the UN."

not necessarily perceived. The *a posteriori* status of threats means that they cannot be understood or described through arm-chair contemplation. The requirement to construct a strategic 'big picture' through empirical processes represents the role of strategic intelligence in providing information of threats and challenges required to formulate and execute strategy, especially in the post-9/11 era when the strategic aim to prevent threats from materialising is imperative.

The construction of institutions within a material world also accounts for the potential power of intelligence to have a legitimising effect in international society. Whilst its function as an enabler of rational action is rooted in its status as a social process involving empirical investigation, intelligence power has played no role in legitimising action within a UN order based on a coercive strategy administered through reactive mechanisms. Indeed, intelligence is simply not recognised as part of the UN order, even after 9/11.²⁸³ The post-9/11 UN agenda calling for states to meet the 'challenge of prevention' fails to recognise the importance of intelligence in facilitating rational action.²⁸⁴ Intelligence activities do not correspond with the values of openness and neutrality that underpin the UN organisation.²⁸⁵ As such, the UN organisation keeps its distance from intelligence activity.²⁸⁶ However, given the post-9/11 imperative to prevent threats to international peace and security, intelligence has the potential power to legitimise, as well as enable, rational action by demonstrating the necessity of pro-active mechanisms. The social construction of institutions caused by phenomena that threaten international order involve closer co-operation between states and a greater role of intelligence in supporting controlling strategies against unconstrained transnational threats. The potential power of intelligence to legitimise rational action and the increasing levels of co-operation between states in the intelligence field testify to the Constructivist Realist identification of social processes that are constitutive of the international system, and constructed in response to empirical investigations of phenomena in line with Positivist rationality.

²⁸³ Steele, R. D. (2003). Information Peacekeeping and the Future of Intelligence. Peacekeeping Intelligence: Emerging Concepts for the Future. B. De Jong, W. Platje and R. D. Stelle. Oakton, OSS International Press.

²⁸⁴ (December 2004). A More Secure World.

²⁸⁵ Mackmurdo, C. (2004). "Getting Facts: Intelligence and the UN."

²⁸⁶ Ibid.

Constructivist Realism furnishes Herman's conceptual framework with the ontological and epistemological tools required to create a rigorous theory of intelligence power that provides analytical depth at no cost to the empirical. Indeed, the focus on the empirical is essential to understanding the nature of intelligence and explaining the function of intelligence power within a world socially constructed by empirical processes.

SECTION TWO: THE CONCEPT OF INTELLIGENCE POWER

The Nature of Intelligence Power

Rational Government

In 1949, the American academic and government serviceman Sherman Kent introduced the term 'strategic intelligence' in his book *Strategic Intelligence for American World Policy*. In it, Kent outlined his vision of the challenges to US national security in the post-1945 world and the role of intelligence in meeting them. Principally, these challenges were the rise of communism and the protection of US interests without the help of a stronger ally, since none existed after the toils of the Second World War.²⁸⁷ America found itself in a situation where national security was threatened by events short of war, but also short of genuine peace.²⁸⁸ A requirement within this strategic context, wrote Kent, was 'strategic intelligence', or knowing the capabilities, intentions and movements of adversaries, so that rational policy could be formulated and executed to gain advantage over competitors, and mitigate, given the Cold War nuclear face-off, the risk of any MAD eventuality.²⁸⁹ Kent's understanding of intelligence as a 'big picture' component of rational government, above and beyond intelligence's tactical role in scouting out enemy forces in military operations, provided the

²⁸⁷ Kent, S. (2000). Strategic Intelligence for American World Policy. Princeton, NJ, Princeton University Press.

²⁸⁸ Berkowitz, B. D. and A. E. Goodman (1989). Strategic Intelligence for American National Security. Chichester, Princeton University Press.

²⁸⁹ Berkowitz, B. D. and A. E. Goodman (1989). Strategic Intelligence for American National Security: 3

philosophical blueprint for the US civilian intelligence community which remains at the heart of the Western model of intelligence.²⁹⁰

Clarifying the difference between strategic intelligence and tactical intelligence is important, considering the focus of this thesis is on strategic intelligence. Strategic intelligence is, as its name suggests, intelligence that supports strategy.²⁹¹ The acquisition and application of strategic intelligence is conducted in order to facilitate rational statecraft and assist in the achievement of enduring political aims. An example of strategic intelligence is information pertaining to the capabilities and intentions of a competitor state in support of a national foreign and security policy towards it. Tactical intelligence, on the other hand, has operational, rather than strategic, value.²⁹² Usually, tactical intelligence refers to information that assists in the achievement of limited military objectives. Tactical intelligence supports decision-making in the battlefield. Examples of tactical intelligence include information indicating the number of enemy troops entering into battle, the type of weaponry the enemy is deploying in battle or situation reports on the enemy's movements in battle. In this thesis, it is 'big picture' strategic intelligence that will be examined. The Western intelligence model is central to the concept of strategic intelligence, and provides a framework within which intelligence and policy are separated.²⁹³ This policy-independent role of intelligence promotes the idea that effective intelligence must be free to provide policy-makers with bad news, not just with what they want to hear. The Western intelligence model reflects the Positivist function of intelligence as a social process that involves empirical investigation of material phenomena that lie beyond perception, rather than an invention that is defined by the perception of individuals, including policy-makers. The Western intelligence model is often contrasted with the Soviet intelligence model, which is claimed to have been more susceptible to serving the convictions of Communist leaders like Stalin rather than providing empirically-derived facts representing approximations of the truth.²⁹⁴

²⁹⁰ Berkowitz, B. D. and A. E. Goodman (1989). Strategic Intelligence for American National Security: 4

²⁹¹ Ibid.

²⁹² Ibid.

²⁹³ Herman, M. (1996). Intelligence Power in Peace and War.

²⁹⁴ Ibid.

In elucidating the nature of strategic intelligence, Kent proffered a three-pronged definition of intelligence as a type of knowledge, a type of organisation and a type of activity.²⁹⁵ As a type of knowledge, intelligence represents a ‘special category’ that deals with secret things and is itself, normally, secret.²⁹⁶ Intelligence is information normally associated with issues of national security, diplomacy, and defence, whose purpose is to support national policy-goals and governmental decision-making in these areas by providing knowledge of threats, and estimating future trends.²⁹⁷ As a type of organisation, intelligence institutions provide this special type of knowledge, and the term ‘intelligence’ can be used to refer not only to information but also to the organisations that produce it, as in ‘British Intelligence’.²⁹⁸ As a type of activity, ‘intelligence’ ranges from tasking, collection and covert action to processing, analysis, assessment and dissemination. Each activity possesses distinctive characteristics and serves individual purposes, but all are intimately entwined in the intelligence cycle that intelligence organisations follow in the acquisition and production of intelligence knowledge.²⁹⁹

In 1996, British ex-intelligence practitioner and academic Michael Herman developed Sherman Kent’s complex concept of strategic intelligence by introducing the concept of ‘intelligence power’.³⁰⁰ Whilst the knowledge and activity elements of Kent’s definition of strategic intelligence are essential to Herman’s description of intelligence power, it is the organisational element that Herman considers the most important.³⁰¹ In terms of intelligence power, it is the intelligence organisation that possesses the ‘capacity to produce effects that are more advantageous than would otherwise have been the case’, by providing the knowledge required to facilitate rational government.³⁰² In Herman’s view, the term ‘intelligence’ is ‘based on a particular set of organisations with that name... Intelligence activity is what they do, and intelligence

²⁹⁵ Kent, S. (2000). Strategic Intelligence for American World Policy.

²⁹⁶ Herman, M. (1996). Intelligence Power in Peace and War: 2

²⁹⁷ Ibid.: 1

²⁹⁸ Ibid.: 2

²⁹⁹ Ibid.

³⁰⁰ Ibid.

³⁰¹ Ibid.

³⁰² Ibid: 2. Herman claims to use Lawrence Freedman’s definition of ‘power’.

knowledge what they produce'.³⁰³ The capacity of intelligence organisations to conduct intelligence activity that produces intelligence knowledge which, in turn, causes advantageous effects, constitutes a particular type of state power: intelligence power.³⁰⁴

National Power

Intelligence power is a facet of national power, and it is 'produced to influence government action, however remotely'.³⁰⁵ According to Herman, the primary purpose of intelligence is to 'optimize national strength and international influence in peacetime and promote the effective use of force in war and other conflict'.³⁰⁶ Indeed, intelligence power is comparable to military power in this regard: it is dispensed by the State in order to gain advantage in a competitive international system. The organisations that undertake intelligence activities and produce intelligence knowledge are, like armed services, national entities, and in many states they constitute a fundamental part of national governmental machinery. The historian John Keegan has said that 'the central importance of *knowing*, both in general and in particular' is a crucial part of statecraft.³⁰⁷ Knowing as a part of statecraft has been institutionalised and proven to be a growth industry since the end of World War Two, and today intelligence is a central pillar of many states' foreign, security and defence policies, and a key factor in their success or failure.³⁰⁸

Although both military power and intelligence power are facets of national power, intelligence power is markedly different from military power in respects that make intelligence a truer expression of national sovereignty.³⁰⁹ Firstly, unlike the use of military power by a state in the international system, the use of intelligence power is

³⁰³ Herman, M. (1996). *Intelligence Power in Peace and War*: 2

³⁰⁴ *Ibid.*: 2

³⁰⁵ *Ibid.*: 137

³⁰⁶ *Ibid.*: 381

³⁰⁷ Keegan, J. (1987). *The Mask of Command*. London, Penguin: 325. Despite acknowledging the role of knowing in statecraft, Keegan believes that military power is far more efficacious than intelligence power in producing advantageous effects in war. See Keegan, J. (2003). *Intelligence in War: Knowledge of the Enemy from Napoleon to Al Qaeda*. New York, Alfred A. Knopf.

³⁰⁸ Herman, M. (1996). *Intelligence Power in Peace and War*.

³⁰⁹ *Ibid.*

not subject to international regulation. There are no international treaties covering either intelligence activity or organisations, there are just rules of the game tacitly approved, understood and enforced by its participants, and flexible bilateral arrangements.³¹⁰ Intelligence often operates outside of the framework of international society by ignoring the international legal and political restrictions states ordinarily observe. This is not to say that states who subscribe to the UN Charter habitually operate in contravention of their international obligations through intelligence activity, it is to say that intelligence organisations and their activities are not covered by the UN Charter. States view intelligence as an area of statecraft that lies outside of the normal jurisdiction of international convention. The controversial publicity surrounding the CIA renditions affair is a testament to the way in which states approach intelligence activity as an area which is not subject to normal international controls.³¹¹

Secondly, intelligence power is projected covertly and its effects are relatively 'soft' in comparison to the 'hard' effects of military power, which states project overtly to produce the effects of deterrence, compliance and containment in the international system. A central characteristic of intelligence activity and organisations is understatement, which is essential to the efficacy of intelligence power. The capacity of intelligence organisations to produce advantageous effects would be impaired if, for instance, intelligence sources and methods were not kept secret. The strategic requirement of intelligence to be discreet contrasts starkly with conventional and nuclear military strategic doctrine, which relies on public advertisement of military strength in order to deter and compel adversaries, and create the desired effects in the international system.

Thirdly, formal military alliances such as NATO, and joint military ventures such as the European Security and Defence Policy (ESDP), are not reflected by comparable intelligence partnerships. An Italian intelligence officer operating in Iraq would not answer to a British intelligence officer, in the way Italian troops, for example, report to

³¹⁰ Herman, M. (1996). *Intelligence Power in Peace and War*.

³¹¹ . "Full Coverage: CIA Rendition Flights." *The Guardian*, from <http://www.guardian.co.uk/usa/rendition/0,1662557,00.html>.

the British military command in Basra.³¹² Intelligence relationships between states take the form of ad hoc and flexible coalitions which are formed solely on the basis of national interests, not the policy objectives of a multilateral institution, however conceived. Trends in increased integration of military power amongst states have not been followed by integration of intelligence power. These factors explain why intelligence is often described as the last true expression of sovereignty in the international system: intelligence power is projected by states without the restrictions other facets of national power, including military power, are normally subject to.

National Entities

Intelligence organisations that produce intelligence power are exclusively national entities.³¹³ There exists no multilateral or international organisation that produces intelligence power: intelligence organisations exist only at the national level as components of government. Despite this, intelligence activity and organisations are anomalous even within states. Only recently in the post-Cold War era have intelligence organisations in open and democratic states, such as the UK, been publicly avowed and legislated for. Employment terms and conditions for intelligence officers are different from those of other public servants, including diplomats and military personnel, and these terms and conditions affect the limit to which unionisation can occur in the intelligence sector. Even pre-employment situations are unusual: whilst the CIA and other US intelligence outfits have been relatively open in the way in which they recruit staff, the British SIS, for instance, waited until spring 2006 to create a website and allow prospective candidates to pro-actively apply for positions within the organisation, breaking its dependency on the shoulder-tap system of recruitment that SIS had used since its inception.³¹⁴ Even though increasing openness of intelligence services within democratic societies has occurred, intelligence remains anomalous, given that it is not subject to the same level of public scrutiny as are other branches of government. Governments invoke traditions of 'not commenting on intelligence

³¹² McElroy, D. (28 September 2006). 3,000 British troops try to tame Basra. [The Daily Telegraph](#).

³¹³ Herman, M. (1996). [Intelligence Power in Peace and War](#).

³¹⁴ See www.sis.gov.uk

matters' and 'neither confirming nor denying' stories relating to intelligence activity. On the whole, populations tolerate this situation by acknowledging that intelligence occupies a unique, almost paradoxical position in democratic societies, predicated on the notion that the preservation of openness depends on the maintenance of secrecy.³¹⁵

At the international level, the nature of intelligence organisations remains anomalous but is less obviously so, given that political discussions about intelligence are few and far between, or avoided altogether. The UN, for example, the arbiter of international law and order, whose Security Council is uniquely responsible for determining and addressing threats to peace and security, omits the term intelligence from any of its debates and literature, preferring instead to use the term 'information'.³¹⁶ Intelligence knowledge, activities and organisations are shunned by the UN system. Intelligence's association with secrecy, deception and spying has prevented the business of intelligence from entering into the legitimate political fold – and the stringently neutral and transparent UN, and the national governments who seek to retain tight control of their intelligence capabilities, are content keeping it this way.³¹⁷ As such, the nature of intelligence power as a concept continues to be characterised as a national power produced by national entities.

National Objectives

As a national power produced by national entities, intelligence power inevitably serves national objectives.³¹⁸ Intelligence is part of the state's defences against internal and external threats to national security. During the Cold War, the primary intelligence target for Western intelligence organisations was the Soviet Union. In the post-Cold War world, intelligence targets have expanded to include terrorism, WMD proliferation, regional conflicts, the international narcotics trade and economic threats,

³¹⁵ Wark, W. K. (2003). "Learning to Live with Intelligence." *Intelligence and National Security* 18(4): 1 - 14.

³¹⁶ Dorn, W. A. (1999). "The Cloak and the Blue Beret: The Limits of Intelligence-Gathering in UN Peacekeeping." *The Pearson Papers*(4).

³¹⁷ Mackmurdo, C. (2004). "Getting Facts: Intelligence and the UN."

³¹⁸ Herman, M. (1996). *Intelligence Power in Peace and War*.

as well as hostile states.³¹⁹ In the mid-1990s, when Herman wrote, Herman claimed that intelligence's devotion to national security had not weakened, agreeing with D. L. Boren that '[a]s the world becomes multipolar, more complex and no longer understandable through the prism of Soviet competition, more intelligence – not less – will be needed'.³²⁰

Intelligence remains a force multiplier for state instruments in peace and war, and is particularly important in counter-terrorism efforts.³²¹ The importance of intelligence's national security role 'depends upon threats and vulnerabilities and national perceptions of them'.³²² States facing seriously big threats have the 'biggest reasons for taking intelligence seriously'.³²³ Indeed, Herman claims that '[t]hreats and vulnerabilities are the most potent reasons for taking intelligence seriously'.³²⁴ States facing less serious threats to their national security, for example Japan, have reason to take intelligence less seriously, whilst states facing more serious threats, like the UK, which for decades countenanced aggression from Irish republican terrorism, have reason to take intelligence more seriously. Intelligence targets reflect threats to national security: states with more threats to national security have more intelligence targets, and bigger intelligence capabilities.

In this regard, intelligence and national security share a sort of symbiotic relationship: the work of intelligence organisations benefits state efforts to sustain national security, and state perceptions of threats to national security sustains intelligence organisations. This relationship does not extend to international security: according to Herman, cases where intelligence is used to support international action are nothing more than 'applications of national intelligence to serve national interests when these are identified with promoting international security'.³²⁵ A state will involve itself on an intelligence basis in international initiatives such as 'co-operation on counter-terrorism

³¹⁹ Herman, M. (1996). Intelligence Power in Peace and War.

³²⁰ Ibid.: 342

³²¹ Ibid.

³²² Ibid.: 343

³²³ Ibid.: 343

³²⁴ Ibid.: 343

³²⁵ Ibid.: 362

and limiting international transfers' solely as a means to advance objectives narrowly conceived in the national interest, in response to perceived threats to national security.³²⁶

The Changing Nature of Intelligence Power

Perceptions and vulnerabilities after 9/11

The events on and since 9/11 changed the way in which states perceive threats and, therefore, the degree by which states take intelligence seriously. 'New' terrorism, defined here as the strain of violent Islamist extremism as practiced by al-Qaida and its affiliates and followers, is a serious transnational threat to which each member of the international community is vulnerable. Al-Qaida does not discriminate according to national boundaries: all states non-conducive to its campaign to establish a caliphate based on Sharia law is vulnerable to attack, including Muslim states.³²⁷ Influential Western powers, which symbolise the greatest enemies of Islamism, such as the US, Israel and UK, remain at the top of the al-Qaida hit-list, but many other non-Muslim and Muslim states are targets for al-Qaida. Christians, Jews and other 'rejectionist' religious groups that cross state lines such as Shia Muslims are also fair game for al-Qaida operatives.³²⁸

The West, comprising predominantly Christian-rooted and democratic states, is the principle 'infidel' and 'crusader' power that Usama Bin Laden targeted on 9/11.³²⁹ Attacks in Madrid in March 2004 and London in July 2005 demonstrate that Western states share a common terrorist threat. Friends and allies of the US and European states, such as Australia, Pakistan, Jordan, Saudi Arabia, Egypt and Morocco, have also been subject to al-Qaida attack. On the one hand, Australia, as a member of the Commonwealth and a democratic member of the international community, is

³²⁶ Herman, M. (1996). *Intelligence Power in Peace and War*: 362

³²⁷ Burke, J. (2003). *Al-Qaeda: Casting a Shadow of Terror*. London, I.B. Tauris.

³²⁸ Ibid.

³²⁹ Corbin, J. (2002). *The Base: In Search of al-Qaeda - the Terror Network that Shook the World*. London, Simon and Schuster.

anathema to al-Qaida and a natural enemy in its own right. On the other hand, leaders of Muslim states like Pakistan and Jordan are 'apostate' regimes that are worthy of attack because of their association with the West and apparent abandonment of 'true' Islamic doctrine.³³⁰ Elsewhere in the Middle East, Israel's perceived suppression of the Muslim Palestinian population gives cause for it to be an important target for al-Qaida. The UN, which is seen by Bin Laden as nothing more than a vehicle for Western power, has suffered attack and continues to be described by the al-Qaida leadership as a legitimate target.³³¹ The UN system as a whole is an enemy of al-Qaida, and UN operations in Sudan, East Timor and Bosnia are proffered as examples by Bin Laden of a 'Crusader-Zionist war' against Islam, which are used to justify his calls for a violent global jihad.³³² The threat posed by al-Qaida is not constrained geographically: it is reported that al-Qaida has cells in over 80 countries worldwide. The global reach and ambition of al-Qaida makes 'new' terrorism a serious transnational threat that has forced states to reconsider the meaning of national security.

As a threat of global reach, the activities of individuals in one country directly affect the security of another, as was seen on 9/11 and is being seen in the US, UK, Spain, Sweden, Bosnia, Australia and elsewhere across the world. In this fluid and dangerous international environment, the security of one state depends on the security of other states. Ensuring national security means ensuring international security.³³³

As a threat of global ambition, 'new' terrorism is not state-specific, nor is it conducive to the international system in which states thrive. Unlike the Soviet Union or Irish Republican terrorism, which threatened the US and her allies during the Cold War and the UK during much of the 20th century respectively, the perception of the threat posed by al-Qaida is not subject to the same degree of specification. The form

³³⁰ Benjamin, D. and S. Smith (2005). The Next Attack: The Globalization of Jihad.

³³¹ (3 November 2001). "Bin Laden rails against Crusaders and UN." from http://news.bbc.co.uk/1/hi/world/monitoring/media_reports/1636782.stm.

³³² (3 November 2001). "Bin Laden rails against Crusaders and UN."

³³³ See Hall, R. and C. Fox (2001). "Rethinking Security." NATO Review Winter.

of terrorism conducted by al-Qaida and related groups is recognised as a serious threat to international peace and security, not a matter of national security specific to any one state or group of states.³³⁴

Moreover, the threat posed by 'new' terrorism is different from the threats posed by the Soviet Union and the PIRA in that the nature, methods and objectives of al-Qaida do not fit with the character of the international system. The nuclear stand-off between the East and West defined the international system for almost 50 years, and it was based on the strategic logic of deterrence, survival and sovereignty that 'rational' states could understand and apply. Similarly, the Irish Republican causes of self-determination and statehood, although unwelcome, were causes the UK and the international community could at least understand. In contrast, the 'flock of birds' nature of a non-state and transnational al-Qaida organisation, which seeks to achieve its objective to overturn international order through a strategy of causing mass-casualties based largely on suicide attacks, contradicts the strategic principles of deterrence, survival and sovereignty as conventionally understood. As such, al-Qaida challenges the international system in a way that neither the Soviet Union nor Irish Republicanism did, and thereby succeeds in forcing states to amalgamate national and international interests in a way that was not rational before 9/11.

The re-conceptualization of national security in light of the emergence of 'new' terrorism has impacted on the way in which other threats are assessed. In particular, considering the strategy of al-Qaida to cause mass-casualties through suicide attacks, the nature of the threat posed by the proliferation of weapons of mass destruction has been reviewed by the US and UK.³³⁵ Faith in the logic of deterrence that governed the East-West nuclear stand-off during the Cold War, and continues to govern the contemporary international system, has dissolved in an era of non-state actors bent on

³³⁴ See (28 September 2001). UN Security Council Resolution 1373; Gow, J. (2005). Defending the West.

³³⁵ See, for example, (February 2003). National Strategy for Combating Terrorism, The White House; (December 2002). National Strategy to Combat Weapons of Mass Destruction, The White House; (September 2002). The United Kingdom and the Campaign Against International Terrorism: Progress Report, UK Cabinet Office.

killing as many people as they can, with no concern for their own survival.³³⁶ Declarations of intentions by al-Qaida for a capability to mass-destruct have re-defined how states approach the issue of WMD proliferation.³³⁷ 'New' terrorism has prompted not only the amalgamation of national security with international security; it has also created a perception of a terrorism-WMD threat nexus against which states feel vulnerable. Related issues such as proliferators and 'rogue' states have also been re-evaluated within the post-9/11 context.

States' attitudes towards the importance of the role of intelligence in the post-9/11 security environment remain, as Herman claimed, dependent 'upon threats and vulnerabilities and national perceptions of them'. In the post-9/11 era, however, in contrast to the Cold War and the situation in the 1990s, most states have an interest in taking intelligence seriously, because most states face a common threat at a comparable level of seriousness. The nature of 'new' terrorism, and the perception of a terrorism-WMD threat nexus, means that it is no longer sensible to suggest that Japan, for instance, has less reason to take intelligence seriously than the UK, given differentials in state perceptions of serious threats to national security. Japan is vulnerable to the effects of al-Qaida as is the UK and has, indeed, been targeted, along with international institutions.³³⁸ Events such as the RUSI Japan-UK Security Co-operation Conference in July 2006 reflect this situation of universal vulnerability which has transformed the scope of intelligence power to produce effects that are advantageous to universal interests.

Intelligence Power after 9/11: Threats to International Security as Intelligence Targets

Given these post-9/11 changes in states' threat perceptions and vulnerabilities, Herman's definition of intelligence power requires drastic revision. Intelligence co-operation on issues such as counter-terrorism and WMD proliferation is now a strategic imperative, not a mere option when 'applications of national intelligence'

³³⁶ Freedman, L. (2004). Prevention, Not Preemption.

³³⁷ Cruikshank, P. and M. H. Ali (11 June 2006). Jihadist of Mass Destruction. Washington Post.

³³⁸ Olimpio, G. (2006). "Japan: A Target for al-Qaeda?" Terrorism Monitor 4(5): 4 - 6.

happen to 'serve national interests when these are identified with promoting international security'. Although Herman accepts the rationality of countering threats abroad in order to protect security at home (this, indeed, is a primary function of intelligence), Herman follows Kent in describing intelligence as an exclusively national preserve that serves strictly national interests, as distinct from international ones. However, the amalgamation of national and international interests in the face of 'new' terrorism, as well the reassessment of the international issue of WMD proliferation in line with the terrorism threat, has prompted the formulation of security strategies based on the imperative of prevention.³³⁹ These strategic imperatives have changed the object of intelligence power. The nature of intelligence power as a facet of national power remains accurate, and intelligence continues to be produced by national entities. However, intelligence power after 9/11 serves international objectives, given the amalgamation of national interests with international interests. Intelligence targets have internationalised.

The internationalisation of intelligence targets alters the way in which the concept of intelligence power, as described by Herman, is understood. Firstly, the concept of intelligence power as a facet of national power is affected. In the face of serious transnational threats, one state's security depends on the security of another. Accordingly, intelligence work that is carried-out in one state directly affects the level of intelligence power of another.³⁴⁰ This is new, and marks a departure from the way in which intelligence power was understood pre-9/11, when it was conceived as the purest form of national sovereignty. Intelligence probably remains the purest form of national sovereignty – it certainly remains a facet of national power – but it is no

³³⁹ See, for example, (2004). A More Secure World: Our Shared Responsibility: Report of the High Level Panel on Threats, Challenges and Change, United Nations; (2006). UN Resolution 60/288: The United Nations Global Counter-Terrorism Strategy; (June 2004). Preventing and Combating Terrorism: The New Security Environment. Vienna, OSCE Annual Security Review Conference; (2003). A Secure Europe in a Better World: European Security Strategy. Brussels, The European Union; (2003). Defence White Paper: Delivering Security in a Changing World, UK Ministry of Defence; (2006). The National Security Strategy of the United States of America, The White House.

³⁴⁰ For example, the domestic intelligence role of Pakistan was apparently critical to the UK's *Operation Overt*, which prevented the suspected al-Qaida plot to destroy a number of airborne aircraft on transit from the UK to the US. See (15 August 2006). "Pakistan arrests seven in UK bomb plot." from <http://english.aljazeera.net/English/archive/archive?ArchiveId=25067>.

longer absolute: the imperatives of prevention and co-operation mean that intelligence organisations depend more on wider information exchanges than they did before 9/11.

Secondly, the concept of intelligence organisations as national entities is affected. The rationality of increased co-operation between intelligence organisations means that a state's intelligence knowledge is increasingly produced by a multitude of intelligence organisations.³⁴¹ The interdependence among intelligence organisations stretch beyond the comfortable bilateral relationships, such as the close tie between the US and UK, enjoyed by states in the past. It is arguable that the US regards Pakistan or Saudi Arabia as equally important, or even more important, than the UK in terms of intelligence production, given the terrorism threat. This is new, and reflects the nature of the serious transnational threats of today, and the imperatives of prevention and co-operation in security strategies. Although intelligence organisations do remain national entities, levels of national intelligence power are not solely dependent on national intelligence organisations, however capable they are, as they were in the past, when intelligence targets were more clearly defined and accessible to individual states.

Finally, and most markedly, the concept of intelligence power as a servant of national objectives is affected. The blurring of the line demarcating national security and international security affairs in the face of a terrorism-WMD threat nexus has propelled intelligence onto the international stage. Intelligence after 9/11 has the power to facilitate and legitimise international preventive security strategies – a function totally alien to the concept of intelligence power as described by Herman, which fulfilled no international role beyond that associated with narrow national interests. The publication of the September Dossier by the British government, for example, violated British national interests by exposing some of the UK's intelligence assets, and occurred to bolster the case for international action against Iraq, preferably through the UN. A similar case of intelligence being used to influence international policy is Colin Powell's presentation, in February 2003, of US intelligence on Iraq's

³⁴¹ Handley, D. (2006). Internationalising Intelligence Sharing. Transnational Terrorism: Defeating the Threat, Royal United Services Institute.

WMD capability to the UN Security Council. This aspect of intelligence power is new, and, despite significant constraints affecting the use of intelligence in multilateral fora, it, too, represents the imperatives of prevention and co-operation and the role of intelligence in post-9/11 security strategies.

Intelligence sources have also changed in the post-9/11 era. The strategic environment is information-rich, rather than information-scarce. The problem facing Western intelligence organisations during the Cold War was having too little information on the Soviet adversary. Today, the problem for Western intelligence organisations is having too much information to process.³⁴² A major task for intelligence analysts is to make sense of the vast volume of information that is collected on a daily basis from open and secret sources.³⁴³ The use of the internet and other communication technologies by groups like al-Qaida has made monitoring the flow of information difficult, and turning information into intelligence even more so.³⁴⁴ The data richness of the contemporary strategic environment has made intelligence analysis much more important than it has been in the past.³⁴⁵ Separating the wheat from the chaff is vital in order to receive a clear intelligence picture amongst the interference of innocuous everyday chatter.³⁴⁶ All-source analysis has become an essential component of intelligence activity, considering the abundance of salient information popping up on jihadi websites, chat-rooms and blogs and being transmitted over the public airways.³⁴⁷ The easy availability of open-source intelligence on the terrorism threat, especially broadcast communiqués and the publication of jihadi literature, has opened the door to private intelligence companies to provide a valuable analysis service. Companies such as IntelCenter and specialist off-shoots such as BBC Monitoring conduct open source analysis services that governments can buy. However, despite the new premium on open-source intelligence, states still rely on

³⁴² Treverton, G. F. (2003). Reshaping National Intelligence for an Age of Information. Cambridge, Cambridge University Press.

³⁴³ Treverton, G. F. (2003). Reshaping National Intelligence for an Age of Information.

³⁴⁴ Thomas, T. L. (2003). "Al Qaeda and the Internet: The Danger of 'Cyberplanning'." Parameters Spring(3).

³⁴⁵ Treverton, G. F. (2003). Reshaping National Intelligence for an Age of Information.

³⁴⁶ Lowenthal, M. M. (2003). Intelligence: From Secrets to Policy. Washington, CQ Press.

³⁴⁷ Treverton, G. F. (2003). Reshaping National Intelligence for an Age of Information.

secret intelligence to uncover the details of terrorist and other activities that are deliberately concealed from public view.³⁴⁸

The next section will examine more deeply how the strategic imperative of prevention and the need for closer intelligence co-operation have affected the nature of intelligence power.

SECTION THREE: INTELLIGENCE POWER AND THE IMPERATIVE OF PREVENTION

International Roles

Intelligence power after 9/11 has the potential power to prevent threats to international security. The intelligence targets of terrorism and the proliferation of weapons of mass destruction, which were previously discrete issues narrowly and differently perceived by states to threaten national security, constitute, in the post-9/11 era, a threat nexus that threatens the security of all states. The development of a terrorism-WMD threat nexus has universalised state perceptions of vulnerability, and has prompted a re-conceptualisation of threats to international security as intelligence targets.

The conceptualisation of threats to international security as intelligence targets is new, and is significant for three reasons. Firstly, it signifies the emphasis on prevention that has occurred in security strategies at the national and international levels. The strategic imperative of prevention has placed an onus on states to investigate and engage threats before they cause destruction, and this provides a challenge for both states and international institutions given the configuration of international law and convention. As it was explained in Chapter 2, the UN system does not authorise

³⁴⁸ See, for example, (29 January 2003). (29 January 2003). "Strengthening Intelligence to Better Protect America." from <http://www.whitehouse.gov/news/releases/2003/01/20030128-12.html>; Herman, M. (1996). Intelligence Power in Peace and War.

preventive security strategies involving the use of force: Articles 39 and 51 of Chapter VII of the UN Charter, which provides for collective security and self-defence arrangements, respectively, are predicated on the logic of reactive security strategies, executed after, not in anticipation of, a material breach of the peace, such as an act of aggression involving armed force as witnessed, for example, by Iraq against Kuwait in 1990. The widely acknowledged strategic imperative to prevent terrorism-related threats means that states and the UN have needed to re-conceptualise threats to international peace and security as potentialities as well as actualities, or as intelligence targets, rather than just those well-defined cases of material breaches, like Iraq's invasion of Kuwait, that meet the criteria laid out in Chapter 7 of the UN Charter.

Secondly, in relation to the re-conceptualisation of threats to international security as potentialities taking the form of intelligence targets that require prevention, states and international institutions are faced with the challenge of determining and responding to threats based on information, rather than demonstrations of violence. Again, this requirement is not fulfilled by the current international system by which states operate. According to international law and convention, states are authorised to use force against perceived threats only 'if an armed attack occurs', and not before. Considering the imperative to prevent the potential fruition of the terrorism-WMD threat, the need for states and international institutions to base decisions on information, rather than demonstrations of violence, has arisen. This need for information to support rational decision-making in the face of the terrorism-WMD threat has empowered intelligence to determine, define and drive policies at national and international levels, in support of universal interests.

Thirdly, the requirement to promote and protect international interests by acting on information to prevent serious transnational threats, and the power of intelligence to fulfil that requirement, has transformed the role of intelligence power in international affairs. The imperative of prevention means that intelligence targets have internationalised; accordingly, the object of intelligence power has internationalised, too. Whilst intelligence power remains a facet of national power and produced by national entities, intelligence has the potential power to produce advantageous effects

for the international community as a whole. Intelligence organisations still serve the interests of the state of which they are integral parts, but the emergence of post-9/11 threats to peace entails new international roles for intelligence power. States are acting to optimize national strength and international influence after 9/11 by using intelligence power to facilitate and legitimise prevention, form coalitions and influence international policy.

International Role 1: Facilitating Prevention

Intelligence has the potential power to facilitate prevention. Indeed, controlling security strategies that seek to prevent threats have strategic intelligence requirements, since prevention is necessarily intelligence-driven. To pro-act to prevent something means 'acting in advance to deal with an expected difficulty'; therefore, the concept of 'prevention' assumes a level of anticipation.³⁴⁹ To stop something that is not expected from happening is not an example of prevention; rather, that is accidental or incidental obstruction. As James Sutterlin has said, it is patently impossible to prevent something from happening if there is no knowledge that it might happen.³⁵⁰ 'Prevention' and 'anticipation' share a tautological and, therefore, a necessary and indispensable relationship, and this relationship entails a vital role for intelligence that anticipates future action in facilitating preventive security strategies. Prevention is impossible without information that anticipates attacks that have not yet occurred. The universal requirement to prevent the terrorism-WMD threat has prompted intelligence-driven security strategies. This has extended the scope of intelligence power to determine, define and drive policy, as opposed to support, refine and guide it, at both national and international levels.

Rational Government after 9/11

³⁴⁹ Definition of 'proaction' from <http://www.thefreedictionary.com/dict.asp?Word=proaction>.

³⁵⁰ Sutterlin, J. (1995). The United Nations and the Maintenance of International Peace and Security: A Challenge to be Met. Westport, Greenwood Press

The facilitation role of intelligence has expanded intelligence's core function of enabling rational government, as described by Kent and Herman, from the national sphere into the international sphere. For Kent writing in the 1940s, as for Herman writing in the 1990s, intelligence is understood as a fundamental requirement for rational government at the exclusively national level. Kent argued the importance of strategic intelligence for US national security by citing the strategic reality in which the US found itself in the wake of the Second World War, where it stood alone without allies of comparable strength, and at the cusp of the Cold War, where it was threatened by shadowy situations that fell short of war but also short of peace, as well as potential Armageddon. US national decision-makers needed information in order to make rational policy and negotiate this precarious and hazardous strategic environment, in which a rival superpower loomed large. This strategic reality prompted other states, such as the UK and the Soviet Union, to develop strategic intelligence capacities of their own, in order to facilitate rational decision-making capabilities. In the 1990s, Herman transplanted Kent's 'rational government' model of intelligence into the 1990s to form the basis of his concept of intelligence power. The nature of intelligence remains in Herman's eyes as a facet of national power produced by organisations in support of national objectives, but within a more complex post-Cold War strategic environment. Intelligence continues to be a facet of national power in the 21st century, but the imperative to act rationally against post-9/11 threats to international peace and security has engendered the need for global governance that requires intelligence support.

The emergence of serious transnational threats means that decisions made¹ in one state directly affects the security of another. As such, a state's own system of rational government is not enough to ensure national security, as it was generally perceived to be during the Cold War and 1990s. Considering the post-9/11 imperative of preventing the serious and transnational terrorism-WMD threat, the national security of one state depends on the capacities of other states to facilitate rational government based on their capabilities to empirically investigate and verify phenomena on a global scale. The capacity of the Pakistani national government, for instance, to make rational decisions in its fight against al-Qaida is critical not just to Pakistani national security,

but also to the security of states elsewhere in the Middle East, Europe, Asia, Africa and America, who perceive al-Qaida-related threats. The practice of rational government is no longer an exclusively national requirement; the capacity to make rational decisions based on intelligence rather than acts of violence is essential to meeting the challenge of prevention and the maintenance of international security.

Other than the international implications of a state's capacity for rational government, the requirement of intelligence-driven decision-making in the face of serious transnational threats affects the work of international institutions like the UN Security Council. As the body uniquely responsible for determining and responding to threats to international peace and security, the UNSC is charged with facilitating international management of terrorism-WMD-related threats. Given the imperative of prevention, the UNSC, like individual states, requires the capacity to facilitate rational government by drawing on the capability to make decisions based on information. The UNSC's lack of any strategic intelligence capability entails negative international implications, the principal of which is the bestowment of responsibility onto intelligence-capable states to manage terrorism-WMD threats, and other threats to international peace and security that require prevention. The debacle in the UNSC over the decision to invade Iraq in 2002-2003, and the subsequent unauthorized US/UK action, reflects the requirement for a strategic intelligence capability at the international level to manage preventive security strategies. Whether or not intelligence on Iraq was wrong or right is not the point here. Indeed, the Iraq controversy does not negate the role of intelligence at the international level; it highlights the need for it, given the imperative to prevent threats to international peace and security rationally and legitimately.

Rational Government and Intelligence Differentials

Despite the requirement of rational government in the management of threats to international security, there exists no international government capable of making rational decisions in the face of serious transnational threats that require prevention. The UNSC has no strategic intelligence capability, and states remain sovereign actors.

Not all intelligence organisations are born equal; some states are more capable than others of facilitating preventive security strategies, because some states have greater national capacities than others to produce the information required to support rational decision-making about unconstrained threats that operate covertly.³⁵¹

Changes in threat perceptions and vulnerabilities after 9/11 have not been accompanied by similar changes in levels of national intelligence power. Differentials in national intelligence powers remain. States who took intelligence seriously before 9/11, due to the existence of serious threats to their national security, such as the US and UK, remain stronger intelligence players than, for instance, Japan, which did not share similar threat perceptions and senses of vulnerability.³⁵² Given the imperative of preventing serious transnational threats, weak intelligence states are forced to take intelligence more seriously, but are often unable to fulfill the intelligence requirements of preventive security strategies of global scope. Although strong intelligence states are themselves increasingly dependent on other states to produce the requisite levels of intelligence knowledge, strong intelligence states have nonetheless become empowered considering the role of intelligence in facilitating the prevention of international threats. The intelligence knowledge of terrorist threats produced by highly capable US intelligence organisations, for instance, has the power to directly affect the national security of Japan, as well as other weaker intelligence states. These differentials in intelligence power have driven shifts in the international diplomatic landscape after 9/11, as weak intelligence states seek to reposition themselves to cultivate better links with stronger intelligence states. Intelligence organisations drive diplomacy, and often conduct it.³⁵³ The re-establishment of diplomatic relations between the US and Libya reflects, in US Secretary of State Condoleezza Rice's words, 'the excellent co-operation Libya has provided to the United States and other members of the international community in response to common global threats faced... since 11 September, 2001'.³⁵⁴

³⁵¹ Herman, M. (1996). Intelligence Power in Peace and War.

³⁵² Ibid.

³⁵³ Scott, L. (2004). "Secret Intelligence, Covert Action and Clandestine Diplomacy." Intelligence and National Security 19(2): 322 - 341.

³⁵⁴ Rice, C. (15 May 2006). "U.S. Diplomatic Relations With Libya." from <http://www.state.gov/secretary/rm/2006/66235.htm>.

The strengthening of other relationships, such as that between the US and Pakistan have been driven by intelligence considerations.³⁵⁵

The international role of intelligence in facilitating prevention, and its influence on global diplomatic arrangements, indicates a new dimension of intelligence power that was not apparent before 9/11.

International Role 2: Legitimising Prevention

As well as facilitating prevention by driving pro-active security strategies that seek to control international threats, intelligence has the potential power to legitimise prevention by providing evidence of threats that require preventive action. Intelligence's role to merely promote the effective use of force in war has been expanded to justify the preventive use of force, in light of the potential power of intelligence to determine the *casus belli* and demonstrate the *jus ad bellum*. The facilitation of controlling security strategies requires strategic intelligence; similarly, the legitimisation of controlling security strategies has intelligence requirements, given that threats and the justification of preventive responses to threats are based on information of potential violence rather than demonstrations of actual violence. This new power of intelligence to justify, as opposed to just promote, the effective use of force in war and conflict challenges the Western intelligence model by blurring the sacred line between intelligence assessment and political advocacy.³⁵⁶ Indeed, in the run up to the Iraq invasion in 2003, arguably the line between intelligence assessment and advocacy was crossed, especially in view of the creation of US Defence Secretary Donald Rumsfeld's 'Office of Special Plans', located in the Department of Defense, to push the case for war through dedicated intelligence collection and analysis.³⁵⁷ However, in the same way as the facilitation of controlling security strategies is necessarily intelligence-driven, the legitimisation of controlling security strategies,

³⁵⁵ Hussain, T. (July 2005). U.S.-Pakistan Engagement: The War on Terrorism and Beyond, United States Institute of Peace.

³⁵⁶ Herman, M. (2005). Problems for Western Intelligence in the New Century. Oslo, Norwegian Institute for Defence Studies.

³⁵⁷ Hersh, S. M. (12 May 2003). Selective Intelligence: Donald Rumsfeld has his own special sources. Are they reliable? The New Yorker.

considering international law and convention, depends on the power of intelligence to determine anticipated threats and justify preventive action. The greater scope for policy-makers to use (and abuse) intelligence to advocate a course of action is a feature of the post-9/11 strategic reality, considering the imperative to prevent, and highlights the need for states and the international community as a whole to take steps to ensure that intelligence products are accurate, objective and as free from political pressure as possible in support of rational governance of post-9/11 threats.³⁵⁸ These issues are discussed in Chapter 7.

Intelligence as Evidence

Intelligence after 9/11 has the potential power to determine threats to international peace and security. The UN Charter requires states to provide the UNSC with evidence of threats in order that any action taken to restore international peace and security may be legitimised.³⁵⁹ Since 'evidence' in the case of action undertaken according to the conventional mechanisms of collective security and self-defence is constituted exclusively by the occurrence of an armed attack, controlling security strategies that seek to pro-act against armed attacks rely on other legitimising processes. Intelligence constitutes the means by which controlling security strategies are legitimised, since intelligence is best placed to provide evidence of threats that have yet to materialise. The post-9/11 identification of intelligence as evidence in support of international legitimising processes is a dramatic departure from Herman's description of intelligence power, which denied intelligence of a serious international role, emphasized the anomalous relationship between intelligence and international law and delineated sharply between intelligence assessment and political advocacy. Indeed, despite the internationalization of intelligence targets, Herman's description of intelligence as a special facet of national power is still accurate, and stark differences between the natures of the concepts of intelligence and evidence create problems of compatibility and credibility for the use of intelligence for legitimisation purposes.³⁶⁰

³⁵⁸ Mackmurdo, C. (2004). "Getting Facts: Intelligence and the UN."

³⁵⁹ (December 2004). A More Secure World.

³⁶⁰ Herman, M. (2003). "Threat assessments and the legitimization of policy?" Intelligence and National Security 18(3): 177.

Firstly, the objects served by intelligence and evidence, as conventionally understood, are, to an extent, incompatible. On the one hand, the function of an intelligence organisation is, as Herman states, to create advantageous effects for national governments, and they do so by producing knowledge through secret intelligence activity. The knowledge that an intelligence organisation produces is on matters that are deliberately shielded from public scrutiny, and the information sources targeted, cultivated and exploited in intelligence operations are not always reliable. Indeed, intelligence knowledge can distort.³⁶¹ Intelligence knowledge is acquired through the assessment of complex, vague and often contradictory information streams, and it purports to offer approximations of the truth, rather than the whole truth.³⁶² Intelligence leaves room for speculation, and assessments are constantly contested, reviewed and redrafted in light of new information.³⁶³ The purpose to provide approximations of truths, given the restrictions and complications inherent in intelligence production, means that intelligence, as British Prime Minister Tony Blair conceded in September 2002, 'is not always right'.³⁶⁴ On the other hand, evidence for use in a court of law must meet the strict standard of providing the truth 'beyond reasonable doubt'.³⁶⁵ Evidence information is collected openly and presented for public digestion with this standard in mind, considering it is used to advocate a certain line of argument with the object of convincing a jury or judge of the veracity of the facts. Intelligence, which is collected secretly and presented privately, and is used to provide estimates, not certainties, with the object of guiding policy-makers, is unable to achieve comparable levels of certainty, and it is not the task of intelligence organisations to do so.

Secondly, there are credibility issues when treating intelligence as evidence. Intelligence provides for reasonable speculation, as opposed to truth beyond

³⁶¹ Herman, M. (2002). "11 September: Legitimising Intelligence?"

³⁶² Herman, M. (1996). *Intelligence Power in Peace and War*.

³⁶³ Lowenthal, M. M. (2003). *Intelligence: From Secrets to Policy*. Washington, CQ Press.

³⁶⁴ (24 September 2002). "Prime Minister's Iraq statement to Parliament." from <http://www.number-10.gov.uk/output/Page1727.asp>.

³⁶⁵ Shapiro, B. J. (1993). "'Beyond Reasonable Doubt' and 'Probable Cause': Historical Perspectives on the Anglo-American Law of Evidence." *Law and History Review* 11(2): 450-453.

reasonable doubt; as such, intelligence is a poor instrument of advocacy within legal contexts, which require arguments to be proved rather than 'shown' or 'indicated', and untainted by the usual caveats that normally accompany intelligence assessments.³⁶⁶ The presentation of intelligence as evidence to advocate preventive action, therefore, is problematic, because intelligence is inept at providing the proof required in determining the existence of threats that, beyond any reasonable doubt, require prevention, in the way the invasion of Kuwait by Iraq in 1990, for instance, isn't. Indeed, as President of the British Academy W. G. Runciman suggested with regard to the UK action against Iraq in 2003: 'speculation, however reasonable, might be thought a questionably sufficient justification for taking the country into a pre-emptive war'.³⁶⁷

However, despite the significant problems in treating intelligence as evidence, these problems do not negate the fact that intelligence has the potential power to legitimise preventive security strategies. To repeat James Sutterlin's maxim: 'it is patently impossible to prevent something from happening if there is no knowledge that it might happen'; likewise, it is patently impossible to legitimise preventive action against something if there is no evidence of an anticipated threat. The potential power of intelligence in legitimising prevention has placed pressure on intelligence organisations to fulfill roles in two spheres that were positively alien to them before 9/11: the international sphere and the advocacy sphere. Whilst the amalgamation of national objectives and international objectives in the face of serious transnational threats has presented intelligence with international roles, the power of intelligence to legitimise as well as facilitate prevention has resulted in intelligence organisations wading against the tide of normal intelligence practice. Involvement by intelligence organisations in advocacy in the pursuit of legitimising prevention not only breaches the impartiality aspect of the Western intelligence model, but it also compromises operational security and professional integrity by thrusting intelligence into the public domain for political purposes. This development signals another change in the nature of intelligence power

³⁶⁶ Runciman, W. G., Ed. (2004). Hutton and Butler: Lifting the Lid on the Workings of Power. Oxford, Oxford University Press: 25

³⁶⁷ *Ibid.*: 9

after 9/11, and is driven by an increased need to accommodate the imperative of prevention within the framework of international law and convention, although it is a change that is being strongly resisted by intelligence organisations.³⁶⁸

International Role 3: Coalition-forming

Intelligence after 9/11 also has the potential power to form coalitions. Considering the difficulty of using intelligence as evidence in the rigid and formal legitimising processes provided for by the UN Charter, states seeking to execute controlling security strategies are using intelligence as a tool to foster loose and ad hoc coalitions that provide an alternative means of facilitating and legitimising preventive action. Intelligence after 9/11 has the potential power to enable states to persuade others to adopt a certain position on a specific issue, or influence the creation of alliances to push an issue forward in the face of political or institutional obstruction. For example, the US and UK used the power of intelligence to generate the basis of a coalition in the run up to the Iraq invasion in 2003, by convincing 47 other states of the existence of a threat posed by Iraqi WMD capabilities through the dissemination of intelligence assessments.³⁶⁹ This coalition did not include France, Russia or China, the other permanent members of the UNSC; therefore, UN legitimisation for the US/UK preventive action failed. However, the 49-strong coalition that backed the use of force against Iraq was presented by the US and UK as a legitimiser for an intelligence-driven mission, and as an example of pragmatism in the management of serious transnational threats in accordance with the maxim that 'it is the mission that defines the coalition, not the coalition that defines the mission'. The role of intelligence in the formation of political coalitions that are presented to facilitate and legitimise preventive missions is a new international role for intelligence, and demonstrates further the potential power of intelligence as a diplomatic instrument and political force multiplier.

³⁶⁸ See, for example, Wintour, P. (April 7 2004). MI6 anger over war intelligence. The Guardian.

³⁶⁹ Freedman, L. (2004). "War in Iraq: Selling the Threat." Survival 46 (2): 7 – 50; Hodson, M. (11 March 2004). "Comical Ali and Friends (in the Australian Media)." from <http://www.zmag.org/content/showarticle.cfm?ItemID=5132>.

The role of intelligence in forming single-issue coalitions in support of preventive missions reinforces the problematic relationship between intelligence-driven controlling security strategies and international convention, and highlights how perceptions of rational government are affected by intelligence differentials. In the case of Iraq, the US and UK projected intelligence power in the desire to produce the effect of legitimising prevention; it was also projected to dismiss the rationale of the UNSC legitimising process. Considering that rational government of threats requiring prevention is necessarily intelligence-driven, strong intelligence states are in a position to challenge the capacity for rational government of institutions, like the UNSC, with no strategic intelligence capabilities, whilst asserting their own. Intelligence has the power to support collective security arrangements by presenting information that can be used as evidence before the UNSC; it also has the power to challenge rigid and formal legitimising processes by fostering the creation of looser and self-legitimising coalitions of strong intelligence states that bypass international convention – similar in terms to Beck's concept of 'sub-politics' in risk society.³⁷⁰

International Role 4: Influence international policy

Another role of intelligence power after 9/11 is influencing international policy and bolstering national prestige. Problems in facilitating and legitimising specific cases of preventive action through intelligence power are significant, but sometimes states succeed in shaping international policy in areas such as counter-terrorism by using intelligence within international institutions to advance arguments and spread best practice.³⁷¹ Other than producing the effect of influencing policy, the projection of intelligence power by states provides states with the opportunity to showcase capabilities, bolster reputations and strike-up and consolidate diplomatic relationships.³⁷²

³⁷⁰ Beck, U. (1998). World Risk Society. Cambridge, Polity Press.

³⁷¹ Mackmurdo, C. (24 March 2006). British Intelligence Power after 9/11. International Studies Association Annual Convention. San Diego, US.

³⁷² Ibid.

The prime example of how intelligence has been used by a state to produce these advantageous effects is British use of intelligence power within the European Union. By disseminating intelligence expertise within in the EU, the UK has been able to steer the development of EU counter-terrorism strategy in line with CONTEST, the UK's counter-terrorism strategy based on prevention, pursue, protect and prepare.³⁷³ Moreover, the UK has impressed weaker intelligence states in Europe with the quality of its intelligence product which is, to a significant extent, down to the UK's close relationship with the US – a relationship other EU states, and the EU institutions, do not enjoy.³⁷⁴ As a result, British influence over intelligence-driven strategies and institutions at the European level is strong. The power of intelligence after 9/11 to produce these positive political effects is a consequence of the new seriousness with which all states take intelligence, and reflects the impact that differentials in levels of national intelligence power is having on perceptions of national prestige.

SECTION FOUR: INTELLIGENCE CO-OPERATION

The imperative for states to prevent serious transnational threats has led to the need for greater collaboration amongst intelligence organisations. Intelligence-driven diplomacy is a feature of the post-9/11 world, and even traditionally powerful intelligence states depend on building and sustaining effective working relationships with other states in order to ensure security against threats of global scope and reach.

Considering that intelligence targets have internationalized, intelligence power after 9/11 serves objectives shared by a multitude of states. The imperative of co-operation in achieving shared security objectives in the face of the terrorism-WMD threat nexus affects the concept of intelligence power primarily in three ways. Firstly, the sovereignty of national intelligence organisations is no longer absolute: the intelligence work carried-out by one state directly affects the level of intelligence power of another. Intelligence organisations are more dependent on information exchanges than they

³⁷³ Mackmurdo, C. (24 March 2006). British Intelligence Power after 9/11.

³⁷⁴ Ibid.

were before 9/11.³⁷⁵ Secondly, as a result of the dilution of the independence of intelligence organisations in light of internationalized intelligence targets, the security of one state increasingly depends on knowledge produced by intelligence organisations of other states. British capacity to prevent 7/7, for instance, is thought to have been significantly impaired because crucial information possessed by Pakistan was not passed on to UK authorities.³⁷⁶ And, thirdly, given that one state's capacity for rational government is often dependent on the intelligence knowledge produced by another, every state shares an interest in ensuring that the intelligence knowledge produced is good. The spread of intelligence 'best practice' and multilateral 'intelligence working groups' is a new feature of intelligence power that has been driven by the imperative to co-operate to prevent serious transnational threats.³⁷⁷

However, despite the impact of the imperative of co-operation on the nature of intelligence power, significant restrictions limit the degree to which intelligence organisations collaborate. The first restriction relates to operational security: intelligence organisations need to maintain a level of security in order to operate effectively, and this means protecting the sources and methods of intelligence collection by shielding information, assets and working practices. These practical considerations are not conducive to intelligence co-operation. Secondly, despite increased interdependence amongst intelligence organisations, intelligence organisations remain national entities and the purest expression of national sovereignty on the international stage. Even when international co-operation is rational in the intelligence field, international politicking serves to limit the extent to which intelligence collaboration occurs.

Developments in Intelligence Co-operation

Cases of Bilateral Co-operation

³⁷⁵ Herman, M. (2002). "11 September: Legitimising Intelligence?"

³⁷⁶ (May 2006). Report into the London Terrorist Attacks on 7 July 2005, Intelligence and Security Committee.

³⁷⁷ Aldrich, R. J. (2004). "Transatlantic Security and Intelligence Cooperation." *International Affairs* 80(4): 731 - 753.

Relations between states (the US and UK especially) have been reconfigured in view of the need to fulfil intelligence requirements. Traditional intelligence alliances, such as the US-UK intelligence partnership, have been bolstered by developments such as the US-UK Joint Contact Group on terrorism-related matters.³⁷⁸ Day-to-day exchanges of intelligence between UK and US intelligence organisations have been made easier by common I.T. infrastructures and communication technologies.³⁷⁹ The intelligence product disseminated by the US National Security Agency (NSA) and the UK's Government Communications Headquarters (GCHQ), for instance, is almost identical, due to the intimate working bond between the two organisations.³⁸⁰ This signals intelligence alliance between the US and UK encompasses Australia and Canada in the enduring UKUSA arrangement.³⁸¹ Beyond its tie with the UK, the US after 9/11 is said to have constructed a network of bilateral relationships with well over 400 intelligence organisations.³⁸² The UK has consolidated ties with European partners such as Germany, France, Italy and Spain, and its number of bilateral relationships is said to exceed 120.³⁸³ Despite the UK's increased stake in European intelligence partnerships, the country remains distinctly Atlanticist, and the close relationship with the US continues to constitute the bedrock of the British intelligence capability.³⁸⁴

Cases of Multilateral Co-operation

Although intelligence organisations prefer to work in loose, ad hoc bilateral relationships, more formal multilateral intelligence co-operation does occur. The Club of Berne, for example, is a multilateral intelligence forum established in 1971 that has strengthened after 9/11 to promote intelligence co-operation and exchanges of ideas.³⁸⁵ The Club originally consisted of only 6 agencies, including the UK Security Service, Sweden's SAPO, the French DST and Germany's BfV, but has been expanded

³⁷⁸ Loy, A. J. (9 December 2004). US Homeland Security, Royal United Services Institute.

³⁷⁹ Mackmurdo, C. (24 March 2006). British Intelligence Power after 9/11.

³⁸⁰ Ibid.

³⁸¹ Richelson, J. T. and D. Ball (1985). The Ties that Bind: Intelligence Co-operation between the UKUSA Countries. Sydney, Allen and Unwin.

³⁸² Herman, M. (2002). "11 September: Legitimising Intelligence?"

³⁸³ Ibid.

³⁸⁴ Herman, M. (1996). Intelligence Power in Peace and War.

³⁸⁵ Aldrich, R. J. (2004). "Transatlantic Security and Intelligence Cooperation."

to comprise 17 members.³⁸⁶ Furthermore, with the object of spreading best practice and facilitating joined-up analysis and assessment, the Club hosts intelligence working groups on transnational security issues.³⁸⁷

In addition to the Club of Berne, the EU Joint Situation Centre provides a successful example of a multinational intelligence outfit. The 'SitCen' was created in February 2002 to bolster the EU's Common Foreign and Security Policy, under the leadership of the British diplomat William Shapcott.³⁸⁸ The need for an intelligence component to the CFSP had been quietly acknowledged ever since the signing of the Maastricht Treaty in 1993, but it was only after 9/11 that the will materialised amongst EU member states to increase intelligence co-operation in the face of serious transnational threats.³⁸⁹ The 2004 Madrid bombings intensified EU efforts to strengthen intelligence co-operation.³⁹⁰ The SitCen is made up of the Civilian Intelligence Capability (CIC), the Communications Centre and the Operations Centre. Seconded intelligence officers from the contributing EU member states, including the UK, France, Germany, Spain and Italy, constitute the CIC, whilst EU functionaries staff the Communication and Operation Centres.³⁹¹ Only within the CIC is secret intelligence material disseminated.³⁹² The SitCen requests information from intelligence officials within EU member states.³⁹³ The task of the CIC is to collate the information it receives and issue a joint EU assessment in support of a common EU security policy.³⁹⁴ The primary customer of the SitCen intelligence product is the EU High Representative for the Common Foreign and Security Policy, Javier Solana and his secretariat, although SitCen reports are disseminated back across the desks of national foreign and intelligence officials.³⁹⁵

³⁸⁶ Aldrich, R. J. (2004). "Transatlantic Security and Intelligence Cooperation."

³⁸⁷ Ibid.

³⁸⁸ Mackmurdo, C. (24 March 2006). British Intelligence Power after 9/11.

³⁸⁹ Ibid.

³⁹⁰ Wille, B. M. (2003). "Building a European Intelligence Community in Response to Terrorism."

European Security Review April(22).

³⁹¹ Mackmurdo, C. (24 March 2006). British Intelligence Power after 9/11.

³⁹² Ibid.

³⁹³ Mackmurdo, C. (24 March 2006). British Intelligence Power after 9/11.

³⁹⁴ Ibid.

³⁹⁵ Ibid.

Limitations in Intelligence Co-operation

Operational Security Limitations

Developments in bilateral and multilateral intelligence co-operation have occurred after 9/11, but the nature of intelligence as a facet of national power that operates secretly and deals with secret things means that levels of collaboration amongst intelligence organisations are severely limited. The most commonly cited concern about intelligence co-operation relates to ‘operational security’: intelligence organisations need to maintain a level of security in order to operate effectively, and this means protecting the sources and methods of intelligence collection by shielding information, assets and working practices.³⁹⁶ Succeeding in achieving this level of operational security means that national intelligence organisations are highly compartmentalized, with security-cleared officials working on a ‘need to know’ basis in order to prevent too many people knowing too much about any one thing at any one time.³⁹⁷ As special instruments of national power, intelligence organisations approach co-operation as an unnatural working practice. Intelligence organisations are dedicated to discovering the secrets of others, and protecting secrets of their own, so working with others brings about problems peculiar to the intelligence business.³⁹⁸

Considering the compartmentalization of information within national intelligence organisations, the level of compartmentalization required in intelligence enterprises comprising more than one national intelligence organisation is greater, even for those run exclusively by traditional intelligence partners. For example, security classifications such as Confidential, Secret and Top Secret that are used to restrict information flows within UK national organisations that deal with intelligence material are further refined in the UKUSA alliance by classifications such as UK Eyes Only, UK/US Eyes Only and UK/US/CAN/AUS Eyes Only.³⁹⁹ Multinational intelligence outfits are hindered by higher levels of compartmentalization of information that often render normal

³⁹⁶ (14 July 2004). Review of Intelligence on Weapons of Mass Destruction.

³⁹⁷ Ibid.

³⁹⁸ Herman, M. (1996). *Intelligence Power in Peace and War*.

³⁹⁹ Mackmurdo, C. (24 March 2006). British Intelligence Power after 9/11.

intelligence practice impossible, since the level of compartmentalisation is sometimes so great that it effectively negates the purpose of the multilateral intelligence enterprise, especially if it involves organisations that consider themselves to be intelligence rivals. The EU SitCen is a good example of how operational security concerns of participating states limit the effectiveness of the SitCen as an intelligence body. The unwillingness of member states to disseminate high-grade intelligence through SitCen channels results in a self-fulfilling limitation that prevents the SitCen from becoming a high-grade intelligence organisation.⁴⁰⁰

International Politicking

Intelligence co-operation is limited by operational security restrictions, and even when co-operation does occur, politics are likely to affect the level and nature of intelligence collaboration. Indeed, the distinction between politics and intelligence, which is so vehemently protected in the Western intelligence model at the national level, dissolves at the international level. With apologies to Carl von Clausewitz, intelligence power after 9/11 has become an extension of international politicking by other means. Intelligence power is political currency; states use intelligence power to buy influence over the direction of international policy. How much influence a state can buy depends on how much its intelligence power is worth. Since not all national intelligence organisations are born equal, differentials in the intelligence power of states affect the political balance within multilateral fora and produce political ramifications. Weaker intelligence states risk jealously obstructing proceedings in order to regain control of the political agenda. Stronger intelligence states risk being self-regarding in multilateral organisations with a prevention agenda, or shunning multilateralism altogether to prevent threats they claim others are incapable of managing rationally.⁴⁰¹ Colin Powell's presentation of intelligence before the UN Security Council in February 2003 is an example of the use of intelligence to influence international policy, and the subsequent unauthorized action undertaken by the US and UK against Iraq in the face of political

⁴⁰⁰ Mackmurdo, C. (24 March 2006). British Intelligence Power after 9/11.

⁴⁰¹ Ibid.

obstruction by France, Russia and China represents the possible ramifications of this new brand of intelligence-driven international politicking.

Intelligence collaboration is affected by political forces resulting from differentials in intelligence power. These political forces have hindered, for instance, the work of the EU SitCen from its inception.⁴⁰² Some states who wanted to join the SitCen at its foundation were refused on the grounds that their intelligence organisations were either heavily penetrated or incapable of bringing anything significant to the intelligence table.⁴⁰³ The appearance of intelligence exclusivity has engendered resentment amongst some EU member states, which adds to the frustrations, already inflicted on the SitCen, generated by the political and ideological conflicts that make up the everyday life of the over-arching EU project.⁴⁰⁴ Although the SitCen was set up to serve the European Council, there is no SitCen corporate identity, and seconded national intelligence officers are tasked by and serve their own states. SitCen officers pool the information they receive from their respective states to produce a joint EU assessment drafted by the CIC.⁴⁰⁵ Whichever state provides the best intelligence is able to exert the greatest influence on the CIC joint assessment, which will be used to shape EU policy.⁴⁰⁶ Strong intelligence states such as the UK have succeeded in influencing EU policy through effective intelligence inputs and risk appearing self-regarding; weaker intelligence states risk attempting to save face and exerting influence by acting jealously to disrupt the day-to-day work of the SitCen through political obstruction.

The UN Situation Centre, similarly, has been plagued by international politicking since its inception. Charged in 1993 with 'supporting the decision-making process and connecting civilian, military and police flows of information at the strategic level', the Situation Centre's Information and Research Unit was dissolved largely because seconded intelligence officers used their posts to report back to their national governments on the activities of the UN and other UN member states, rather than

⁴⁰² Mackmurdo, C. (24 March 2006). British Intelligence Power after 9/11.

⁴⁰³ Ibid.

⁴⁰⁴ Ibid.

⁴⁰⁵ Ibid.

⁴⁰⁶ Ibid.

provide a strategic intelligence capability for the UN Secretariat.⁴⁰⁷ An attempt to establish an Information and Strategic Analysis Secretariat, which was proposed by Lakhdar Brahimi in 2000 to be charged with 'accumulating knowledge about conflict situations, distributing that knowledge effectively to a wide user base, generating policy analysis and formulating long-term strategies', as well as providing a 'sharper tool' for the UN Executive Committee for Peace and Security to 'gather and analyse relevant information', was scrapped when India and Nigeria succeeded in mobilising the G77 to oppose its creation over fears it would disenfranchise weaker intelligence states, promote acts of spying on UN member states and generally corrupt the neutral, objective and transparent character of the UN organisation.⁴⁰⁸ Allegations of British intelligence organisations targeting the UN Secretary-General and fellow members-states during UN debates on action over Iraq in 2002 and 2003 reinforce perceptions of the problematic relationship between intelligence as a facet of national power and multilateralism conducted through international institutions.⁴⁰⁹

CONCLUSIONS

Intelligence power represents a social process that involves empirical investigation and enables rational action. After 9/11, intelligence has the potential power to facilitate preventive security strategies by providing the information required to enable government of threats that are perceivable, but not necessarily immediately perceived. Intelligence also has the potential power to legitimise preventive security strategies by providing the evidence of threats that is required to justify preventive action. In addition, intelligence has the potential power to form coalitions and influence international policy. But because of the limitations of intelligence co-operation imposed by concerns for operational security, and because of differentials in state

⁴⁰⁷ (April 2004). Personal Interview with Kristina Segulja, Coordinator, UN Situation Centre; "Situation Centre." from <http://www.un.org/Depts/dpko/dpko/sitcen/sitcentre.html>

⁴⁰⁸ (May 2004). Personal Interview with Teresa Whitfield; (21 August 2000). Report of the Panel on United Nations Peace Operations.

⁴⁰⁹ (26 February 2004). "UK 'spied on UN's Kofi Annan'." from http://news.bbc.co.uk/1/hi/uk_politics/3488548.stm.

levels of intelligence power, the projection of intelligence power can be detrimental to, as well as beneficial for, multilateralism.

CHAPTER FOUR

The Terrorism-WMD Threat

INTRODUCTION

The two separate threats presented by terrorism and WMD proliferation have come together after 9/11 to form a terrorism-WMD threat nexus. The al-Qaida attacks on 11 September 2001 changed people's understanding of terrorism: the transnational scope and reach of the organisation, objectives and methods of 'new' terrorism universalized vulnerabilities and collectivized state perceptions of threats to security by challenging international order, the global economy, governments and private citizens alike. The threat to security presented by the existence and spread of nuclear, radiological, chemical and biological weapons has been magnified by the unveiling of transnational proliferation networks and state programmes that defy international arms controls and risk providing, knowingly or otherwise, a possible force multiplier for terrorist organisations. The prospect of terrorism involving the use of WMD cannot be ruled out: the existence of serious transnational threats posed by proliferation networks like A. Q. Khan's and 'new' terrorism groups like al-Qaida, has given rise to a terrorism-WMD threat nexus that has led to a re-conceptualization of international security challenges as threats that have potentially devastating effects.

This chapter has four sections. Section one examines the concepts of 'risk' and 'threat' in an effort to define the term 'threat' used in this chapter. Section two examines the difficulty in defining the terrorism threat, and investigates how the concept of terrorism has changed since the French Revolution. It then outlines the differences between concepts of terrorism before 9/11 and the concept of 'new' terrorism that emerged after 9/11. Section three examines the threat posed by WMD proliferation and efforts to control it, before outlining the WMD threats posed by the states of Iran and North Korea, and by the black market in the form of the A. Q.

Khan network. Section four examines the coming together of elements of the terrorism threat and elements of the WMD proliferation threat to constitute a terrorism-WMD threat nexus.

SECTION 1: THREAT vs. RISK

In line with Constructivist Realism, threats are phenomena that are perceivable, but not necessarily perceived. Threats exist independent of perception; meaningful descriptions of them depend on empirical investigation. As phenomena, threats cause other phenomena. In the contemporary era, unconstrained terrorist threats cause states to act preventively in order to achieve security aims, especially given the prospect of a terrorist attack involving WMD. The strategic imperative to prevent threats that are both unconstrained and clandestine through controlling security strategies has given rise to risk-management. States are being prompted to act to manage the risk of potential attacks by terrorist groups whose activities are not always easy to scrutinize. Indeed, risk-management of potential damage caused by actual phenomena that operate beyond everyday perceptions characterizes the security agenda in the post-9/11 material reality, in which international order is threatened by the risk of WMD terrorism attack.

The word 'risk' is defined in the Oxford Concise Dictionary as 'a situation involving exposure to danger' and 'the possibility that something unpleasant will happen'.⁴¹⁰ Both senses of the word succeed in describing the various aspects of the nature of the post-9/11 strategic environment. Prevention is rational in this environment because of the strategic imperative to act in advance to deal with possible danger and unpleasantness caused by terrorism. The word 'threat', in contrast, means 'an indication of something impending'.⁴¹¹ To describe terrorism as a threat would imply that a terrorist attack is in fruition. This is also an accurate description of the post-9/11 reality. Prevention would not be rational given the assumption that terrorist attacks were incapable of materialising. As such, the post-9/11 terrorism threat exists as a potentiality and an

⁴¹⁰ (1999). Oxford Concise Dictionary. Oxford, Oxford University Press.

⁴¹¹ Ibid.

actuality. The terms 'risk' and 'threat' refer to the same phenomena, but highlight different ontological and epistemological aspects of the relationship between the observer and the post-9/11 material reality. Ontologically speaking, 'risk' meaningfully describes the aspect of the terrorism phenomenon as a 'permanent possibility' of disorder, whereas 'threat' is useful in describing terrorism as actual disorder. Epistemologically speaking, 'risk' describes the relationship between observers and phenomena that are perceivable, but not necessarily perceived, whereas 'threat' describes the relationship between observers and phenomena in a post-9/11 material reality that have already been perceived to have actualised. The terms do not represent different phenomena. Both 'risk' and 'threat' refer to the same phenomena – 'new' terrorism – but designate different ontological and epistemological properties in a way that describes the complex Phenomenalist relationship between observers and phenomena that exist as potentialities and actualities.

To describe terrorism as a risk, therefore, is not to say that terrorism does not exist as a threat. It is to describe different aspects of the relationship between the observer and phenomena that are perceivable, but not necessarily perceived. To meaningfully describe the post-9/11 material reality, and therefore act rationally within it, requires an understanding of what is meant by both 'risk' and 'threat'. The imperative to act in anticipation of unconstrained terrorist threats means that the onus is on states to investigate the existence of *potential* attacks and mitigate the *risk* of their materialisation. The risky aspect of terrorism does not negate the reality of the terrorism threat. Rather, it identifies the rationale of the controlling strategies that are required to deal with perceivable phenomena that demand prevention, rather than reaction in the event of their coming about. Terrorism, as James Gow stated in *Defending the West*, is a fuzzy and complex threat; the risky aspects of the fuzzy and complex terrorism threat demand threat responses that are capable of achieving the management of risk.

Moreover, risk is about inaction, as well as action. As Christopher Coker asserts, the emergence of threats such as terrorism in a globalised world 'requires *preventive* action

to reduce the risk to human safety and human lives'.⁴¹² In the post-9/11 world 'instead of managing security, we manage insecurity (nuclear proliferation, terrorism etc.) through *pre-emptive* action if possible'.⁴¹³ It is fear over the risk of inaction that, to a great extent, prompts preventive action.⁴¹⁴ The contention by British Prime Minister Tony Blair that the danger of acting in Afghanistan in 2001 was outweighed by the danger of inaction, for instance, testifies to this.⁴¹⁵ The central message of the 2002 US National Security Strategy that '[t]he greater the threat, the greater the risk of inaction – and the more compelling the case for taking anticipatory action to defend ourselves' also indicate a re-conceptualisation of threat responses to mitigate risk.⁴¹⁶ The risk of not taking action in anticipation of terrorist attacks underpins the risk-management aspect of post-9/11 controlling strategies. The imperative to manage the risk of damage caused by unconstrained actors makes the future more important than the past in decision-making processes.⁴¹⁷ States are motivated to colonise the future rather than react to the past, considering that states can ill-afford to let the threat of WMD terrorism materialise.⁴¹⁸ The risk aspect of counter-terrorism is reinforced by the imperative to manage threats that are posed by clandestine terrorist groups whose point of impact is not necessarily the same as their point of origin. As such, terrorism threats appear 'risky', given that the activities of terrorist groups can appear invisible to everyday perceptions.⁴¹⁹ In *On World Risk Society*, Ulrich Beck emphasizes that the concept of risk can be understood in terms of practices by which the future consequences of decisions are controlled in the present.⁴²⁰ This is an apt description of post-9/11 controlling strategies. The imperative to manage risk, and thereby respond rationally to the terrorism threat, makes the future more important than the past in

⁴¹² Coker, C. (2002). *Globalisation and Insecurity in the Twenty-first Century: NATO and the Management of Risk*. Oxford, International Institute for Strategic Studies: 53

⁴¹³ *Ibid.*: 62

⁴¹⁴ *Ibid.*

⁴¹⁵ (7 October 2001). UK Prime Minister Tony Blair's statement on military action in Afghanistan, House of Commons.

⁴¹⁶ (September 2002). *The National Security Strategy of the United States of America*: 15

⁴¹⁷ Adam, B., U. Beck, et al. (2000). *The Risk Society and Beyond: Critical Issues for Social Theory*. London, Sage.

⁴¹⁸ *Ibid.*

⁴¹⁹ *Ibid.*

⁴²⁰ Beck, U. (1998). *World Risk Society*. Cambridge, Polity Press.

decision-making processes, underpinning the notion that rational action today is defined by what is thought will happen tomorrow.

Coker is wrong, though, in suggesting that risk-management signals the abandonment of strategies that seek to positively manage security in the face of actual threats. As the 2002 US NSS remarked: '[t]he greater the threat, the greater the risk of inaction'. Risk is real because it is perceivable, not because, as the two leading exponents of risk society Ulrich Beck and Anthony Giddens claim, it is perceived.⁴²¹ The reality of risk is rooted in the impact it has, regardless of whether or not the risk was perceived.⁴²² Although risk must be perceived in order to constitute a threat, the impact of risk occurs because of the fuzzy epistemological relationship between the observer and phenomena that are perceivable, but not necessarily perceived. This has been borne out in real world scenarios. The level of understanding of the risk of attack against the US mainland by al-Qaida rose after the 9/11 attacks occurred, despite the fact that the al-Qaida threat had existed before 9/11. Today, the impeding nature of the risk of terrorism is central to security strategies that seek to determine and control terrorism threats through pro-action based on information gleaned from empirical investigations of risk that exist independent of perception.

The requirement to become aware of threats in a 'risk society' is highlighted by Beck and Giddens. Risk-management demands that the future is colonised in order to avoid damage before it occurs by tackling potentialities.⁴²³ The pluralisation of modernity identified by Beck involving transnational interdependence and economic, political and societal globalisation renders risk a global challenge that affects decision-making on an international level.⁴²⁴ In the post-9/11 world, the wide acceptance of the existence of risk has led to the re-rationalisation of security strategies that seek to prevent threats that are demonstrable through information about future potentialities, rather than

⁴²¹ See Giddens, A. (1990). Consequences of Modernity. Cambridge, Polity Press; Beck, U. (1992). Risk Society: Towards a New Modernity. New Delhi, Sage.

⁴²² Adam, B., U. Beck, et al. (2000). The Risk Society and Beyond: Critical Issues for Social Theory.

⁴²³ Beck, U. (1998). World Risk Society.

⁴²⁴ Ibid.

evidence of past actualities.⁴²⁵ The determination of threats in the post-9/11 situation means investigating the material world in order to be able to perceive risk that exists beyond everyday ranges of perception.

Indeed, Beck's theory of 'risk society' contains concepts that are applicable to the post-9/11 strategic reality. One of the most useful is the concept of 'subpolitics'. The concept of 'sub-politics' refers to forms of politics outside and beyond the representative institutions of the political system of nation-states, or 'direct action' that circumvents conventional political frameworks.⁴²⁶ The rational action/legitimate action astigmatism that is a feature of the post-9/11 strategic reality relates to the fact that the legitimising institutions of international society no longer have control over threats to public safety.⁴²⁷ The risk society concept of subpolitics explains patterns of rational post-9/11 state behaviour that appear to be by-passing the institutions and often even lacking the protection of law, in recognition of the imperative to manage risk.⁴²⁸ Beck's theory of 'risk society' itself, however, is not consistent with the Phenomenalist logic of Constructivist Realism, for the following reasons. Firstly, Beck regards politics as an invention, as advertised by the title of his seminal work *The Reinvention of Politics* – a Reflectivist position that falls short of Positivist standards of rationality. Secondly, whereas Beck considers the disenfranchisement of the state from political decision-making to be a fundamental feature of risk society, Constructivist Realism assumes the centrality of the State. Thirdly, Beck relies on rhetoric, rather than facts, to substantiate his theory. This tendency of the risk society approach to resort to theoretical exaggeration in order to compensate for empirical deficiencies has been highlighted by Gabe Mythen.⁴²⁹

⁴²⁵ Coker, C. (2002). *Globalisation and Insecurity in the Twenty-first Century: NATO and the Management of Risk*.

⁴²⁶ Holzer, B. and M. P. Sørensen (2003). "Rethinking Subpolitics." *Theory, Culture and Society* 20(2): 79-102.

⁴²⁷ Beck, U. (1996). *The Reinvention of Politics: Rethinking Modernity in the Global Social Order*. Cambridge, Polity Press.

⁴²⁸ Ibid.

⁴²⁹ Mythen, G. (2004). *Ulrich Beck: A Critical Introduction to the Risk Society*. London, Pluto Press.

In conclusion to this section, the terrorism phenomenon can be described in terms of both 'risk' and 'threat'. The terms 'risk' and 'threat' refer to the same terrorist phenomenon, but highlight different ontological and epistemological aspects of the relationship between the observer and the terrorist phenomenon in the post-9/11 strategic reality. For the sake of clarity, however, I shall refer to the terrorism phenomenon as the terrorism 'threat'. This is to avoid any confusion caused by the interchange of the terms 'threat' and 'risk', but it should not be construed that I am positing the term 'threat' as an alternative to, or in opposition to, or to the exclusion of, phenomena described by the term 'risk'. Terrorism threats entail risk and cause the construction of security strategies that seek to manage risk, and the term 'terrorism threat' used here should be understood as a term that describes these phenomena.

What follows in this chapter is a description of the terrorism threat that has caused the construction of controlling security strategies in the post-9/11 strategic reality. In order to describe the phenomenon fully, this chapter examines the changing nature of terrorism and the emergence of 'new' terrorism, the nature of the threat posed by WMD proliferation, and the nature of the post-9/11 terrorism-WMD threat nexus that presents the face of the unconstrained and potentially catastrophic threat which demands prevention.

SECTION 2: THE TERRORISM THREAT

Problems of Definition

Terrorism is notoriously difficult to define, predominantly because of the problem of interpretation summed-up by the well-know phrase, 'one man's terrorist is another man's freedom fighter'. The international community has managed for over a decade to maintain agreement that a terrorism threat to international security exists, without ever reaching an agreement on what a terrorism threat actually means.⁴³⁰ As a result,

⁴³⁰ (31 January 1992). Statement by the Heads of State and Government (S/23500), UN Security Council, expresses 'deep concern over acts of international terrorism'.

there exists a range of definitions of the term 'terrorism', and understanding of the term differs not only between national governments, but also between national agencies within the same governmental bureaucracy. For example, the US Central Intelligence Agency, together with the US State Department, uses the definition of terrorism provided by Title 22 of the United States Code, Section 2656f(d), which reads:

Premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents, usually intended to influence an audience.⁴³¹

On the other hand, the US Federal Bureau of Investigation defines terrorism as:

The unlawful use of force or violence against persons or property to intimidate or coerce a Government, the civilian population, or any segment thereof, in furtherance of political or social objectives.⁴³²

Clearly, there are common elements to the two definitions of terrorism used by the CIA and FBI. Each interpretation shares the sense that terrorism is politically-motivated, violent and designed to intimidate and coerce. However, each definition reflects the particular interests and functions of the party that uses it.⁴³³ Whilst the CIA and State Department focus on the nature and role of terrorists as actors within the international system, the FBI emphasises the criminal and subversive aspects of terrorism, and describes the phenomenon within the context of the judicial system.⁴³⁴ Such discrepancies are symptomatic of complications in the subjective interpretation of terrorism that extend beyond national bureaucratic organisations into the wider world of sovereign states.

In the UK, a single definition of terrorism is used by all branches of the British Government, but its interpretation has transformed markedly since the 1989

⁴³¹ Hoffman, B. (2003). Defining Terrorism. Terrorism and Counterterrorism: Understanding the New Security Environment. R. D. Howard and R. L. Sawyer. Guildford, McGraw-Hill/Dushkin: 19

⁴³² Ibid.: 19

⁴³³ Ibid.

⁴³⁴ Ibid.

Prevention of Terrorism Act. In that Act, terrorism is defined as ‘the use of violence for political ends, and for the purpose of putting the public or any section of it in fear.’ The introduction of the Terrorism Act in 2000, which replaced the 1989 Prevention of Terrorism Act as the primary piece of UK counter-terrorism legislation, brought with it a significant expansion of what constitutes an act of terrorism. According to the 2000 Terrorism Act, ‘terrorism’ means ‘the use or threat of action’ where ‘the use or threat is designed to influence the government or to intimidate the public or a section of the public’, and, ‘the use or threat is made for the purpose of advancing a political, religious or ideological cause’.

Subsection two of Section one of the 2000 Terrorism Act further describes terrorism as action which involves ‘serious violence against a person’, ‘serious damage to property’, ‘endangers a person's life, other than that of the person committing the action’, or ‘creates a serious threat to the health or safety of the public or a section of the public’, or action that is ‘designed seriously to interfere with or seriously to disrupt an electronic system’. Subsection three of the Act goes on to say that the use or threat of action which involves firearms or explosives constitutes an act of terrorism, whether or not it is intended to influence the government or intimidate the public. The sheer extent of the UK’s definition both highlights the complexity of terrorism as a communicable concept and the change in attitude towards terrorism as an act that takes the form of criminal and reckless behaviour not necessarily designed to scare governmental or public audiences, as was previously considered to be the case.

The problem of definition intensifies at the international level because a broader spectrum of interpretation means more definitions and a greater challenge to demarcating a clear-cut ‘terrorist/freedom-fighter’ divide. In a 1988 study of 109 definitions of terrorism in common usage, 83.5% of them were shown to cite violence as an inherent characteristic of terrorism, meaning that almost 1 in 6 of the definitions in use did *not* consider violence as a definitional element of terrorism.⁴³⁵ Terrorism as a political act was a central characteristic of 65% of the definitions; ‘threat’ was central to

⁴³⁵ Schmid, A. P., A. J. Jongman, et al. (1988). Political Terrorism: A New Guide to Actors, Authors, Concepts, Data Bases, Theories, and Literature. New Brunswick, Transaction Books: 3-5

47%; 'intimidation' central to only 17%; and 'criminal' central to a just 6%.⁴³⁶ These statistics show that the basic elements of the US and UK definitions of terrorism – such as 'political', 'threat', 'intimidation', and 'criminal' – do not correspond universally with how terrorism is understood elsewhere in the world.⁴³⁷ Understandably, the UN, therefore, has not been able to formulate a universally-acceptable definition of terrorism. However, in the report 'A More Secure World: Our Shared Responsibility', produced in December 2004 by the UN High Level Panel on Threats, Challenges and Change, a description of the nature of the terrorism threat was finally agreed-upon and published. The report declares that:

Terrorism attacks the values that lie at the heart of the Charter of the United Nations: respect for human rights; the rule of law; rules of war that protect civilians; tolerance among peoples and nations; and the peaceful resolution of conflict.⁴³⁸

In addition, the report takes into account the changed nature of terrorism. Similar to the UK's revision of the definition of terrorism, the UN has been prompted to reconsider the type of threat states currently face from terrorist activity since the end of the Cold War. The report concludes that:

Al-Qaida is the first instance - not likely to be the last - of an armed non-State network with global reach and sophisticated capacity. Attacks against more than 10 Member States on four continents in the past five years have demonstrated that Al-Qaida and associated entities pose a universal threat to the membership of the United Nations and the United Nations itself;⁴³⁹

and, that

the threat that terrorists - of whatever type, with whatever motivation - will seek to cause mass casualties creates unprecedented dangers... controlling the supply of nuclear, radiological, chemical and biological materials and building robust global public health systems are central to a strategy to prevent this threat.⁴⁴⁰

⁴³⁶ Schmid, A. P., A. J. Jongman, et al. (1988). Political Terrorism: 3-5

⁴³⁷ Ibid.: 3-5

⁴³⁸ (December 2004). A More Secure World: 47

⁴³⁹ Ibid.: 47

⁴⁴⁰ Ibid.: 48

The identification of terrorism as a threat to the UN system was officially made on 31 January 1992. At this time, the UN Security Council, at the level of heads of state and government, expressed their 'deep concern over acts of international terrorism' and emphasised 'the need for the international community to deal effectively with all such acts'.⁴⁴¹ The 12 conventions on terrorism, ranging from the 1963 Convention on Offences and Certain other Acts Committed on Board Aircraft, to the 1999 Convention on the Suppression of the Financing of Terrorism, has largely forgone efforts to foster agreement on a shared definition of terrorism. Indeed, Paul Pillar argues that practical steps to address terrorism do not depend on strict universal agreement on what terrorism precisely means.⁴⁴² Moreover, problems of definition did not prevent the UN Security Council from unanimously adopting Resolution 1368, passed the day after the 11 September 2001 terrorist attacks on New York, Washington and Pennsylvania, which declared that any act of international terrorism constitutes a threat to international peace and security.⁴⁴³

Terrorism before 9/11

Propaganda by Deed

Terrorism has not always been considered a threat to international security. In fact, during the time of the French Revolution, terrorism was far from being considered a bad thing in itself; it was certainly not equated with the FBI's view of terrorism as 'the unlawful use of force or violence against persons or property to intimidate or coerce a Government'. Rather, terrorism was considered by the revolutionary state as a means by which order could be restored following the tumultuous uprisings of 1789.⁴⁴⁴ Instead of being conceived as action directed against the people for the purposes of coercing and intimidating society, terrorism was associated with action *for* the people

⁴⁴¹ (31 January 1992). Statement by the Heads of State and Government (S/23500)

⁴⁴² Pillar, P. R. (2003). The Dimensions of Terrorism and Counterterrorism. Terrorism and Counterterrorism: Understanding the New Security Environment. R. D. Howard and R. L. Sawyer. Guildford, McGraw-Hill/Dushkin.

⁴⁴³ (12 September 2001). UN Security Council Resolution 1368.

⁴⁴⁴ Hoffman, B. (2003). Defining Terrorism.

and *against* the enemies of the French civil state.⁴⁴⁵ Within this context, the concept of terrorism is connected with the virtues of justice and democracy. The French revolutionary leader Maximilien Robespierre articulated the nature of this connection when he claimed that '[t]error is nothing but justice, prompt, severe and inflexible; it is therefore an emanation of virtue'.⁴⁴⁶

A century later, in 1878, the organisation Narodnaya Volya (literally translated as People's Will or Freedom) was established in Russia with the mission of removing from power Tsar Alexander II. After eight failed attempts, Narodnaya Volya succeeded in assassinating the Tsar in 1881, following a ferocious campaign of violence and intimidation based on the principle, first formulated by the Italian republican extremist Carlo Pisane, of 'propaganda by deed'.⁴⁴⁷ This *modus operandi* was predicated on the assumption that it was violence that was necessary to set people free, not protestation undertaken through the spoken or written word.⁴⁴⁸ Narodnaya Volya carefully targeted figures associated with the Tsarist regime to attack the symbols of the autocratic state rather than the Russian people, for which members of Narodnaya Volya considered themselves to be fighting.⁴⁴⁹ Later, in 1881, anarchists in London founded a network called Black International (or Anarchist International) based on the principle of 'propaganda by deed', which was comprised by modular cells of extremists that would carry out covert operations independently. The existence of Black International and the impact its philosophy had on individual radicals (such as the Hungarian Leon Czolgoz, who assassinated US President William McKinley in 1901) spread fear and discomfort amongst regimes across the world.⁴⁵⁰ The effect of this movement on international affairs was significant: it was the action of a member of the radical group Young Bosnians (a close affiliate of the Serbian organisation the Black Hand), Gavrilo Princip, who targeted and killed the Habsburg Archduke Franz

⁴⁴⁵ Hoffman, B. (2003). Defining Terrorism.

⁴⁴⁶ Ibid.: 5

⁴⁴⁷ Ibid.: 6

⁴⁴⁸ Ibid.: 6

⁴⁴⁹ Ibid.: 6

⁴⁵⁰ Ibid.: 7

Ferdinand in 1914, which is said to have triggered a chain of events that contributed to the outbreak of World War One.⁴⁵¹

Terrorism as State Regime

With the rise of Nazi Germany in the 1930s, the connection between terrorism and the revolutionary philosophy of ‘propaganda by deed’ was corroded. ‘Terrorism’ came to be understood to mean something instituted by repressive regimes against the people, rather than something instituted by the people against repressive regimes.⁴⁵² ‘Terrorist regimes’ also emerged in Stalinist Russia and fascist Italy. Each regime sought to remove political opponents and ‘cleanse’ society of individuals of particular ethnicities and political inclinations through instruments of murder, coercion and intimidation (Mussolini referred to this programme of victimisation as ‘social hygiene’).⁴⁵³ During the post-WWII era, regimes throughout the world used ‘terror’ to govern and purge, including dictatorships in Greece, Argentina, Chile, Peru, Colombia, El Salvador and Iraq.⁴⁵⁴

The distinction, however, between state-implemented ‘terror’ and ‘terrorism’ conducted by non-state actors became important in the latter half of the 20th century, when a resurgence of action inspired by the principle of ‘propaganda by deed’ occurred during the anti-colonial struggles in Asia, Africa and the Middle East.⁴⁵⁵ The establishment of organisations such as the Palestine Liberation Organisation (PLO) and Euskadi ta Askatasuna (ETA) and the growing strength of the Provisional Irish Republican Army (PIRA) led to a debate centred on the terrorist/freedom-fighter dichotomy. The modern international political principle of self-determination bolstered those who sought to wage what they considered to be legitimate campaigns of violence, coercion and intimidation in order to force change and achieve national

⁴⁵¹ Hoffman, B. (2003). *Defining Terrorism*: 8

⁴⁵² *Ibid.*: 10

⁴⁵³ *Ibid.*: 10

⁴⁵⁴ *Ibid.*: 11

⁴⁵⁵ *Ibid.*: 11

statehood in the face of foreign oppression, much like Narodnaya Volya had done against autocratic rule in Tsarist Russia almost a century before.

State-sponsored Terrorism

The 1980s heralded a new dimension to terrorism that extended beyond both ‘terror’ as a form of governance and revolutionary ‘propaganda by deed’. The emergence of state-sponsored internationalised terrorism signalled the development of a type of unconventional, clandestine and, therefore, deniable method of warfare that was conducted by states to strike at conventionally more powerful rivals. Terrorism, as a form of warfare, emerged as the extension of politics by other means. One of the most notorious cases of state-sponsored terrorism was the 1988 explosion on board Pan Am flight 103, which killed 259 passengers and crew and eleven residents of the Scottish village of Lockerbie. The US and UK blamed Libya for the bombing. Diplomatic relations between the UK and Libya were reinstituted only in August 2003, when the Libyan government wrote a letter to the UN Security Council accepting blame for the Pan Am 103 disaster.⁴⁵⁶ The US re-established diplomatic ties with Libya in May 2006.⁴⁵⁷ This new expression of terrorism corresponded with neither state ‘terror’ nor the principle of ‘propaganda by deed’: terrorism, as a surrogate form of warfare, was not used as an overt instrument of state governance (its nature was essentially covert and its role was to enable its sponsor to deny association with any damage caused), and the terrorists themselves did not discriminate between ‘symbolic’ figures – carefully selected and targeted for a specific objective – and innocent civilians, as the Lockerbie case testifies.

The asymmetric warfare element of terrorism became a central pillar of the national defence doctrines of states such as Iran. Indeed, Iran is considered by the US and others to head the list of state sponsors of terrorism, which includes North Korea, Cuba, Sudan and Syria.⁴⁵⁸ Indeed, the revolutionary zeal that drove the establishment

⁴⁵⁶ Seenan, G. (15 August 2003). Lockerbie deal to end Libya's isolation. The Guardian.

⁴⁵⁷ Ibid.

⁴⁵⁸ (2001). Patterns of Global Terrorism, US State Department.

of the Islamic Republic in 1979, as well as Iran's constitution, offers evidence of Iran's predisposition to support subversion and terrorist acts against perceived 'oppressors'. Article 3 of the Iranian constitution contains two clauses that draw particular attention within the context of international terrorism: Clause 5, which establishes the goal of achieving 'the complete elimination of imperialism and the prevention of foreign influence; and, clause 16, which establishes the goal of 'framing the foreign policy of the country on the basis of Islamic criteria, fraternal commitment to all Muslims, and unsparing support to the mustad'afiin [the Muslim oppressed] of the world.'⁴⁵⁹ It has also been said that other than revolutionary zeal and constitutional goals, political considerations make terrorism an attractive method for Iran to maximise interests in the international system against stronger adversaries. Since terrorism is clandestine and deniable, Iran is in a position to take the fight to its enemies whilst mitigating the threat of reprisal.

Iran's links with international terrorist groups is said to be controlled by the Revolutionary Guards and the Intelligence and Security apparatus, which, according to the US State Department, 'continue to be involved in the planning and support of terrorist acts and continue to support a variety of groups that use terrorism to pursue their goals'. The type of support provided by Iran includes funding, safe havens, weapons and training, and indications are that the terrorist groups with which Iran collaborates include Hizballah, Hamas, the Palestinian Islamic Jihad, and the Popular Liberation Front for Palestine.⁴⁶⁰

International Terrorism

⁴⁵⁹ Constitution of the Islamic Republic of Iran

⁴⁶⁰ (16 February 2005). Testimony of Matthew A. Levitt: Iranian State Sponsorship of Terrorism: Threatening US Security, Global Stability and Regional Peace. Joint Hearing of the Committee on International Relations, Subcommittee on the Middle East and Central Asia and the Subcommittee on International Terrorism and Nonproliferation. Washington DC.

The emergence of al-Qaida in the 1990s developed the concept of 'international terrorism' as a phenomenon distinct from either 'state terror' or 'propaganda by deed': the brand of terrorism propagated by al-Qaida, headed by Saudi dissident Usama bin Laden, was of global scope and reach, and but wasn't dependent on state-sponsorship or conducted through discriminatory use of force for limited political purposes. The advent of al-Qaida in the 1990s represented the emergence of a network of individuals driven by a philosophy based on a virulent strain of extreme Islamism, which transcended any state policy.⁴⁶¹ The specific mission of al-Qaida to force the removal of all US forces from Saudi Arabia soon evolved to encompass the much more ambitious aim of establishing a world order based on the principles of their extremist interpretation of Islamic doctrine.⁴⁶² Rather than conducting discriminative campaigns based on the principle of 'propaganda by deed' or ally with states with whom it shared powerful enemies within the international system, al-Qaida sought to eliminate any entity that stood in the way of the accomplishment of its vision of an Islamist order, including the 'crusader' and 'infidel' West and 'apostate' Muslim regimes, by invoking a jihad, or holy war, on both private citizens and governments alike – a phenomena that is described by the term 'new terrorism'.⁴⁶³

Terrorism after 9/11: New' Terrorism

The attack by al-Qaida against targets in New York, Washington and Pennsylvania on 11 September 2001 transformed how the international community understood terrorism. The organisation, objectives, methods and scope of 'new' terrorism presents states with a new type of security challenge that universalized vulnerabilities and collectivized state perceptions of threats to national and international security.

What 'New' Terrorism Is Not

⁴⁶¹ Sageman, M. (2004). Understanding Terror Networks. Philadelphia, Univirity of Pennsylvania Press.

⁴⁶² Burke, J. (2003). Al-Qaeda: Casting a Shadow of Terror.

⁴⁶³ (2004). The 9/11 Commission Report.

'New' terrorism is not an example of 'Propaganda by Deed', for three reasons. Firstly, exponents of 'new' terrorism are not members of any revolutionary state that is using violence as a means to impose a new national order. In contrast with the French regime after 1789, organisations such as al-Qaida are non-state actors that are seeking to re-institute an old, pan-state Islamic order, rather than revolutionize an existing order with a view to instituting something new. The basis of al-Qaida's argument with the West and apostate Muslim regimes is rooted in infidelity and betrayal, respectively, with regard to Islamic tradition and Sharia law.⁴⁶⁴ 'New' terrorism is violence intended to overthrow modern systems of government, such as democracy, in order to re-impose ancient, Islamist models of governance. This situation contrasts starkly with the view of terrorism as a servant of democracy, as taken by the French revolutionaries. Secondly, 'new' terrorism does not discriminate between legitimate/symbolic and illegitimate/non-symbolic targets. Unlike Narodnaya Volya, al-Qaida does not limit its operations to political leaders in order to make political points. Rather, al-Qaida seeks to inflict mass-casualties, and makes no distinction between governments and ordinary citizens.⁴⁶⁵ Although comparisons could be made between the cellular organisational characteristics of al-Qaida and Black International, their methods and objectives share little in common, considering that Black International sought to revolutionize international politics by targeting specific, symbolic figures of power. Thirdly, unlike Irish Republican PIRA and the Basque separatist ETA, al-Qaida does not foster debate around the terrorist/freedom-fighter dichotomy at the international official level, even though al-Qaida propagates its 'single narrative' of a war between Islam and the West to radicalise and recruit vulnerable individuals at the street level.⁴⁶⁶ The objective of 'new' terrorism, as opposed to so-called 'old' terrorism, is to force change for the purposes of destroying the concepts of national statehood and popular sovereignty that underpin international order, rather than achieving them.⁴⁶⁷

⁴⁶⁴ Burke, J. (2003). Al-Qaeda: Casting a Shadow of Terror.

⁴⁶⁵ Ibid.

⁴⁶⁶ Sageman, M. (2004). Understanding Terror Networks.

⁴⁶⁷ Mendelsohn, B. (2005). "Sovereignty under attack: the international society meets the Al Qaeda network." Review of International Studies(31): 45-68.

'New' terrorism is not an example of state terror, for two reasons. Firstly, and simply, 'new' terrorism is conducted by non-state entities, not state governments. Secondly, as non-state entities, 'new' terrorists do not govern over people and, therefore, have no means to control populations through repressive instruments of national power, in the way that the Nazi and the Mussolini regimes controlled, and 'cleansed', the German and Italian populations, respectively.

And, finally, 'new' terrorism is not an example of state-sponsored terrorism, for two reasons. Firstly, the operational strength of al-Qaida and affiliate groups is the 'flock of birds' nature of their organisation, facilitating autonomous and self-financing cells that are difficult to track, target and engage.⁴⁶⁸ Al-Qaida's relationship with states is more akin to the relationship between a parasite and a host, which is symbiotic whether or not the relationship is mutually beneficial. Where the relationship is not mutually beneficial, such as the relationship between al-Qaida and the US, UK, and the vast majority of the sixty states worldwide which reportedly accommodate al-Qaida operatives, the state will take action to eliminate the al-Qaida cells. Where the relationship is mutually beneficial, such as the relationship between al-Qaida and Taliban-controlled areas of Afghanistan, the state will seek to protect al-Qaida cells. Considering the attitude held by Iran towards terrorism as a form of deniable, asymmetric warfare in support of 'oppressed' Muslims world-wide, the symbiotic relationship between Iran and 'new' terrorism is being scrutinised by intelligence services (see below). Secondly, given that organisations that practice 'new' terrorism are non-state actors, 'new' terrorism is not used to promote or express national policies in the way state-sponsored terrorism is understood to do. As such, 'new' terrorism represents the sharp end of a global extremist Islamist movement that transcends states and challenges existing principles of international order.

'New' Terrorism: The Nature of Al-Qaida

⁴⁶⁸ Cogan, C. (2004). "Hunters not Gatherers: Intelligence in the Twenty-First Century." Intelligence and National Security 19(2): 304 - 321.

The word 'Qaida', which is rooted in the Arabic term 'qaf-ayn-dal', literally means 'base', but can also be translated to mean 'method'.⁴⁶⁹ The term 'al-Qaida', therefore, refers to a base of operation (an organisation) and a method of operation. 'Al-Qaida' can be understood to mean three separate but interconnected phenomena. Firstly, 'al-Qaida' is an organisation, commonly referred to as 'al-Qaida Core', comprising leadership figures such as Usama bin Laden and Ayman al-Zawahiri, with its own objectives and methods of operation.⁴⁷⁰ Secondly, it refers to a network of groups and individuals that share, broadly speaking, al-Qaida Core's objectives and methods. And, thirdly, 'al-Qaida' represents a movement encapsulating global jihad against the West and apostate Muslim regimes.⁴⁷¹

Al-Qaida Core

The al-Qaida organisation is headed by Usama bin Laden, who is supported closely by his deputy Ayman al-Zawahiri. Al-Qaida was born out of the mujahideen's resistance against the Soviet occupation of Afghanistan during the 1980s, which served as a rallying point for militant extremists from around the world, and a breeding ground for jihadists seeking to engage in armed struggle against foreign powers interfering in Muslim affairs.⁴⁷² The radicalisation and battle-hardening of Islamic extremists in Afghanistan was aided further by the withdrawal of Soviet forces from Afghanistan in 1989, which the mujahideen took as a grand victory and proof that their methods of warfare were effective in the face of larger and more powerful adversaries.⁴⁷³ Usama bin Laden, a wealthy Saudi who earned a high reputation during the Afghan resistance, used the victory against the superpower to inspire and radicalise newcomers, as well as recruit veteran fighters, to form al-Qaida.⁴⁷⁴ The al-Qaida organisation became the base from which a global jihad (a struggle encapsulating the use of armed force in defence

⁴⁶⁹ Burke, J. (2003). *Al-Qaeda: Casting a Shadow of Terror*.

⁴⁷⁰ Burke, J. (11 March 2007). Al-Qaeda: the second coming. *The Guardian*. London.

⁴⁷¹ Ibid.

⁴⁷² Burke, J. (2003). *Al-Qaeda: Casting a Shadow of Terror*.

⁴⁷³ Ibid.

⁴⁷⁴ Ibid.

of the Islamic faith) would be waged using the same methods that had succeeded in defeating the Soviet Union.⁴⁷⁵

Objectives

The objectives of the al-Qaida organisation are global in scope and reach. Al-Qaida's objective in the early 1990s was to force the removal of US troops from Saudi Arabia, the sacred land of the Holy Mosques, after the Gulf War of 1990-91.⁴⁷⁶ However, this specific objective evolved throughout the 1990s to encapsulate a more ambitious aim to unify all Muslims in Dar al-Islam (the land of Islam), extending from Spain, the Balkans and North Africa, to Central and Southern Asia and the Middle East.⁴⁷⁷ Any territory outside of this area is designated Dar al-Harb, or 'the land of war'. Al-Qaida believes the Ummah – the Islamic term for the Muslim community – should be ruled under the power of a caliph, in strict accordance with a literal interpretation of Islamic law.⁴⁷⁸ Realising this vision of a caliphate means engaging in violent struggle with the West, whose presence in Islamic lands is viewed by bin Laden as a breach of Sharia Law.⁴⁷⁹ Muslim states that are not instrumental to the re-establishment of Dar al-Islam are also legitimate targets.⁴⁸⁰ Al-Qaida has taken the fight to the 'enemy's land', as was seen by terrorist attacks in the US in 2001, in Spain in 2004, the UK in 2005, and Jordan, where Islam is the state religion, in 2005.⁴⁸¹

Methods

The method favoured by al-Qaida is clandestine, co-ordinated, simultaneous, indiscriminate and surprise attacks, most commonly suicide bombings, designed primarily to achieve the greatest possible number of casualties – attributes associated

⁴⁷⁵ Corbin, J. (2002). The Base: In Search of al-Qaeda - the Terror Network that Shook the World.

⁴⁷⁶ Burke, J. (2003). Al-Qaeda: Casting a Shadow of Terror.

⁴⁷⁷ Ibid.

⁴⁷⁸ Ibid.

⁴⁷⁹ Ibid.

⁴⁸⁰ Ibid.

⁴⁸¹ Benjamin, D. and S. Smith (2005). The Next Attack: The Globalization of Jihad.

with the concept of 'new terrorism', as distinct from the politically-symbolic, discriminate and limited attacks committed by 'propaganda by deed' groups. The hijacking and use of aircraft in the attack launched by al-Qaida against mass-casualty targets in the US on 11 September 2001 typifies this method of attack. Since 9/11, however, political reasons as well as the desire to cause mass-casualties have provided cause for al-Qaida to launch suicide attacks, indicating a measure of evolution in its methodology.⁴⁸² The four suicide bombers that launched attacks on London on 7 July 2005, which killed 52 and injured 700, were apparently designed to cause maximum casualties, disruption and media exposure. The attack also intended to deliver the political message, as voiced in a video by the leader of the bombers Muhammad Sidique Khan, that a state of war exists between Muslims and 'oppressors' world-wide.⁴⁸³ Although it is thought that al-Qaida Core was not directly involved in the London attacks, the appearance of Zawahiri on the same video can be seen as an attempt by al-Qaida Core to associate itself with these types of attacks. Indeed, the kidnappings and beheadings in Saudi Arabia and Iraq, which aim to make political points rather than cause mass casualties, also signals a development in the methods used by al-Qaida, which increasingly involves spreading propaganda via the internet and its media organisation, the Global Islamic Media Front (GMIF).

Affiliates

As al-Qaida's campaign to wage global jihad gained momentum in the 1990s, change in the international political landscape led to the forging of new alliances between jihadist groups operating in different parts of the world. Unlike al-Qaida Core, whose aim is to establish a caliphate and wage war against 'non-believers' in a global theatre of operation, some jihadist groups have geographic-specific objectives. For example, the terrorist groups Jamaah Islamiyah, the Islamic Movement of Uzbekistan and Tawhid and Jihad, focus on cementing Islamic rule in South Asia, Central Asia and Iraq, respectively.⁴⁸⁴ Each has cultivated mutually convenient relationships with al-Qaida

⁴⁸² Benjamin, D. and S. Smith (2005). The Next Attack: The Globalization of Jihad.

⁴⁸³ Ibid.

⁴⁸⁴ Hoffman, B. (2004). "The Changing Face of Al Qaeda and the Global War on Terrorism." Studies in Conflict and Terrorism 27(8): 549-560.

Core that form a network in which localised operations are conceptualised and conducted under the umbrella of global jihad.⁴⁸⁵ This network has created the effect of a global jihad, centred on al-Qaida, serving to end the oppression of Muslims the world over. Terrorist attacks in Bali, Madrid, London, Delhi, Doha, Istanbul, Pakistan, Israel and Riyadh have suffered attacks at the hands of groups affiliated to al-Qaida.

Perhaps the most interesting and significant affiliation is that of al-Qaida Core and the Iraq-focused, Tawhid and Jihad. In October 2004, Tawhid and Jihad, led by the Jordanian Abu Musab al-Zarqawi, who was killed by US forces on 7 June 2006, pledged allegiance to Usama bin Laden and the al-Qaida leadership. The strength of the pact between these groups is reflected in the changing of Tawhid and Jihad's name to the al-Qaida Organisation in the Land of the Two Rivers, or, as it is better known, al-Qaida in Iraq. Whilst it is thought that the relationship between al-Qaida Core and al-Qaida in Iraq was forged on mutually-beneficial grounds, it appears that the strategic linkage between the two organisations has been problematic ever since Zarqawi, in September 2005, declared war against Shia Muslims.⁴⁸⁶ Zarqawi's anti-Shia campaign breaches al-Qaida Core's clear vision of the strict separation between Dar al-Islam and Dar al-Harb, its 'US first' strategy to target Western interests inside and outside of Iraq, and its objective to promote popular support amongst Muslims for the global jihad enterprise.⁴⁸⁷ In November 2005, Zarqawi's group launched bomb attacks in Amman, killing Muslims from Jordan, Iraq, Saudi Arabia, Indonesia, and the Palestinian Authority. Zarqawi defended the attacks and threatened further violence against Muslim countries with ties to the West, and promised an increase in attacks against targets outside of Iraq, including Europe.⁴⁸⁸

The al-Qaida franchise is expanding. Organisations claiming to be branches of al-Qaida exist in Libya, the Arabian Peninsula, Iraq, Palestine, Kashmir and Lebanon. In

⁴⁸⁵ Benjamin, D. and S. Smith (2005). The Next Attack: The Globalization of Jihad.

⁴⁸⁶ Ibid.

⁴⁸⁷ Al-shishani, M. (17 November 2005). "Al-Zarqawi's Rise to Power: Analyzing Tactics and Targets." Terrorism Monitor 3(22).

⁴⁸⁸ Finer, J. and C. Whitlock (11 November 2005). Zarqawi's Network Asserts It Launched Attacks in Amman. Washington Post.

January 2007, the Algerian Salafist Group for Preaching and Combat (GSPC), changed its name to 'al-Qaida in the Islamic Maghreb'.⁴⁸⁹

Global Jihad

The al-Qaida network encompasses individuals and groups who do not have operational affiliation with al-Qaida Core, but share the same motivation, aims and methodology. The Madrid and London bombings are thought by authorities to have been executed by individuals inspired by, if not directly sanctioned by, the al-Qaida leadership.⁴⁹⁰ As well as the 7/7 group led by Muhammad Sidique Khan, examples of 'self-starters' that embark on acts of 'global jihad' include Andrew Rowe, who was sentenced in the UK for 15 years in September 2005 for possessing items linked to terrorism.⁴⁹¹

The threat posed by self-starting global jihadists transcends state boundaries. On 9 November, Muriel Degauque, from Charleroi in Belgium, killed herself in a failed suicide bomb attack against US soldiers in Iraq.⁴⁹² Fourteen people were arrested across Belgium on 30 November 2005 in connection with an investigation into her case.⁴⁹³ That investigation reported that four Iraqis and a Syrian have been arrested in connection with the theft of 1500 passports from the Italian consulate in Liege, which could have been used to facilitate terrorists to travel to Iraq. Degauque's case highlights problems of radicalisation and terrorist networks in Belgium in particular and within Western societies in general, and demonstrates the existence of terrorist networks in the West, particularly al-Zarqawi's group, that aim to recruit Westerners as 'clean skin' suicide bombers, who are less likely to grab the attention of security services.⁴⁹⁴

⁴⁸⁹ (26 January 2007). "Algerian group joins al-Qaeda brand." from <http://english.aljazeera.net/NR/exeres/23E2EB3C-7B4F-4447-80CD-26EDAFE18E8.htm>.

⁴⁹⁰ Benjamin, D. and S. Smith (2005). The Next Attack: The Globalization of Jihad.

⁴⁹¹ Muir, H. (24 September 2005). British Muslim convert jailed for terrorism offences. The Guardian.

⁴⁹² (2 December 2005). "Journey of Belgian female 'bomber'." from <http://news.bbc.co.uk/1/hi/world/europe/4491334.stm>.

⁴⁹³ Knight, S. (1 December 2005). Mystery of Europe's first woman suicide bomber. The Times.

⁴⁹⁴ Benjamin, D. and S. Smith (2005). The Next Attack: The Globalization of Jihad.

Similarly, on 12 January 2006, suspected al-Qaida operative, Omar Nakhcha, was arrested in Spain.⁴⁹⁵ He is believed to have headed a number of terrorist cells in Spain responsible for recruiting and dispatching suicide-bombers from Spain to Iraq.⁴⁹⁶ The cells are also suspected of providing support to al-Qaida affiliate groups the Moroccan Islamic Combatant Group and the Algerian-based Salafist Group for Call and Combat, and maintaining links with al-Qaida cells in France, Belgium and Holland.⁴⁹⁷ These arrests, and the parallel investigations into terrorist cells in France, Belgium, and Holland, and elsewhere in Europe, reveal a trend in the strategy of Zarqawi-related groups towards taking the 'fight to the enemy's land', by exploiting recruits and basing operations within European states.

Statements by al-Qaida figures have demonstrated the reach of the threat posed by global jihad. In February 1998, Usama bin Laden and Ayman al-Zawahiri proclaimed jihad against 'Jews and crusaders', and ordered every Muslim to fulfil their 'individual duty' to 'kill the Americans and their allies, civilians and military'.⁴⁹⁸ On 19 January 2006, al-Zazeera broadcast an audiotape of Usama bin Laden claiming that the reason there has not been an attack in the US since 9/11 is not because of US security measures, but because operations in the US 'need preparations'.⁴⁹⁹ Bin Laden is also heard celebrating the Madrid and London bombings, and threatens the US with further attacks on its soil. Since then, targets of global jihad have been extended to include Muslims and international organisations.⁵⁰⁰

On 23 April 2006, an audiotape of bin Laden catalogues a list of events that supposedly provides evidence of a Western 'Crusader-Zionist war' against Islam. Rulers of Islamic states that are friendly with the West are also condemned.⁵⁰¹ The Danish cartoons lampooning the Prophet Muhammad, Western rejection of the

⁴⁹⁵ Goodman, A. (12 January 2006). "Alleged terror cell leader held." from <http://www.cnn.com/2006/WORLD/europe/01/12/spain.arrests/index.html>.

⁴⁹⁶ Ibid.

⁴⁹⁷ Ibid.

⁴⁹⁸ Bergen, P. (2006). *The Osama bin Laden I Know: An Oral History of al Qaeda's Leader*, The Free Press.

⁴⁹⁹ (19 January 2006). "Text: 'Bin-Laden tape'." from http://news.bbc.co.uk/1/hi/world/middle_east/4628932.stm.

⁵⁰⁰ Ibid.

⁵⁰¹ Whitlock, C. (24 April 2006). On Tape, Bin Laden Warns of Long War. *Washington Post*.

Hamas administration, UN involvement in Sudan, Bosnia, Somalia, East Timor, and Russian involvement in Chechnya are used as examples of the manifestation of an international crusade against Muslims.⁵⁰² Bin Laden appeals to these events to justify the imperative of jihad, and repeat the call to all Muslims to engage in conflict with the West in the defence of Islam. This indicates Bin Laden's desire to portray al-Qaida as the bulwark against an infidel international system, as opposed to just individual states, and to inspire attacks against international institutions. On 29 April 2006, al-Zawahiri appeared in a video describing the leaders of Egypt, Jordan, Saudi Arabia and Iraq as traitors, and urging Muslims to 'confront them'.⁵⁰³ The bulk of the 16-minute video is dedicated to the situation in Pakistan. He accuses Musharraf of throwing the country into a civil war in return for American bribes and he urges Pakistanis 'to remove this traitor from power'.⁵⁰⁴ On 25 April, Abu-Mus'ab al-Zarqawi made his first public appearance for three years publicising the newly formed Mujahadin Shura Council, which represents eight jihadi groups including al-Zarqawi's al-Qaida in Iraq.⁵⁰⁵ He reiterates his call to Sunnis to fight the 'rejectionist' Shia and the West and, in addition, reminds all Muslims of the importance of Israel in the Jihadist movement and the need to reclaim it.⁵⁰⁶ Each statement serves as a rally-cry to Muslims to engage in global jihad, and a warning to the West that 'war is still raging'.⁵⁰⁷

The global scope and reach of the al-Qaida threat was further reiterated when, on 19 May 2006, the supposedly Iranian-supported terrorist organisation Palestinian Islamic Jihad broadcast a communiqué that underscored the association between al-Qaida and the concept of global jihad.⁵⁰⁸ The message of solidarity was aimed at the PIJ's 'brothers' in Chechnya and Iraq, and praised the newly formed Mujahideen Shura Council in Iraq and Usama bin Laden's leadership as the most effective vehicles of

⁵⁰² Whitlock, C. (24 April 2006). On Tape, Bin Laden Warns of Long War. Washington Post.

⁵⁰³ (29 April 2006). "Al-Zawahiri video: Excerpts." from http://news.bbc.co.uk/1/hi/world/middle_east/4957292.stm.

⁵⁰⁴ (29 April 2006). "Al-Zawahiri video: Excerpts." from http://news.bbc.co.uk/1/hi/world/middle_east/4957292.stm.

⁵⁰⁵ (25 April 2006). "'Zarqawi' shows face in new video." from http://news.bbc.co.uk/1/hi/world/middle_east/4944250.stm.

⁵⁰⁶ Ibid.

⁵⁰⁷ Ibid.

⁵⁰⁸ Private interview with 'D'.

Muslim struggle.⁵⁰⁹ The extremist Islamic preacher Sheikh Abu-Nur al-Maqdisi, who delivered the audio message, described global jihad as the only means for Muslims to defend themselves, and bin Laden as the natural leader of a world-wide campaign of violence.⁵¹⁰ The Sheikh stressed that action was imperative, considering that the US, being stretched in Iraq, is vulnerable to attack. In addition, he targeted the UN as a legitimate target and condemned Arab and Islamic leaders 'fifth column of hypocrites' within Muslim countries.⁵¹¹ Sheikh Abu-Nur claimed that the attacks of 9/11 destroyed 'the myth of the US superpower' and that 'the enemy' was at a disadvantage because they could not bear heavy losses, in contrast with Muslims who were secure in the knowledge that they would go to Paradise.⁵¹² He further urged bin Laden and al-Zawahiri to teach the US, which he describes as a 'rogue state', a lesson.⁵¹³ The message, which lasted 45 minutes, ended in an exhortation to Palestinians to put their faith in bin Laden as their 'only hope'.⁵¹⁴

Economic Jihad

The threat posed by the al-Qaida-led global jihad is universally dangerous not only because it targets a vast range of Western and apostate states and international political institutions; global jihad also threatens the global economy. Economic jihad targets economic centres, most notably oil-related targets, which are essential to Western states and the health of global economic systems on which all states depend.

On 24 February 2006, the al-Qaida affiliate group al-Qaida in the Arabian Peninsula attacked ARAMCO's oil processing installation at Abqaiq, Saudi Arabia.⁵¹⁵ Although the attack was generally considered unsuccessful, it represents the sharp end of an established strategy spearheaded by Usama Bin Laden to 'bleed America to

⁵⁰⁹ Private interview with 'D'.

⁵¹⁰ Ibid.

⁵¹¹ Ibid.

⁵¹² Ibid.

⁵¹³ Ibid.

⁵¹⁴ Ibid.

⁵¹⁵ (25 February 2006). "Al-Qaeda 'behind Saudi oil plot'." from http://news.bbc.co.uk/1/hi/world/middle_east/4749812.stm.

bankruptcy' by striking economic infrastructure.⁵¹⁶ The Abqaiq attack destabilised global oil markets, triggered a sharp increase in the price of oil and prompted oil companies and installations to improve security.⁵¹⁷ A successful attack that managed to disrupt or shutdown a target comparable to Abqaiq would cause severe damage to global markets and states' economic wellbeing. Credit for the attack against Abqaiq was swiftly taken by al-Qaida in the Arabian Peninsula, in a statement published on the Internet on 25 February 2006. The attackers claimed that the operation was 'part of the project to rid the Arabian Peninsula of the infidels' and intended to stop the 'pillage of oil wealth' from Muslims by destroying a facility that 'provides the Crusaders with oil'.⁵¹⁸

The strikes against the Pentagon and World Trade Centre on 11 September 2001 were described by bin Laden as an attack on 'America's icons of military and economic power'.⁵¹⁹ In the wake of the 9/11 attacks, bin Laden promised that 'Jihad against America will continue, economically and militarily', and urged Muslim youths 'to find more of America's economic hubs', because the 'enemy can be defeated by attacking its economic centres'.⁵²⁰ One year after 9/11, on 6 October 2002, the French oil tanker *Limburg* was attacked 3 miles off the coast of Mina al-Dabah. Bin Laden highlighted the specific targeting of the *Limburg* as an economic target by claiming that the attack 'was not an incidental strike on a passing tanker, but a strike on the international oil-carrying line in the full sense of the word'.⁵²¹ In March 2004, then leader of al-Qaida in the Arabian Peninsula, Abd al-Aziz al Muqrin, wrote in Mu'askar al-Battar ('al-Battar Training Camp', an al-Qaida affiliated website) calling for 'strikes against the stolen raw materials from Muslim countries'.⁵²² The rally-cry by Al-Muqrin, who was killed by Saudi security forces in Riyadh in June 2004, highlights the status of oil-producing

⁵¹⁶ Scheuer, M. (5 July 2006). "Bin Laden Seizes Opportunities in his June and July Speeches." Terrorism Focus 3(26).

⁵¹⁷ (25 February 2006). "Al-Qaeda 'behind Saudi oil plot'".

⁵¹⁸ Ibid.

⁵¹⁹ Lawrence, B. and J. Howarth (2005). Messages to the World: The Statements of Osama Bin Laden, Verso Books.

⁵²⁰ Ibid.

⁵²¹ Ibid.

⁵²² Al-Muqrin, A. H. A. a.-A. (15 July 2004). "The Targets Inside Cities, From Mu'askar Al-battar, Issue 7 (March 2004)." Terrorism Monitor 2(14).

Muslim Gulf states, such as Saudi Arabia, as viable targets in the economic war against the West. Furthermore, on 15 June 2004 Saudi cleric Sheikh Abdullah bin Nasser al-Rashid published a book entitled 'The Laws of Targeting Petroleum-Related Interests and a Review of the Laws Pertaining to the Economic Jihad'. In it, he stated that striking oil targets was a legitimate means of waging economic jihad. He also claimed that it was acceptable to destroy Muslim property if it had fallen into the hands of 'infidels'.

This description of 'new' terrorism demonstrates how the post-9/11 threat challenges the vast range of states, international institutions, international order, the global economy, and governments and private citizens alike. The complex and fuzzy phenomenon of al-Qaida constitutes a threat that is perceivable, but not necessarily perceived; as such, it entails potential risk of disorder as well as actual disorder. The organisation of al-Qaida is difficult to perceive, and its methods and ideology drive a death-embracing movement that is neither available to normal modes of negotiation nor subject to the logic of deterrence.

SECTION 3: THE WMD THREAT

The Nature of the Threat

The existence and spread of nuclear, radiological, chemical and biological weapons constitutes a threat to international peace and security.

Nuclear Weapons

Given that an estimated combined total of 214,000 people were killed in the US nuclear bomb attacks against Hiroshima and Nagasaki in 1945, the destructive power of nuclear weapons means that their continued proliferation remains a principle security issue.⁵²³ In 1957, the International Atomic Energy Agency (IAEA) was

⁵²³ (1 March 2006). "Ill-health legacy of atomic bomb." from <http://news.bbc.co.uk/1/hi/health/4758232.stm>.

established to advance US President Eisenhower's 'atoms for peace' agenda that arose from growing fear over the destructive power of nuclear energy, and its development and utilisation by an increased number of states.⁵²⁴ The Treaty on the Non-proliferation of Nuclear Weapons (NPT) was approved in 1968 and set the limit on the number of states allowed to possess a nuclear arsenal to five. These five states – the US, UK, France, Russia and China – comprise the permanent membership of the UN Security Council. Today, seven states (the original five plus India and Pakistan) are known to have tested nuclear weapons; Israel and North Korea are suspected of having nuclear weapons; and, Iran is suspected of developing nuclear weapons.⁵²⁵

Radiological, Chemical and Biological Weapons

Radiological weapons – weapons that disperse radioactive materials on detonation – present a different kind of threat than that posed by nuclear weapons. The destructive capacity of a 'dirty bomb' is limited to that of a conventional explosive, and the physical level of damage caused by the radioactive material is also limited.⁵²⁶ However, the psychological and political impact of the threat or use of a radiological weapon is high: panic, fear and uncertainty amongst the public and officials are likely to produce more harmful effects than the dirty bomb itself.⁵²⁷ This has lead James Gow to coin the category 'WMD/I' – the 'I' standing for the 'impact' these weapons produce that extends beyond the level of the destruction they cause.⁵²⁸ Chemical and biological weapons share this fear-inducing impact, but the level of destruction these weapons can cause is much higher than that of a dirty bomb. It is estimated that a single attack using 1 gram of weapons-grade smallpox could produce up to 1 million deaths.⁵²⁹ Moreover, of the 70,000 metric tons of chemical weapons agents required to be destroyed by the Chemical Weapons Convention, only 9,600 tons have been verified

⁵²⁴ "The 'Atoms for Peace' Agency." from <http://www.iaea.org/About/index.html>.

⁵²⁵ Elliott, M. (24 July 2004). Living Under the Cloud. *Time*.

⁵²⁶ (December 2004). A More Secure World: 40.

⁵²⁷ Ibid.

⁵²⁸ Gow, J. (2005). *Defending the West*.

⁵²⁹ (December 2004). A More Secure World: 41.

destroyed by the Organisation for the Prohibition of Chemical Weapons.⁵³⁰ The danger of the proliferation of chemical and biological weapons is increased with the development of genetically-modified agents that resist existing antidotes and possess a greater corrosive power. With around 6,000 chemical plants worldwide, the possibility of terrorists acquiring agents such as ricin, which has no known antidote and can kill a human in miniscule amounts, presents a significant threat.⁵³¹

The Non-proliferation Regime

In the wake of World War One the US, UK, Japan, France and Italy signed the Washington Naval Treaty of 1922 that imposed limits on the number and size of naval armaments possessed by the signatory powers. After World War Two, the development of nuclear weaponry led to negotiations between the major powers to limit the proliferation of strategic arms. After the NPT was signed in 1968, the Anti-Ballistic Missile Treaty (ABM) was signed by the US and USSR in 1972, outlawing the deployment on either side of offensive strategic nuclear missiles. The Strategic Arms Limitation Talks Agreement (SALT) imposed new limits on strategic ballistic missile systems of the two Superpowers and was put into effect in 1971; SALT II, negotiated between 1972 and 1979, sought to curtail the manufacture of nuclear weapons. In 1991, START (the Strategic Arms Reduction Treaty) was signed by the US and USSR, and START II, which prohibited the use of multiple independently-targetable re-entry vehicles (MIRVs), was signed in 1993. Beyond nuclear assurances between the two Cold War superpowers, multilateral regimes, such as the Nuclear Suppliers Group, were established to control and limit the proliferation of WMD. The mission to regulate nuclear exports remains the preoccupation of the NSG, which currently has 45 members, including the 5 permanent members of the UN Security Council. The IAEA continues to maintain responsibility for enforcing the NPT and other elements of the international non-proliferation regime.

⁵³⁰ (December 2004). *A More Secure World*: 41.

⁵³¹ *Ibid.*

The proliferation of chemical weapons is primarily controlled by the Chemical Weapons Convention (CWC), which was signed in 1993 and came into force in 1997. The CWC is administered by the Organisation for the Prohibition of Chemical Weapons, and prohibits the development, production, stockpiling and use of chemical weapons. The CWC builds on the provisions of the 1925 Geneva Protocol, currently signed by 132 states, which prohibits only the use of chemical (and biological) weapons. Similarly, the Biological Weapons Convention (BWC), which was signed in 1972 and came into force in 1975, augments the Geneva Protocol by prohibiting the development, production, stockpiling and use of bacteriological and toxin weapons. Unlike the CWC, the BWC is not administered by a devoted organisation.

Current WMD Threats: Iran and Black Markets

Iran

In February 2006, the IAEA Board of Governors voted 27-3 to back a joint UK-France-Germany measure to report Iran to the UN Security Council for its development of a nuclear programme. Despite Iranian declarations of peaceful intent, there exists widely-held suspicion that Iran intends to acquire a nuclear weapons capability.⁵³² On 11 April 2006, Iranian President Mahmoud Ahmadinejad announced that Iran had enriched uranium to 3.5% using over one hundred centrifuges, making Iran a member of club of nuclear states.⁵³³

Iran first purchased a research nuclear reactor from the US in 1959; the pre-revolution Shah planned to manufacture 23 nuclear reactors by the 1990s. The forced exile of the Shah in 1979 and the Iran-Iraq war during the 1980s disrupted Iranian nuclear plans, but these have now been resurrected: the current Iranian regime intends

⁵³² (8 March 2006). "Report on Iran's Nuclear Programme Sent to UN Security Council." from <http://www.iaea.org/NewsCenter/News/2006/bog080306.html>.

⁵³³ Reynolds, P. (13 April 2006). "Iran raises stakes in nuclear row." from http://news.bbc.co.uk/1/hi/world/middle_east/4901406.stm.

to construct seven 1000 megawatt nuclear reactors by 2025.⁵³⁴ Iran argues that their national nuclear project is necessary to fulfil increasing domestic energy requirements, and free-up the oil and gas sectors to generate foreign income.⁵³⁵ Many international observers find this reasoning fallacious, and, in addition to Iran's desire to enrich uranium beyond the 3.5% required for nuclear power, it signals Iranian intentions to build a nuclear capacity that extends beyond providing just a fuel resource.⁵³⁶

Suspensions of an Iranian nuclear programme for weapons purposes have also been fostered by Iran's attempts to cover-up uranium enrichment and plutonium-related activities, as well as dealings with A. Q. Khan (see below). In 2002, Alireza Jafarzadeh of the National Council of Resistance of Iran exposed clandestine nuclear sites at Natanz and Arak.⁵³⁷ Although pressure from the EU-3 (the EU, UK, France and Germany) in 2004 persuaded Iran to suspend enrichment activities, Iran resumed its conversion of uranium at its Isfahan facility in the summer of 2005, and announced 3.5% levels of enrichment in 2006.⁵³⁸ The 2005 US National Intelligence Estimate on Iran judges that it will be ten years before Iran will be in possession of a nuclear weapon.⁵³⁹

North Korea

On 28 August 2003, North Korea announced that it was ready to 'declare itself formally as a nuclear weapons state', following its withdrawal from the NPT in January 2003 and the suspension of the 1994 Agreed Framework between North Korea and the US that provided for the abandonment of North Korea's plutonium production programme in exchange for the construction of two light-water nuclear plants, oil and

⁵³⁴ Mashhad, K. (17 March 2006). "Nuclear Power Will Help Regulate Supply." from <http://www.iran-daily.com/1384/2525/html/economy.htm>.

⁵³⁵ (23 December 2006). Some Facts and Materials on the Peaceful Iranian Nuclear Program: Statement by His Excellency Dr M. Javad Zarif, Permanent Representative of the Islamic Republic of Iran before the Security Council.

⁵³⁶ Linzer, D. (2 August 2005). Iran Is Judged 10 Years From Nuclear Bomb. *Washington Post*.

⁵³⁷ Jafarzadeh, A. (2007). *The Iran Threat: President Ahmadinejad and the Coming Nuclear Crisis*. New York, Palgrave Macmillan.

⁵³⁸ Reynolds, P. (13 April 2006). "Iran raises stakes in nuclear row."

⁵³⁹ Linzer, D. (2 August 2005). Iran Is Judged 10 Years From Nuclear Bomb.

economic co-operation.⁵⁴⁰ This announcement was augmented by a declaration by North Korea on 10 February 2005 confirming that it possessed nuclear weapons.⁵⁴¹ At the same time, North Korea suspended its participation in Six Party talks designed to facilitate the short-term dismantlement of North Korea's uranium enrichment and plutonium-related activities and eventual return of IAEA inspectors to monitor long-term dismantlement of all WMD programmes, in exchange for security guarantees.⁵⁴²

US estimates in 2004 suggested that North Korea had probably reprocessed most of the 8,000 nuclear fuel rods they claim to be working on at the formally abandoned nuclear facilities at Yongbyon, and may have produced 4 – 6 atomic bombs from them.⁵⁴³ Considering alleged relations between Pyongyang and A. Q. Khan, suspected actual or possible North Korean involvement in black market activity – whereby it sells nuclear expertise, components, material or weapons to the highest bidder – constitutes another significant security threat associated with a North Korean nuclear capability.

At the time of writing, media outlets are reporting that a deal has been reached at six-party talks in Beijing. The deal involves North Korea being given 50,000 tonnes of energy aid in return for shutting down its nuclear facilities. North Korea would receive more energy supplies for disabling them completely.

Black Market

Non-state 'black market' networks also challenge the non-proliferation regime. The most significant transnational proliferation network was spearheaded by Pakistani scientist Abdul Qadeer Khan. A.Q. Khan, commonly referred to as the father of Pakistan's nuclear bomb, which successfully contravened international controls to sell the equipment and expertise needed to produce nuclear weaponry to a number of

⁵⁴⁰ (28 August 2003). "US upbeat on N Korea talks." from <http://news.bbc.co.uk/1/hi/world/asia-pacific/3189907.stm>.

⁵⁴¹ Brooke, J. (10 February 2005). North Korea Says It Has Nuclear Weapons and Rejects Talks. The New York Times.

⁵⁴² Ibid.

⁵⁴³ Nitsch, L. A. (25 May 2006). North Korea's Nuclear Weapons Program, Congressional Research Service.

countries hostile to the non-proliferation regime, including, it is alleged, Libya, Iraq, Iran and North Korea.⁵⁴⁴ The extent of the threat posed by the network prompted then CIA director George Tenet to describe A. Q. Khan as being 'at least as dangerous as Osama bin Laden'.⁵⁴⁵ Other than the desire to make money by exploiting weaknesses in NPT and NSG controls, the motivation of A. Q. Khan was to promote a pan-Islamic power and challenge Western WMD regulation regimes by disseminating nuclear weapons expertise, technology and materials to states hostile to the West – a major concern considering the post-9/11 terrorism threat.⁵⁴⁶

The proliferation network was unravelled in 2003 with the seizure of the ship *BBC China*, whose cargo of uranium enrichment gas-centrifuge components was destined for Libya.⁵⁴⁷ Further information about the proliferation network was gleaned through revealing interviews with individuals involved with transactions with A. Q. Khan's organisation, when Libya renounced nuclear weapons programmes in January 2004.⁵⁴⁸ A. Q. Khan was arrested in Pakistan in February 2004, was swiftly pardoned by President Musharraf and today remains under house arrest. However, it is unclear whether remnants of his network exist or other similar networks are operating in the nuclear 'underworld'.⁵⁴⁹

The scope of A. Q. Khan's Network

A. Q. Khan's proliferation network was a transnational organisation that had succeeded in operating under the non-proliferation regime's radar since the 1980s.⁵⁵⁰ Pakistan was the main hub of the operation.⁵⁵¹ Indeed, since 1976, A. Q. Khan had been head of the Engineering Research Laboratories at Kahuta (later renamed Khan Research Laboratories) that had played the central role in enriching uranium for

⁵⁴⁴ Albright, D. and C. Hinderstein (2005). "Unraveling the A. Q. Khan and Future Proliferation Networks." *The Washington Quarterly* 28(2): 111 - 128.

⁵⁴⁵ Ibid.: 112

⁵⁴⁶ Ibid.

⁵⁴⁷ Ibid.

⁵⁴⁸ Ibid.

⁵⁴⁹ Ibid.

⁵⁵⁰ Ibid.

⁵⁵¹ Ibid.

Pakistan's national nuclear weapons programme: it was from this platform that A. Q. Khan based his dealings with international clients.⁵⁵² However, as A. Q. Khan's business grew throughout the 1980s and 1990s, bases of operation were established in Switzerland, the UK, the UAE, Turkey, South Africa and Malaysia.⁵⁵³ His organisation employed a large number of experts and cultivated strong working relations with companies, suppliers and workshops that primarily produced P1 and P2 centrifuges used for uranium enrichment.⁵⁵⁴ The running of A. Q. Khan's business involved participants in a number of different countries; the director of the IAEA, Mohamed El Baradei, claimed in 2004 that 'nuclear components designed in one country could be manufactured in another, shipped through a third (which may have appeared to be a legitimate user), assembled in a fourth, and designated for eventual turnkey use in a fifth'.⁵⁵⁵ Information discovered in Libya identified around six workshops located across Africa, Asia and the Middle East that made centrifuge components.⁵⁵⁶ The centrifuge components found on the ship *BBC China* were made in the Scomi Precision Engineering (SCOPE) facility in Malaysia.⁵⁵⁷

The Reach of A. Q. Khan's Network

The network developed by A. Q. Khan in the 1980s became a 'one-stop shop' in the 1990s for states unhappy with Western control of WMD regimes, and it reached customers far and wide who sought to produce nuclear weapons programmes in defiance of international convention.⁵⁵⁸ Clients of A. Q. Khan are thought to have included Iran, Iraq, North Korea, Syria, Egypt, Saudi Arabia, Libya and, even, al-Qaida.⁵⁵⁹ The ramifications of A. Q. Khan's business dealings have been serious for contemporary security issues. Firstly, suspicions about Iraq's nuclear capability, which were used by the US and UK to justify pre-emptive action against Iraq in March 2003, were sown by information obtained by the IAEA in the 1990s showing that A. Q.

⁵⁵² Albright, D. and C. Hinderstein (2005). "Unraveling the A. Q. Khan and Future Proliferation Networks."

⁵⁵³ Ibid.

⁵⁵⁴ Ibid.

⁵⁵⁵ Ibid: 115

⁵⁵⁶ Ibid.

⁵⁵⁷ Ibid.

⁵⁵⁸ Ibid.

⁵⁵⁹ Ibid.

Khan had offered to help Baghdad produce gas centrifuges and design nuclear weapons.⁵⁶⁰ Secondly, it is thought that Iran's nuclear weapons programme, which constitutes a principle security issue in 2006, is the result of transactions initiated between Tehran and A. Q. Khan in the 1980s.⁵⁶¹ Thirdly, North Korean, whose continuing nuclear development programme remains a preoccupation of the US, is suspected of receiving centrifuge designs and components from the network in the 1990s.⁵⁶² Evidence points to other significant transactions. Syria, Saudi Arabia and Egypt are all considered to have been approached by A. Q. Khan's organisation.⁵⁶³ Libya, which renounced nuclear weapons in 2004, had ordered a gas-centrifuge plant powerful enough to produce ten nuclear weapons on an annual basis.⁵⁶⁴ Documents detailing information Pakistan received in China in the 1980s suggest that the A. Q. Khan network provided Libya with information that enabled them to build a nuclear weapon.⁵⁶⁵ Many questions about the extent of A. Q. Khan's network remain, as do suspicions that the network helped al-Qaida to obtain information on nuclear weapons prior to the fall of the Taliban regime in Afghanistan, when he visited the country together with 17 others during the period 1997 – 2003.⁵⁶⁶

Amendments to the Non-proliferation Regime

The exposure of the transnational A. Q. Khan network and increased understanding of the scope and reach of its operation prompted changes in the international non-proliferation regime. Three key developments occurred. Firstly, the US-led Proliferation Security Initiative (PSI), consisting of 15 core countries including the UK, France, and Russia, as well as a network of 60 associated states, which established by US President Bush in 2003, was strengthened to improve efforts to interdict shipments of WMD-related materials and components.⁵⁶⁷ The success of the PSI in catching the *BBC China* exposed the merits of international co-operation to control shipping, but it

⁵⁶⁰ Albright, D. and C. Hinderstein (2005). "Unraveling the A. Q. Khan and Future Proliferation Networks."

⁵⁶¹ Ibid.

⁵⁶² Ibid.

⁵⁶³ Ibid.

⁵⁶⁴ Ibid.

⁵⁶⁵ Ibid.

⁵⁶⁶ Ibid.

⁵⁶⁷ Ibid.

also exposed failures in intelligence sharing. In view of A. Q. Khan's clandestine activities, the PSI incorporated better relations with Interpol in order to reinforce an intelligence-led law enforcement initiative to seize WMD materials and freeze the assets of proliferators.⁵⁶⁸ Secondly, on 28 April 2004, the non-proliferation regime expanded to include non-state actors when the UN Security Council passed resolution 1540, banning non-state actors from attempting to 'develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery', and, in turn, criminalizing attempts by states to proliferate to non-state actors.⁵⁶⁹ The introduction of these provisions reflects international concern generated by A. Q. Khan's reported trips to terrorist havens such as Afghanistan and his pan-Islamic ideology shared, in a virulent form, by al-Qaida. And, thirdly, the Nuclear Suppliers Group has reviewed its guidelines for exporting nuclear technology. In May 2004, the NSG introduced two measures obligating states to develop a 'catch-all' export control mechanism that targets dual-use items for export and implement the IAEA Additional Protocol requiring states to report all nuclear imports and exports to the IAEA.⁵⁷⁰

SECTION 4: THE TERRORISM-WMD THREAT NEXUS

The Threat of Terrorism involving WMD

In June 2005, the Lugar Survey on Proliferation Threats and Responses, authored by US Senator Richard G. Lugar, was published. The purpose of the survey was to investigate ways to strengthen the non-proliferation regime in the face of the 'new' terrorism threat, especially in recognition of the existence and potential impact of the A. Q. Khan proliferation network.⁵⁷¹ The Lugar Survey was predicated on the notion that the international community 'must anticipate that terrorists will use weapons of mass destruction if allowed the opportunity', and concluded that the bottom line for

⁵⁶⁸ Albright, D. and C. Hinderstein (2005). "Unraveling the A. Q. Khan and Future Proliferation Networks."

⁵⁶⁹ Ibid.

⁵⁷⁰ Ibid.: 122

⁵⁷¹ Lugar, R. G. (2005). The Lugar Survey on Proliferation Threats and Responses. Washington DC, US Senate.

the US and other states is that they 'face an existential threat from the intersection of terrorism and weapons of mass destruction'.⁵⁷²

The survey, which posed questions to an international group of over 85 experts in the field of WMD proliferation, sought to 'discover consistencies and divergences in attitudes' about future WMD threats.⁵⁷³ Survey responses to questions addressing the terrorism-WMD threat nexus painted an interesting picture of future trends. For instance, given the choice between 'terrorists' and 'government', 67 out of the 85 respondents answered that if a nuclear attack occurs during the next ten years, it is more likely to be carried out by a terrorist group than by a government.⁵⁷⁴ Furthermore, in answer to the question 'What is the most likely method for terrorists to acquire nuclear weapons or material?' 63 out of the 83 respondents selected a method involving the black market, either exclusively or in combination with state assistance or crime (theft).⁵⁷⁵ Other than the threat of nuclear terrorism, the survey group concluded that the proliferation threat in most need of attention is 'the possible terrorist use of chemical and biological weapons'.⁵⁷⁶

The results of the Lugar Survey signaling a terrorism-WMD threat nexus chime with the conclusions of other experts in the field of WMD proliferation. In terms of terrorist acquisition of WMD through a combination of the black market and state assistance, the CIA has reported that WMD-capable states 'may follow North Korea's practice of supplying specific WMD-related technology and expertise to other countries or non-state actors'.⁵⁷⁷ On the other hand, the US Congressional Research Service Report 'Globalizing Cooperative Threat Reduction: A Survey of Options' outlines the danger of state sponsors of terrorism providing 'the terrorist organisations that they support with WMD materials or weapons'.⁵⁷⁸ The severity of the terrorism-

⁵⁷² Lugar, R. G. (2005). The Lugar Survey on Proliferation Threats and Responses.: 1

⁵⁷³ Ibid.: 4

⁵⁷⁴ Ibid.: 15

⁵⁷⁵ Ibid.: 16

⁵⁷⁶ Ibid.: 32

⁵⁷⁷ Chanlett-Avery, E. and S. Squassoni (2006). North Korea's Nuclear Test: Motivations, Implications and U.S. Options, Congressional Research Service: 10

⁵⁷⁸ Squassoni, S. (2005). Globalizing Cooperating Threat Reduction: A Survey of Options, Congressional Reserach Service: 5

WMD threat nexus, the report continues, depends on whether terrorist groups that have the intention of acquiring WMD, such as al-Qaida, are presented with the opportunity of gaining access the nuclear materials or weaponry, whether through theft, purchase or assistance from states or black market profiteers.⁵⁷⁹

According to Jessica Stern, the threat of terrorist use of WMD is low, but it has increased for 5 reasons. Firstly, the desire for 'new' terrorists to achieve divine retribution through the killing of a large number of people, in line with the Islamic tenet 'an eye for an eye', has redefined the utility of weapons of mass destruction. Terrorists seeking revenge harbour different motivations from states seeking to support traditional political objectives. Terrorists therefore value the utility of WMD to inflict revenge, as opposed to deter or compel states in defence of territorial or political integrity.⁵⁸⁰ Secondly, fanatical religious terrorist groups like al-Qaida 'appear more likely than the terrorists of the past to commit acts of extreme violence' – the desire of 'new' terrorists to acquire WMD is matched by their willingness to deploy them, which presents a threat associated with WMD proliferation that was mitigated by the motivation of states to survive during the Cold War.⁵⁸¹ This point is developed by Lewis A. Dunn in his paper 'Can Al-Qaeda Be Deterred from Using Nuclear Weapons?', in which he outlines the assumption of US policy-makers that the acquisition by al-Qaida of WMD 'is tantamount to their employment', given the apparent cause of al-Qaida to wreak mass destruction against the West, and the readiness of al-Qaida operatives to die for that cause.⁵⁸² Thirdly, the break-up of the Soviet Union contributed to the formation of a black market that offers expertise, materials, components and weapons, and it is vulnerable to theft and profiteering entrepreneurs.⁵⁸³ At least eight thefts of materials 'that could be used to make nuclear weapons have been confirmed'. Unsecured Soviet nuclear weaponry is also vulnerable to theft.⁵⁸⁴ Fourthly, chemical and biological weapons are proliferating within states

⁵⁷⁹ Squassoni, S. (2005). Globalizing Cooperating Threat Reduction: A Survey of Options.

⁵⁸⁰ Stern, J. (1999). The Ultimate Terrorists. London, Harvard University Press.

⁵⁸¹ Ibid.: 8

⁵⁸² Dunn, L. A. (2005). Can Al-Qaeda be Deterred From Using Nuclear Weapons? Centre for the Study of Weapons of Mass Destruction, National Defense University: 1

⁵⁸³ Stern, J. (1999). The Ultimate Terrorists.

⁵⁸⁴ Ibid.: 9

that are known to sponsor terrorism.⁵⁸⁵ Finally, developments in information and communications technology, such as the internet, have made it easier for terrorists to acquire the knowledge to construct WMD weaponry and deploy it through the use of suicide bombers recruited via the web.⁵⁸⁶

The threat of terrorism involving the use of WMD cannot be ruled out. As Jessica Stern states, 'while the probability of WMD terrorism is low, its expected costs – in lives lost and in threats to civil liberties – is potentially devastating'.⁵⁸⁷ The existence of serious transnational threats posed by proliferation networks like AQ Khan's and 'new' terrorism groups like al-Qaida have given rise to a terrorism-WMD threat nexus that has led to a re-conceptualization of international security challenges.

The Nature of the Terrorism-WMD Threat Nexus

In the post 9/11 world, the two distinct threats posed by terrorism and WMD proliferation have come together to form the new phenomenon of a terrorism-WMD threat nexus. 'New' terrorism presents a security challenge that seeks to cause mass destruction and is not subject to the conventional logic of deterrence. Transnational WMD proliferation networks, such as the one administered by A. Q. Khan, represent a black market of global scope and reach that circumvents international non-proliferation regimes and constitutes a potential force-multiplier for terrorist groups bent on maximizing casualties and levels of impact. If one adds into the mix the suggestion of a common ideological connection between proliferators such as A. Q. Khan and extreme Islamists such as al-Qaida who seek to cause mass destruction, then the terrorism-WMD threat nexus constitutes a pillar of the global jihadist threat that presents a serious threat to international security. In order to effectively combat the threat of terrorism and prevent the worst WMD terrorism scenario, the proliferation of WMD must also be combated; likewise, in order to effectively combat the threat

⁵⁸⁵ Stern, J. (1999). The Ultimate Terrorists: 9

⁵⁸⁶ Ibid.

⁵⁸⁷ Ibid.: 10

posed by WMD proliferation, preventing terrorist groups from acquiring the capability to carry out their intentions to utilize WMD is strategically imperative.

Considering the type of targets that are of interest to groups such as al-Qaida, mitigating the threat of WMD terrorism is widely acknowledged as the most urgent international security priority. The security strategies of the UK, US, EU and UN reflect the seriousness with which the international community takes the terrorism–WMD threat nexus and its potential impact.⁵⁸⁸ The severity of the threat of terrorism involving WMD can be understood by revisiting attacks already launched by al-Qaida, and imagining the consequences had WMD been utilized. Two examples are useful in illustrating the potential use of WMD as a force multiplier for terrorist attacks. Firstly, the effects of the 2001 attacks against the World Trade Centre involving passenger jets could have been even greater had the suicide attackers included a radiological, chemical, biological or nuclear element in their arsenal. Since the al-Qaida operatives had no concern for their own survival and their objectives are thought to have been to cause mass casualties, destruction and disruption, as well as create a spectacular impact, then it is reasonable to conclude that the use of WMD would have added, not retracted, value to the attack's effects. In other words, there is no reason to believe that the terrorists would not have used WMD on 9/11 given that nature of the attack had they had the means to do so.⁵⁸⁹

Secondly, the AQAP attack against the Abqaiq oil installation in February 2006, which was purportedly intended to knock-out the installation's capacity to process oil for Western consumption, signals a potential threat to the stability of international oil markets which could have significant negative effects on the global economy. Although causing serious disruption to a large oil facility with a level of protection comparable to Abqaiq would be extremely difficult with conventional weaponry, an attack involving a nuclear device would achieve a level of damage that would cause not

⁵⁸⁸ See (2004). (2003). Defence White Paper: Delivering Security in a Changing World; (2006). The National Security Strategy of the United States of America; (2003). A Secure Europe in a Better World: European Security Strategy; (2004) A More Secure World: Our Shared Responsibility; (2006). UN Resolution 60/288: The United Nations Global Counter-Terrorism Strategy.

⁵⁸⁹ Lugar, R. G. (2005). The Lugar Survey on Proliferation Threats and Responses.

only mass casualties, but the destruction of a target through a single attack that would trigger severe global economic ramifications.

Al-Qaida and WMD

Given al-Qaida's aim to cause maximum numbers of casualties, its use of suicide attacks and its zero-sum strategic doctrine, it is thought that al-Qaida will attempt to acquire and utilise CBRN materials, if it hasn't already done so.⁵⁹⁰ In the past, al-Qaida affiliate groups have attempted to execute 'poison plot' attacks in Europe using chemical warfare agents.⁵⁹¹ In another case, documents discovered in an al-Qaida training camp in Afghanistan contained a diagram of a crude nuclear device, as well as instructions on how to manufacture mustard agent, sarin, and VX.⁵⁹² Moreover, interest shown in crop dusters by 11 September attack leader Mohammad Atta and the so-called '20th hijacker' Zacharias Moussaoui raises concerns that al-Qaida contemplates using such instruments to disseminate biological warfare agents.⁵⁹³ Levels of security surrounding nuclear power plants in the UK, US and Australia have also been stepped up after reports that terrorists are targeting them. The arrest of 20 people in Australia in 2005, including the extremist Islamic preacher Abdul Nacer Benbrika from Melbourne, Australia, for targeting the Sydney nuclear power plant for 'terrorist purposes', suggests terrorist interest in nuclear-related targets.⁵⁹⁴ The possible liaison between A.Q. Khan and al-Qaida in Afghanistan sometime during the period 1997-2003 also heightens the level of concern over the possibility of al-Qaida obtaining some form of WMD capability.

Religious justification for WMD

Throughout the 1990s, al-Qaida desired a WMD capability, including nuclear weapons, ostensibly in order to deter an attack by the United States. As late as November 2001,

⁵⁹⁰ Scheuer, M. (2006). "New York Subway Plot and al-Qaeda's WMD Strategy." *Terrorism Focus* 3(24).

⁵⁹¹ (24 March 2006). "Accused 'talked of poison plot'." from <http://news.bbc.co.uk/1/hi/uk/4841314.stm>.

⁵⁹² (2004). The 9/11 Commission Report.

⁵⁹³ Ibid.

⁵⁹⁴ Stanley, T. (2 December 2005). "Australian Anti-Terror Raids: A Serious Plot Thwarted." *Terrorism Monitor* 3(23).

Usama bin Laden was highlighting the defensive nature of WMD, claiming in an interview with Pakistani journalist Hamid Mir that: 'If America used chemical and nuclear weapons against us, then we may retort with chemical and nuclear weapons. We have the weapons as a deterrent'.⁵⁹⁵

In the early 1990s, al-Qaida operative Abu Hafs al-Masri was placed in charge of an al-Qaida programme to acquire a nuclear capability, purportedly for deterrence purposes.⁵⁹⁶ The earliest alleged attempt by al-Qaida to acquire CBRN materials occurred around the beginning of 1994, when Jamal Ahmad al-Fadl (who testified in 2001) was sent by the al-Qaida leadership to purchase uranium in Sudan.⁵⁹⁷ It is suspected that al-Qaida's plan to acquire uranium in the 1990s was in part botched by al-Qaida's lack of expertise in distinguishing between weapons-grade and other materials.⁵⁹⁸ Al-Qaida is thought to have approached Pakistani scientists for assistance - possibly Bashirrudin Makmood and Abdul Majid, currently under house arrest in Pakistan.⁵⁹⁹ The involvement of outside experts in al-Qaida's nuclear programme was indicated in documents allegedly found in Afghanistan containing bomb designs based on specifications that were not openly sourced.⁶⁰⁰ In 1999, al-Qaida established a biological weapons programme under the direction of Abu Hafs al-Masri and Abu Khabab, which involved experimentation with anthrax bacteria.⁶⁰¹ It is suspected that a chemical weapons programme was also established around this time.⁶⁰²

The destruction of al-Qaida's base of operations in Afghanistan after 9/11 meant the disruption of al-Qaida's nuclear, chemical and biological programmes.⁶⁰³ Al-Qaida lost its in house production capability, and was forced to encourage other groups to

⁵⁹⁵ (10 November 2001). "Bin Laden 'has nuclear weapons'." from http://news.bbc.co.uk/1/hi/world/south_asia/1648572.stm.

⁵⁹⁶ Wesley, R. (2005). "Al-Qaeda's WMD Strategy Prior to the US Intervention in Afghanistan." Terrorism Monitor 3(19).

⁵⁹⁷ Ibid.

⁵⁹⁸ Ibid.

⁵⁹⁹ Ibid.

⁶⁰⁰ Ibid.

⁶⁰¹ Ibid.

⁶⁰² Ibid.

⁶⁰³ Wesley, R. (2005). "Al-Qaeda's WMD Strategy After the US Intervention in Afghanistan." Terrorism Monitor 3(20).

develop WMD capabilities possibly as a means to coerce the US and her allies.⁶⁰⁴ Since 2001, al-Qaida has provided religious justification for the use of WMD as offensive weapons, rather than as a deterrent, in line with the logic of 'an eye for an eye'.⁶⁰⁵ WMD is perceived to provide the means to avenge the deaths of thousands of Muslims by causing the deaths of thousands of 'oppressors'.⁶⁰⁶

Indeed, the use of WMD in the waging of global jihad has received religious justification after much wrangling amongst Islamic clerics about the legitimacy over mass-casualty attacks. After the 9/11 attacks, for instance, Usama bin Laden was severely criticized by Islamist scholars for failing to satisfy religious requirements for waging a just war.⁶⁰⁷ The criticism pointed to three pitfalls of the 9/11 operation: insufficient warning of the attacks; failure to offer Americans the chance to convert to Islam; and, inadequate religious authorization to kill so many people.⁶⁰⁸ Bin Laden embarked on a series of lectures in 2002 to satisfy his Islamist critics that his next strike against the US mainland will conform to Islamic tradition.⁶⁰⁹ In terms of the religious authorization to cause mass casualties, bin Laden received the necessary fatwa from Sheikh Hamid bin al-Fahd, who, on 21 May 2003, published 'A Treatise on the Legal Status of Using Weapons of Mass Destruction Against Infidels'. In this fatwa, bin al-Fahd concluded that each of the four schools of Sunni Islam permitted the Mujahideen to use weapons of mass destruction in the pursuit of causing the deaths of millions of Americans, in accordance with the principle of 'an eye for an eye'.⁶¹⁰ Bin al-Fahd stated that 'anyone who considers America's aggression against Muslims and their lands during the last decade will conclude that striking her is permissible merely on the rule of treating one as one has been treated'.⁶¹¹ The cleric continued by claiming

⁶⁰⁴ Wesley, R. (2005). "Al-Qaeda's WMD Strategy After the US Intervention in Afghanistan."

⁶⁰⁵ Ibid.

⁶⁰⁶ Ibid.

⁶⁰⁷ Scheuer, M. (3 March 2005). "Al-Qaeda's Completed Warning Cycle - Ready to Attack?" from http://www.jamestown.org/news_details.php?news_id=96.

⁶⁰⁸ Ibid.

⁶⁰⁹ Ibid.

⁶¹⁰ Paz, R. (2005). Global Jihad and WMD: Between Martyrdom and Mass Destruction. Current Trends in Islamist Ideology. H. Fradkin, H. Haqqani and E. Brown, The Hudson Institute. 2.

⁶¹¹ Scheuer, M. (3 March 2005). "Al-Qaeda's Completed Warning Cycle - Ready to Attack?"

that 'some brothers have totaled the number of Muslims killed directly or indirectly by their [America's] weapons and come up with the figure of nearly ten million.'⁶¹²

A number of statements made by bin Laden and al-Zawahiri since 2002, including bin Laden's offers of truces to Europe and the US in 2004 and 2006, have been interpreted as communiqués intending to satisfy the requirement to offer infidels the chance to convert to Islam before being attacked, and to provide warning of such an attack if the chance is not taken.⁶¹³ These statements and the fatwa authorizing the use of WMD in waging jihad give ground for concern over the possibility of a planned terrorist attack against the UK, Europe or the US involving weapons of mass destruction.⁶¹⁴ Nuclear weapons and materials are unsecured in sites across the Former Soviet Union. Usama Bin Laden wrote to Mullah Omar in 2002 to claim that 'the [FSU] Islamic Republics region is rich with significant scientific experiences in conventional and non-conventional military industries, which have a great role in the future jihad against the enemies of Islam'.⁶¹⁵

Other jihadists have talked about the legitimacy and strategic utility of WMD. Al-Qaida operative Suleiman Abu Gheith asserted in 2002 the right of Muslims to 'kill 4 million Americans, 2 million of them children... and cripple them in the hundreds of thousands'.⁶¹⁶ Furthermore, he claimed it was Muslims' 'obligation to fight them with chemical and biological weapons, to afflict them with the fatal woes that have afflicted Muslims because of their chemical and biological weapons'.⁶¹⁷ In 2005, Sheikh Abu Bakar Ba'asyir said that Muslims must embrace nuclear weapons for strategic purposes. He claimed that 'in places like London and New York there must be other calculations [than conventional attacks]. In battle it is best to cause as many casualties as possible'.⁶¹⁸ Likewise, al-Qaida-linked jihadist, Abu Musab al-Suri (a.k.a. Mustaf Sit-Maryam, Omar Abd al-Hakim - arrested in Pakistan late 2005), claimed in his 1600

⁶¹² Scheuer, M. (3 March 2005). "Al-Qaeda's Completed Warning Cycle - Ready to Attack?."

⁶¹³ Ibid.

⁶¹⁴ See Tarvainen, T. (2005). "Al-Qaeda and WMD: A Primer." *Terrorism Monitor* 3(11); Dodd, V. (14 November 2006). Al-Qaida Plotting Nuclear Attack on UK, Officials Warn. *The Guardian*.

⁶¹⁵ Scheuer, M. (2006). "Central Asia in Al-Qaeda's Vision of the Anti-American Jihad, 1979-2006." *China and Eurasia Forum Quarterly* 4(2): 8

⁶¹⁶ Wesley, R. (2005). "Al-Qaeda's WMD Strategy After the US Intervention in Afghanistan": 2

⁶¹⁷ Ibid.

⁶¹⁸ Scheuer, M. (2006). "New York Subway Plot and al-Qaeda's WMD Strategy."

page treatise *Call for the Islamist Global Resistance* that CBRN materials 'may be used even if they annihilate all the infidels'.⁶¹⁹ In addition to calls by Abu Yehia al-Libi to acquire nuclear weapons for waging global jihad, in 2006 the new al-Qaida in Iraq leader Abu Ayyub al-Masri issued a statement requesting CBRN expertise in Iraq.⁶²⁰ Moreover, suspected al-Qaida operative Adnan Shukrijumah is reported to have smuggled nuclear materials into the US through Mexico during the period 2004 – 2006 for possible terrorist purposes.⁶²¹

Al-Qaida appears determined to increase the levels of attacks in order to force the US to change its policies towards the Muslim world, and be seen to surpass its previous achievements. Strikes involving WMD might be seen as the next level of attack. The alleged plot to target the New York subway with cyanide in 2003 was purportedly terminated by Ayman al-Zawahiri for failing to be a sufficiently grand follow-up to the 9/11 attacks.⁶²² To encourage jihadists to think in WMD terms, a web site on the *al-Firdaws Forum* is dedicated to providing detailed instructions on how to make nuclear, dirty and biological bombs. The web site first appeared in October 2005; by November 2005 it had received 57,000 hits. A physics professor at Imperial College London has claimed that it looks like a 'proper instruction manual'.⁶²³

Terrorism and Iran

Reason to suspect a link between Iran and terrorism adds further concern over a terrorism-WMD threat nexus, considering the declared intention of Iran to develop a nuclear capability and the numerous public statements made by Iranian President Mahmoud Ahmadinejad threatening to annihilate Israel, a target at the top of al-Qaida's hit-list. In addition, Iranian religious authorities have issued fatwas sanctioning

⁶¹⁹ Wesley, R. (2005). "Al-Qaeda's WMD Strategy After the US Intervention in Afghanistan": 2

⁶²⁰ (29 September 2006). Zarqawi Successor Exhorts Scientists; Tape Urges Experts to Join Fight in Iraq. *Washington Post*.

⁶²¹ Wesley, R. (2006). "Assessing Shukrijumah's Nuclear Plot Against the United States." *Terrorism Monitor* 4(19).

⁶²² Scheuer, M. (2006). "New York Subway Plot and al-Qaeda's WMD Strategy."

⁶²³ Scheuer, M. (28 June 2006). Al-Qaeda's nuke plot: Facts and failures. *Asia Times*.

the use of both WMD and suicide bombers against the enemies of Islam.⁶²⁴ In 2006, Mullah Mohsen Gharavian, a close affiliate of hardliner Ayatollah Mohammad Taghi Mesbah-Yazdi, claimed that it is 'only natural' for Iran to have nuclear bombs and that, within the context of a nuclear-riddled world, 'the use of nuclear weapons may not constitute a problem according to Sharia law'.⁶²⁵ Prior to this WMD fatwa, Ayatollah Mesbah-Yazdi authorised the use of suicide bombers in defence of Islam, and it has been reported that Iran has formed battalions of suicide bombers, including the Special Unit for Martyr Seekers in the Revolutionary Guards, which have, amongst other items, 'Britain's demise' on its agenda.⁶²⁶ Western intelligence reports detailing the existence of a clandestine nuclear weapons facility under the control of the Revolutionary Guards indicates the possibility of a Revolutionary Guards-led combined programme of suicide-bombers and nuclear R&D that, conceived within the context of the Iranian fatwas and the al-Qaida-led global jihad, raises concern over trends in Iranian 'asymmetric warfare' defence doctrine.⁶²⁷ Although unlikely given the level and nature of rivalry between Sunni and Shia Islamic practitioners, the opportunity for the Sunni Muslims of al-Qaida and the Shia Muslims of the Iranian elite to join forces to hit shared US and Western targets could conceivably succeed in consolidating pan-Islamic support for a global jihad and possibly facilitate acts of suicide bombings that utilize WMD.

Indeed, the Sunni-Shia rivalry appears to have not prevented al-Qaida from dealing with Iran in the past. The 9/11 Commission found evidence that al-Qaida received support, advice and training from Iranian-supported Hizballah and Iran prior to the 9/11 attacks, even though there is no evidence that either Hizballah or Iran possessed knowledge of the 9/11 operation.⁶²⁸ Iran is thought to have taken great steps to cultivated stronger links with al-Qaida after the attack on the USS Cole in 2000, and facilitated covert transit of al-Qaida operatives through Iran and across the Iranian-

⁶²⁴ Freeman, C. and P. Sherwell (19 February 2006). Iranian fatwa approves use of nuclear weapons. The Daily Telegraph.

⁶²⁵ Ibid.

⁶²⁶ Colvin, M., M. Smith, et al. (16 April 2006). Iran suicide bombers 'ready to hit Britain'. The Sunday Times.

⁶²⁷ Ibid.

⁶²⁸ (2004). The 9/11 Commission Report.

Afghani border (Iranian border controllers were ordered not to stamp the passports of al-Qaida travellers).⁶²⁹ Moreover, over half of the total number of Saudi al-Qaida members directly involved in the 9/11 plot travelled to or from Iran between October 2000 and February 2001.⁶³⁰

Iran's nuclear programme, the asymmetric warfare pillar of Iran's defence doctrine and its support for terrorist groups have been reconceived after 9/11, given the terrorism-WMD threat nexus and the amalgamation of counter-terrorism strategies with counter-proliferation strategies. On the one hand, Iran's publicly-declared nuclear programme, as well as the possibility of a clandestine nuclear programme, heightens the threat of terrorists acquiring the means to cause mass destruction. On the other hand, Iran's support for terrorist groups increases danger presented by its potential development of a nuclear capability. In particular, the 19 May 2006 communiqué by the purportedly Iranian-backed organisation Palestinian Islamic Jihad describing the necessity of global jihad, calling on Muslims to pledge allegiance to Usama bin Laden and urging attacks on the US adds a new dimension to the status of the Iran as a state-sponsor of terrorism and raises questions about the Iranian regime's relationship with 'new' terrorism.⁶³¹

CONCLUSIONS

The organisation, objectives and methods of 'new' terrorism presents a serious transnational threat to international security, and suggestions of terrorist intentions to acquire and use WMD adds an alarming dimension to the terrorism threat. The A. Q. Khan network was dangerous not just in terms of its scope and reach; signals of an ideological connection between A. Q. Khan and global jihadists gives rise to the concern that politico-religious motivations, as well as money, provide a basis for disseminating WMD to state and non-state actors that seek to acquire them. Likewise, the threats posed by the suspected nuclear programmes of North Korea and Iran

⁶²⁹ (2004). The 9/11 Commission Report.

⁶³⁰ Ibid.

⁶³¹ Private interview with 'D'.

prompt serious review considering the emergence of nuclear black markets and an extremist Islamic cause that legitimises the use of WMD and suicide bombings, respectively.

'New' terrorism threats are phenomena that are perceivable, but not necessarily perceived. The terrorism-WMD phenomenon can be described in terms of both 'risk' and 'threat', considering that it represents a 'situation involving exposure to danger', 'the possibility that something unpleasant will happen' and 'an indication of something impending' that requires prevention. 'Fuzzy and complex' terrorist threats to international peace and security are intelligence targets: many terrorist activities and actors exist independent of perception, and meaningful descriptions of them depend on empirical investigation conducted by intelligence organisations. The risk of terrorism involving WMD has prompted the construction of controlling security strategies that seek to pro-act against terrorist threats in order to mitigate the risk of catastrophic attack. In order to effectively address anticipated threats determined through the assessment of information, rather than observation of actual attacks, actors need to be capable of fulfilling the intelligence requirements of controlling security strategies.

CHAPTER FIVE

UK, US and UN Capabilities to Fulfil the Intelligence Requirements of Controlling Security Strategies

INTRODUCTION

The purpose of this chapter is to describe the real-world relationship between intelligence power and the controlling security strategies of the UK, US and UN, considering the evident transition from pre-9/11 coercive security strategies to post-9/11 controlling security strategies, in line with the imperative to prevent terrorist attacks in the post-9/11 strategic reality. Indeed, after 9/11, the UK, US and UN have each adopted the logic of controlling security strategies that seek to meet the challenge of prevention through pro-active mechanisms. Unlike pre-9/11 coercive strategies, post-9/11 controlling strategies are intelligence-driven: a strategy that aims to prevent threats through pro-action depends on information in order to anticipate attacks. The controlling security strategies of the UK, US and UN, therefore, each have vital intelligence requirements. In order for the UK, US and UN to execute controlling security strategies, they must be capable of fulfilling these intelligence requirements. This chapter examines the capabilities of the UK, US and UN to fulfil these strategic intelligence requirements. The implications of the intelligence power differentials demonstrated in this chapter are examined in Chapter 6.

The UK, US and the UN have been chosen as case studies for two reasons. The first reason is to effectively highlight the rational action/legitimate action astigmatism that is a current feature of the post-9/11 strategic reality. The US/UK pro-action against

Iraq in 2003, in which intelligence was presented to provide the *casus belli*, represents state practice in line with the aims of a controlling security strategy but, considering it was neither a reaction to the occurrence of an armed attack nor authorised by the UNSC, in contravention of the UN Charter. Indeed, Chapter 2 of this study has shown that the UN Secretary-General at the time, Kofi Annan, judged that US/UK action against Iraq was illegitimate, whilst the UK and US argued that the use of force was the rational and responsible thing to do in the face of a threat identified through intelligence assessments. The purpose of this case study is not to apportion blame or establish the wisdom or otherwise of the Iraq invasion; it is to ascertain whether or not the UNSC, which is uniquely responsible for facilitating and legitimising responses to threats to international security, is capable, at present and in future, of implementing a controlling security strategy that seeks to prevent threats and, thereby, resolving the rational action/legitimate action astigmatism. This chapter describes the respective capabilities of the UK, US and UN to fulfil the intelligence requirements of controlling security strategies; Chapter 6 discusses the implications of differentials in the capabilities of the UK, US and UN for the rational action/legitimate action astigmatism, along with other issues of international order and intelligence affairs. The second reason is practical, given that information on the intelligence requirements and capabilities of the UK, US and UN are the easiest to come by, in view of the relatively large quantity of publicly accessible official documentation (including inquiries and reviews) before and after 9/11.

This chapter has three sections. Section one looks at the UK's capability to fulfil the intelligence requirements of its post-9/11 controlling security strategy. Sections two and three similarly describe the capabilities of the US and UN, respectively. To achieve perspective on the changing relationship between intelligence power and post-9/11 controlling security strategies, each section in this chapter briefly outline the organisations that underpinned the pre-9/11 intelligence capabilities of the UK, US and UN, respectively, before addressing the main issues in relation to post-9/11 developments.

SECTION ONE: UK CAPABILITY TO FULFIL THE INTELLIGENCE REQUIREMENTS OF A CONTROLLING SECURITY STRATEGY

Pre-9/11 Strategic Intelligence Capability

The UK's pre-9/11 coercive security strategy required intelligence that supported diplomatic and expeditionary military engagement in the face of the challenge posed by regional instability in the post-Cold War period, not an unconstrained and potentially catastrophic terrorism threat. Indeed, the UK's Strategic Defence Review, as well as Intelligence and Security Committee reports of the 1990s, describes terrorism as a bi-product of strategic effects, not as a strategic threat itself.⁶³² Irish terrorism constituted the most serious terrorism threat to the UK in the pre-9/11 era.⁶³³ Tackling international terrorism – involving the activities of extreme Islamist groups such as al-Qaida – was not a UK strategic priority. As such, intelligence on international terrorism was not considered a vital requirement for the effective implementation of UK security strategy. In line with the logic of coercion, British intelligence organisations reacted to occurrences of terrorist attack and their activities were essentially diplomatic in nature. The 'clear duty' to assist friends and allies in combating the terrorism scourge, referred to below, reflects the UK's perception that international terrorism was essentially a foreign problem, and that the fight against it had a diplomatic, rather than a strategic, rationale:

In recent years, terrorist attacks of all kinds world-wide have averaged almost 60 a month. In the UK, we have all too long an experience of terrorism. *Elsewhere* [my italics], there is increasing concern over Islamic terrorist threats. Whilst we may not have been so affected ourselves by these groups, some of them have used Britain and their base to raise funds and equipment and recruit new members. We have been significantly helped by many other countries in countering Irish terrorism, and we have a clear duty to help them in return.⁶³⁴

⁶³² (July 1998). Strategic Defence Review, UK Ministry of Defence.

⁶³³ (1998). Annual Report 1997-1998, Intelligence and Security Committee.

⁶³⁴ *Ibid.*: 2

The UK's pre-9/11 coercive security strategy sought to react rapidly to ongoing violence in 'dangerous and untested territory' overseas; this meant intelligence was required to help decision-makers understand a foggy strategic reality and execute rational policy within it.⁶³⁵ The task of fulfilling these intelligence requirements fell to the organisations of the British intelligence community, consisting of the three intelligence collection agencies – SIS, MI5 and GCHQ – as well as the DIS and the JIC, supported by the Cabinet Office Assessment Staff, which analyse and assess intelligence. Brief descriptions of these organisations follow.

Secret Intelligence Service

SIS, based at Vauxhall Cross in London, is primarily responsible for collecting human intelligence (HUMINT) and mounting operations overseas. Founded in 1909 as the Foreign Section of the Secret Service Bureau, the agency started life under the control of the War Office.⁶³⁶ Its foundation served the purpose of filling the intelligence gap in Europe, which was identified in 1907 when the Committee on Imperial Defence was shocked to discover that Britain did not have a single intelligence agent on the European continent.⁶³⁷ In 1910, the Foreign Section of the Secret Service Bureau was placed under the auspices of the Admiralty.⁶³⁸ Six years later it returned to War Office control and was renamed MI-1(c) – section 1(c) of the Military Intelligence Department – to provide military cover.⁶³⁹ After the First World War, the Foreign Office assumed control of the agency and, in 1921, renamed it the Secret Intelligence Service, whilst allowing military cover – provided by the more popular label MI6 – to remain.⁶⁴⁰

As described in the 1994 Intelligence Services Act, SIS serves the two basic functions of collecting foreign intelligence and undertaking covert action overseas. These

⁶³⁵ (1998). Annual Report 1997-1998, Intelligence and Security Committee: 2

⁶³⁶ Richelson, J. T. and D. Ball (1985). The Ties that Bind: Intelligence Co-operation between the UKUSA Countries. Sydney, Allen and Unwin.

⁶³⁷ Ibid.

⁶³⁸ Ibid.

⁶³⁹ Ibid.

⁶⁴⁰ Ibid.

functions are executed 'in the fields of national security with particular reference to the government's defence and foreign policies', 'in the interests of the economic well-being of the UK', and 'in support of the prevention or detection of serious crime.'⁶⁴¹

SIS consists of five directorates, each with its own area of responsibility and sub-divisions.⁶⁴² The Directorate of Regional Affairs is comprised of four Controllerates: Middle East and Africa, Eastern and Central Europe, Western Hemisphere and the Far East, and Western Europe. The Directorate of Global Issues is made up of three sections: Counter Terrorism, Counter Proliferation, and Counter Narcotics and Serious Crime. The three remaining Directorates – Personnel, Training and Finance, Security and Public Affairs, and Information Technology – are divided into groups covering individual areas of specialisation. An Assistant Chief and a Secretariat consisting of a Private Office and a Historical Section support 'C', the Chief of SIS.

Security Service

The Security Service, based at Thames House in London and known also as MI5, is the UK's security intelligence agency responsible for collecting HUMINT and mounting operations in protection of national security. MI5 started life as the Home Section of the Secret Service Bureau, established in 1909, under the control of the War Office.⁶⁴³ In 1916, the Section became part of the new Military Intelligence Department and renamed MI-5 – Military Intelligence section 5.⁶⁴⁴ The agency became formally known as the Security Service in 1931, when the scope of its responsibility was widened to include assessing and countering threats posed by international communism and fascism, and it became directly accountable to the Prime Minister.⁶⁴⁵ In 1951, the Maxwell Fyfe Directive – named after the then Home Secretary – made

⁶⁴¹ (1994). Intelligence Services Act.

⁶⁴² For details of SIS's organisational structure, see Smith, M. (2004). The Spying Game: The Secret History of British Espionage. London, Politico's: 241

⁶⁴³ Richelson, J. T. and D. Ball (1985). The Ties that Bind.

⁶⁴⁴ Ibid.

⁶⁴⁵ Ibid.

the Security Service responsible to the Home Secretary, but retained the Security Service Director-General's right to direct access to the Prime Minister.⁶⁴⁶

As described in the 1989 Security Service Act, MI5 serves the three core functions of protecting national security through intelligence collection, analysis and dissemination, safeguarding the economic well-being of the United Kingdom, and supporting the activities of police forces and other law enforcement agencies in the prevention and detection of serious crime. MI5 consists of 5 branches, each with its own area of responsibility.⁶⁴⁷ These are: A Branch, Intelligence Resources and Operations; B Branch, Personnel, Training and Office Services; D Branch, Non-Terrorist Threats and Protective Security; G Branch, Counter-Terrorism (International) and Counter Proliferation; H Branch, Strategy, Planning Finance and Information Management; and, T Branch, Counter-Terrorism (Irish and Other Domestic). The Director-General is supported by two Deputy Directors (Intelligence and Corporate), a Director and Co-ordinator of Intelligence for Northern Ireland, Legal Advisors, and a Secretariat.

Government Communications Headquarters

The Government Communications Headquarters (GCHQ), based in Cheltenham, is the UK's signals intelligence agency, responsible for collecting and analysing signals intelligence (SIGINT), electrical transmissions intelligence (ELINT) and communications intelligence (COMMINT); GCHQ also protects government communications capabilities.⁶⁴⁸ GCHQ was born out of two military bureaus operating during the First World War: Room 40 of the Naval Intelligence Division, and MI-1(b) of the Military Intelligence Department.⁶⁴⁹ In 1919, the Government Code and Cipher School was created on the back of these bureaus and transferred to the Admiralty, before being attached in 1923 to SIS (whose Chief became Director of GCCS).⁶⁵⁰ By the time GCCS had been renamed as GCHQ in 1946, the Foreign Office had assumed

⁶⁴⁶ Richelson, J. T. and D. Ball (1985). The Ties that Bind.

⁶⁴⁷ For details of MI5's organisational structure, see Smith, M. (2004). The Spying Game: 130

⁶⁴⁸ (1994). Intelligence Services Act.

⁶⁴⁹ Richelson, J. T. and D. Ball (1985). The Ties that Bind.

⁶⁵⁰ Ibid.

control.⁶⁵¹ According to the 1994 Intelligence Services Act, GCHQ fulfils its functions in support of, amongst other things, ‘the prevention or detection of serious crime.’

Defence Intelligence Staff

In 1964, the intelligence branches of the British Army, Royal Navy and Royal Air Force, and the Joint Intelligence Bureau, came together to form the Defence Intelligence Staff (DIS).⁶⁵² The overall mission of DIS is to guide the UK MoD’s strategic decision-making processes, inform operational decision-making in theatre, and contribute to national intelligence machinery.⁶⁵³ A main function performed by DIS is horizon scanning, which involves projecting future requirements against threats that might emerge.⁶⁵⁴ Other than exploiting the HUMINT and SIGINT capabilities of the British armed services, DIS uses imagery intelligence (IMINT), measurement and signature intelligence (MASINT) and open source intelligence (OSINT) to collect information.⁶⁵⁵ The Defence Geospatial Intelligence (DGI) branch produces a wide range of imagery and geographic intelligence support.⁶⁵⁶ The Strategic Assessments Directorate, alongside the Defence Intelligence Regional Group and the Scientific and Technical Directorate, is responsible for producing intelligence assessments in support of decision-making and policy formulation.⁶⁵⁷

Joint Intelligence Committee

The terms of reference for the JIC were first established in 1939, and were updated in 1955 to fit a post-war environment.⁶⁵⁸ At the start of the Cold War, the JIC was responsible for intelligence production, the management of intelligence machinery,

⁶⁵¹ Richelson, J. T. and D. Ball (1985). The Ties that Bind.

⁶⁵² Ibid.

⁶⁵³ (December 2005). The Defence Intelligence Staff, UK Ministry of Defence.

⁶⁵⁴ Ibid.

⁶⁵⁵ Ibid.

⁶⁵⁶ Ibid.

⁶⁵⁷ Ibid.

⁶⁵⁸ Herman, M. (2002). Intelligence Services in the Information Age. London, Frank Cass.

liaison with Commonwealth and foreign intelligence organisations, and 'defence security'.⁶⁵⁹ The list of responsibilities of the JIC has not changed much over 50 years, although its responsibility for 'defence security' has been expanded to include the task to 'monitor and give early warning of the development of direct or indirect foreign threats to British interests, whether political, military or economic', and 'on the basis of available information, to assess events and situations relating to external affairs, defence, terrorism, major international criminal activity, scientific, technical and international economic matters.'⁶⁶⁰ The primary role of the JIC is to 'bring to the attention of Ministers and Departments, as appropriate, assessments that may appear to require operational, planning or policy action.'⁶⁶¹

The JIC meets each week to discuss and agree intelligence assessments, requirements, priorities and tasking. The JIC operates on a consensual basis, and disseminates one agreed intelligence assessment of events and situations of concern. Other than the JIC Chairman and the Security and Intelligence Co-ordinator, there are 11 members of the JIC drawn from the Cabinet Office Assessment Staff, the Foreign and Commonwealth Office, the Ministry of Defence, DIS, Home Office, the Department for Trade and Industry, HM Treasury, No. 10 Downing Street, MI5 and SIS.⁶⁶² Analysts working in the Cabinet Office Assessment Staff draft JIC papers for circulation around the intelligence community and discussion at JIC meetings.⁶⁶³

Post-9/11 Controlling Security Strategy

The strikes by al-Qaida against the US mainland on 11 September 2001 prompted the British Government to re-evaluate security realities and strategic imperatives. The 9/11 attacks demonstrated the capability of conventionally weak and non-state 'asymmetric actors' to achieve 'strategic effect' in a state-centric international system.⁶⁶⁴

⁶⁵⁹ Herman, M. (2002). Intelligence Services in the Information Age: 113

⁶⁶⁰ Ibid.: 113

⁶⁶¹ Ibid.: 113

⁶⁶² (2005). National Intelligence Machinery. London, The Stationary Office.

⁶⁶³ Ibid.

⁶⁶⁴ (July 2002). Strategic Defence Review: A New Chapter, UK Ministry of Defence: 4

This reality triggered a re-rationalisation of security strategy. A 'New Chapter' of the Strategic Defence Review was published in 2002 in light of a post-9/11 strategic reality. In it, two UK strategic aims with respect to the terrorist phenomenon were established. The first objective was to engage the enemy at long range and pre-empt attacks on the UK mainland, in order to prevent terrorism at home.⁶⁶⁵ The second objective was to be ready and willing to deploy significant forces overseas to act against terrorists and those who harbour them.⁶⁶⁶ These two security objectives serviced the overarching strategic aim to achieve 'knowledge superiority' over international terrorists in order to 'anticipate their plans and ensure the most effective combination of effects to counter their attacks'.⁶⁶⁷ This strategic aim reflected the official UK policy to 'seek intelligence on terrorist groups and to disrupt their activities, where possible, through prosecutions, by the intelligence and security agencies working closely with law enforcement', and underpinned the UK's post-9/11 controlling security strategy to pro-act against anticipated risk associated with a recognised 'new' terrorism threat.⁶⁶⁸

Indeed, the recognition of an observable new terrorism threat entailed fundamental shifts in the UK's assessment of the strategic landscape. In 2003, the terrorism-WMD threat nexus was explicitly identified in both the MoD's defence white paper 'Delivering Security in a Changing World', and the Foreign and Commonwealth's first ever strategy document 'UK International Priorities: A Strategy for the FCO'. Each document set out the UK's strategic aims in the face of terrorism and other security challenges. In striking contrast with the Strategic Defence Review, published only five years previously, 'Delivering Security in a Changing World' identified terrorism as the pre-eminent threat to UK security.⁶⁶⁹ Whilst confirming terrorism as a strategic threat, the document established an analytical framework that connected terrorism with the threat posed by the proliferation of weapons of mass destruction. Whilst degrading terrorists' capabilities was seen as an essential part of counter-terrorism efforts,

⁶⁶⁵ (July 2002). Strategic Defence Review: A New Chapter.

⁶⁶⁶ Ibid.

⁶⁶⁷ Ibid.: 9

⁶⁶⁸ Ibid.: 24

⁶⁶⁹ (December 2003). Delivering Security in a Changing World, UK Ministry of Defence.

‘preventing the potential passage of WMD knowledge or weapons from states to terrorist groups’ was also a ‘key part of the counter-proliferation challenge’.⁶⁷⁰

British understanding of a terrorism-WMD threat nexus as a post-9/11 phenomenon led to the development of a controlling security strategy that sought to anticipate and pro-act against terrorist threats. In addition to the five military objectives of ‘prevent’, ‘deter’, ‘coerce’, ‘disrupt’ and ‘destroy’ established in the SDR ‘New Chapter’, three new objectives – ‘stabilise’, ‘contain’ and ‘defeat’ – were introduced to form a list of eight strategic objectives in ‘Delivering Security in a Changing World’.⁶⁷¹ These objectives aimed to stabilise conditions to allow for political and economic action to tackle the root causes of terrorism, contain crises when they occurred, and reduce the effectiveness of adversaries so that they were no longer capable of conducting combat operations (i.e. defeat the enemy, but not destroy it).⁶⁷² In the terminology used by Lawrence Freedman, British security strategy aimed to both ‘pre-empt’ and ‘prevent’ imminent and developing terrorism threats, respectively, through the application of military force.

The Foreign and Commonwealth strategy document ‘UK International Priorities: A Strategy for the FCO’ corroborated the MoD’s controlling strategic framework. The purpose of the FCO strategy paper was to clarify UK foreign policy objectives within the post-9/11 strategic reality, in which ‘[i]nternational terrorism and the spread of weapons of mass destruction have emerged as potentially the most catastrophic dangers to our national security...’.⁶⁷³ The imperative to ‘understand them and to act to neutralise them’ was set out in the document, alongside a list of eight post-9/11 strategic priorities.⁶⁷⁴ At the top of the list of issues stood Strategic Priority 1: to achieve ‘[a] world safer from global terrorism and weapons of mass destruction’.⁶⁷⁵ The accompanying analysis explained the rationale:

⁶⁷⁰ (December 2003). *Delivering Security in a Changing World*: 4

⁶⁷¹ *Ibid.*: 10

⁶⁷² *Ibid.*: 10

⁶⁷³ (December 2003). *UK International Priorities: A Strategy for the FCO*, The Foreign and Commonwealth Office: 1

⁶⁷⁴ *Ibid.*: 1

⁶⁷⁵ *Ibid.*: 30

The use of WMD against us, and terrorist attacks on western targets around the world, now constitute the most potentially catastrophic threats to UK security. The major western countries will need to tackle these threats assertively using a wide range of instruments. Preventing states from acquiring or spreading WMD will remain a top priority. The highest concern of all will be to prevent international terrorist groups acquiring nuclear or biological weapons.⁶⁷⁶

In April 2004, the UK's post-9/11 controlling security strategy entered its third significant phase of construction, when the UK Government announced that its counter-terrorism strategy, known as CONTEST, would be reconfigured to meet broader intelligence and policy requirements.⁶⁷⁷ CONTEST – the key aim of which is to reduce the risk from terrorism and allow British people to 'go about their business freely and with confidence' – is based on the four 'P's of 'prevention', 'pursuit', 'protection' and 'preparedness'.⁶⁷⁸ The then Home Secretary David Blunkett outlined CONTEST during a speech to Harvard Law School on 8 March 2004, when he emphasized the need for a multi-pronged pro-active strategy. In his speech, Blunkett described 'prevention' as engagement with 'the communities most directly being abused by the terrorist cells and their agents, so that they can become our eyes and ears'.⁶⁷⁹ The 'pursuit' strand was said to require 'sharing information, fully engaging with those countries who unwillingly harbour terrorists and themselves are at risk from the network', which, alongside terrorists, included 'money launderers, organised criminals, people traffickers and other smugglers, those exploiting the international banking system, drug barons and racketeers'.⁶⁸⁰ Blunkett defined 'protection' as the equivalent of US 'homeland security', and said that 'preparedness' meant 'preparing for the consequences of terrorism'.⁶⁸¹

⁶⁷⁶ (December 2003). UK International Priorities: 13

⁶⁷⁷ Gregory, F. (July 2005). Intelligence-led Counter-terrorism: A Brief Analysis of the UK Domestic Intelligence System's Response to 9/11 and the Implications of the London Bombings of 7 July 2005, Real Instituto Eleano de Estudios Internacionales y Estrategicos.

⁶⁷⁸ (July 2006). Countering International Terrorism: The United Kingdom's Strategy, HM Government: 9

⁶⁷⁹ (8 March 2004). "British Home Secretary to talk on Human Rights and The Terrorist Threat." from http://www.law.harvard.edu/news/2004/03/08_blunkett.php.

⁶⁸⁰ Ibid.

⁶⁸¹ Ibid.

The overall aim of CONTEST was, and remains to this day, to prevent terrorism through pro-active action that targets developing as well as imminent threats. Indeed, the CONTEST framework is reiterated in the British Government's document 'Countering International Terrorism: The United Kingdom's Strategy', which was published in July 2006. The focus on pro-action in the 'prevent' and 'pursuit' strands is warranted considering the assumption that UK interests cannot be protected against unconstrained groups like al-Qaida through deterrence strategies alone, and that the impending risk of harm associated with the terrorism phenomenon means preparing for the materialisation of expected terrorist attacks, potentially involving WMD.

The enduring nature of the threat posed by the terrorism-WMD threat nexus and the rationality of the UK's post-9/11 controlling security strategy were elucidated further when the FCO updated its 2003 strategy paper. In 2006, 'Active Diplomacy for a Changing World: The UK's International Priorities' cited the amalgamation of counter-terrorism and counter-proliferation strategies in support of the number one strategic imperative to prevent a WMD terrorism attack. The FCO strategy document maintains:

[T]he threat from international terrorism is of a new order because of the willingness of small groups to inflict mass casualties in pursuit of radical objectives... The spread of weapons of mass destruction and their possible use, including by terrorists, remains a major security threat in its own right. Preventing terrorist groups from obtaining nuclear, radiological, biological or chemical weapons will be a key task. Strengthening efforts to combat the spread of these weapons will be critical in the next decade as the technology and materials needed become more accessible and regional tensions and other factors drive proliferation. Preventing states, in particular Iran and North Korea, from acquiring or spreading WMD, and ensuring more effective global non-proliferation mechanisms, will be a top priority.⁶⁸²

⁶⁸² (March 2006). Active Diplomacy for a Changing World: The UK's International Priorities, Foreign and Commonwealth Office: 18

Post-9/11 Strategic Intelligence Requirements

After the 9/11 attacks, UK security strategy became intelligence-driven. In contrast with the UK's pre-9/11 coercive security strategy that aimed to react to eruptions of violence, the UK's post-9/11 controlling security strategy seeks to pro-act against threats with the aim of preventing their materialisation, in line with an observable terrorism-WMD threat nexus. Considering that prevention depends on the ability to anticipate attacks, the UK's controlling security strategy has vital intelligence requirements. The strategic aim of 'knowledge superiority' remains central to the UK's capability to 'anticipate [terrorists'] plans and ensure the most effective combination of effects to counter their attacks'.⁶⁸³ The SDR 'New Chapter' clearly argues that 'knowledge is the starting point' for tackling post-9/11 threats, and that by 'understanding the threat posed by international terrorism, we can undertake focussed law enforcement action and implement effective protective security measures'.⁶⁸⁴ The vital role of intelligence in facilitating the UK's controlling security strategy by increasing understanding of the terrorism threat reflects the Positivist rationality underpinning the Constructivist Realist identification of intelligence power as a social process that enables rational action through empirical investigation of phenomena. As the UK's official counter international terrorism strategy document testifies, the role of intelligence is vital to the UK's post-9/11 approach:

By their nature, terrorists operate in secret. Intelligence is therefore vital to defeating terrorism. All disruption operations depend upon the collection and exploitation of information and intelligence that helps identify terrorist networks, including their membership, intentions, and means of operation.⁶⁸⁵

Post-9/11 Strategic Intelligence Capability

The UK's post-9/11 controlling security strategy is intelligence-driven: the imperative to prevent terrorist attacks demands an intelligence capacity that is capable of

⁶⁸³ (July 2002). Strategic Defence Review: A New Chapter: 9

⁶⁸⁴ (July 2002). Strategic Defence Review: A New Chapter: Supporting Information and Analysis, UK Ministry of Defence: 5

⁶⁸⁵ (July 2006). Countering International Terrorism: 16

facilitating rational action through the provision of information on anticipated threats. A number of developments occurred within the British intelligence community to adapt to the post-9/11 strategic reality and fulfil the intelligence requirements of a controlling security strategy that seeks to prevent threats through pro-active mechanisms. What follows is a description of these developments.

JTAC

The UK intelligence capability has undergone drastic reform, in light of weaknesses identified by the surprise 9/11 attacks and the comprehensive intelligence failure over Iraqi WMD, as exposed by the findings of the Iraq Survey Group and other investigations. With respect to the shock of 9/11, in order to address weaknesses in counter-terrorism analytical capabilities, the UK Government established the Joint Terrorism Analysis Centre (JTAC) in 2003 as a hub for inter-agency and cross-departmental information assessment on the 'new' terrorism threat. JTAC replaced MI5's own Counter-Terrorism Analysis Centre (CTAC), which was created in reaction to the 9/11 attacks, when it became clear that something more substantial was needed.⁶⁸⁶ Still based at MI5's headquarters in Thames House, JTAC 'analyses and assesses all intelligence relating to international terrorism, at home and overseas'.⁶⁸⁷ The eleven-strong group of agencies and departments that constitute the JTAC organisation 'sets threat levels and issues warnings of threats and other terrorist-related subjects for customers from a wide range of government departments and agencies, as well as producing more in-depth reports on trends, terrorist networks and capabilities'.⁶⁸⁸ By the end of 2003, JTAC boasted 100 officials drawn from across intelligence agencies, policy departments, the police and armed forces, and had analysed and assessed roughly 60,000 items of intelligence.⁶⁸⁹ JTAC continues to focus

⁶⁸⁶ (26 February 2003). "MI5 rethinks terror threat warnings." from <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2003/02/26/uterror.xml>.

⁶⁸⁷ "Joint Terrorism Analysis Centre (JTAC)." from <http://www.mi5.gov.uk/output/Page421.html>.

⁶⁸⁸ Ibid.

⁶⁸⁹ (17 March 2005). Cats' Eyes in the Dark. The Economist.

on the al-Qaida threat, while the JIC deals with problems beyond the specific terrorism remit – including the proliferation of WMD, an issue that became a topic of public debate prior to the invasion of Iraq by US and UK forces in 2003.⁶⁹⁰

The JIC and the Butler Report

With respect to the intelligence failure in Iraq, UK intelligence organisational reform has been focused on re-configuring existing resources, rather than creating new institutions. This reform has largely been taken to improve the JIC assessment process and bolster UK analytical capabilities, with the aim of avoiding a repeat of ‘group-think’ mistakes that were evidently made over Iraq.⁶⁹¹

On 3 September 2002, British Prime Minister Tony Blair commissioned the JIC to compile an assessment of Iraq’s WMD capability. The purpose of the assessment, according to the British Foreign Secretary Jack Straw, was to ‘meet the demand for intelligence-based information about Iraq and to make a case for the world to recognise the importance of the issue’.⁶⁹² Dr Hans Blix, head of UNMOVIC, regarded the assessment as an argument for the case for further inspections of Iraq’s WMD programmes.⁶⁹³ The JIC itself perceived the assessment to provide no case for anything at all: John Scarlett, then JIC Chairman, considered the role of the JIC was limited only to ‘to put into the public domain and to share, as far as it could be done safely, the intelligence assessment on this issue which was being provided to the Prime Minister and the Government.’⁶⁹⁴ Scarlett claimed that ‘in no sense, in my mind, or in the mind of the JIC, was it a document designed to make a case for anything.’⁶⁹⁵ However, the ‘more proactive’ approach of the UK, as identified by the Butler inquiry, to the issue of Iraq encapsulated the option of using force.⁶⁹⁶ The function of an intelligence assessment to provide a case for war, to be released for public consumption, was made

⁶⁹⁰ (17 March 2005). *Cats' Eyes in the Dark*.

⁶⁹¹ *Ibid.*

⁶⁹² (14 July 2004). *Review of Intelligence on Weapons of Mass Destruction*: 77

⁶⁹³ Blix, H. (2004). *Disarming Iraq: The Search for Weapons of Mass Destruction*. London, Bloomsbury.

⁶⁹⁴ (14 July 2004). *Review of Intelligence on Weapons of Mass Destruction*: 78

⁶⁹⁵ *Ibid.*

⁶⁹⁶ *Ibid.*

plain by the then British Defence Secretary Geoff Hoon.⁶⁹⁷ The job of publicly demonstrating the case for war was unfamiliar to the UK's intelligence establishment: no JIC product had ever been made public before, let alone for the purposes of determining a threat to international peace and security, and providing justification for a response involving the use of force.⁶⁹⁸

As it turned out, the JIC assessment of Iraqi WMD, as published in the public document 'Iraq's Weapons of Mass Destruction: The Assessment of the British Government', was wrong. Lord Butler, who led a group that reviewed the state of British intelligence on Iraq's weapons of mass destruction, claimed that in being tasked to 'bring to the attention' assessments of Iraqi WMD programmes that appeared to 'require operational, planning or policy action', more weight was placed on the British intelligence capability 'than it could bear'.⁶⁹⁹ UK Government cuts in intelligence spending during the 1990s are thought to partially account for the poor JIC picture in the Iraqi WMD case: resources for SIS were slashed by 25% and senior management was reduced by 40%, depriving the SIS Board of Directors of the analytical role of the Requirements division.⁷⁰⁰ The amalgamation of SIS's Middle East and North Africa Controllerates made it even harder for spies to collect and control the quality of human intelligence from the Middle East, a weakness that contributed to the erroneous assessments of Iraq's WMD capability that justified the invasion of Iraq in 2003.⁷⁰¹ Indeed, the role of the JIC – and that of the entire British intelligence machinery below it – to provide assessments for policy purposes was stretched during the run up to the invasion of Iraq by UK and US forces in March 2003.⁷⁰²

Professional Head of Intelligence Analysis

In response to the conclusions of Lord Butler's report, the UK Government set about reconfiguring the UK intelligence machinery. The post of Professional Head of

⁶⁹⁷ Runciman, W. G., Ed. (2004). Hutton and Butler: 23

⁶⁹⁸ (14 July 2004). Review of Intelligence on Weapons of Mass Destruction.

⁶⁹⁹ Ibid.: 114

⁷⁰⁰ Ibid.

⁷⁰¹ Ibid.

⁷⁰² Ibid.

Intelligence Analysis was created to improve the assessment process within the UK intelligence machinery.⁷⁰³ The principle task of the PHIA and her team based in the Cabinet Office is to ‘advise in the security, defence and foreign affairs fields on gaps and duplication in analyst capabilities, on recruitment of analysts, on their career structures and on interchange within and beyond Government’, as well as to ‘advise on analytical methodology across the intelligence community; and to develop more substantial training than hitherto on a cross-Government basis for all analysts working in these fields’.⁷⁰⁴ To assist in this endeavour, the PHIA team is also overseeing the formalisation of cross-Whitehall committees that are responsible for implementing joint training, career development and best practice programmes designed to break down barriers and strengthen links between that various members of the UK intelligence community.⁷⁰⁵ The PHIA is running training courses that develop community-wide competencies for analysts at the FCO, DIS, JTAC, and the Cabinet Office Assessment Staff, as well as their colleagues in the collection agencies.⁷⁰⁶ The PHIA team is also looking at ways of developing the Requirements stream at SIS to beef up the analysis capability that was undermined by re-organisation in the 1990s.⁷⁰⁷ A ‘challenge team’ in the Cabinet Office Assessments Staff has been formed to promote ‘red cell’ thinking that pits evidence against assumptions, and tests the conventional wisdom generated by the JIC assessments process.⁷⁰⁸

Agency Reforms

Organisationally, the UK Government has decided not to create new bureaucracies, but invest more heavily in existing structures in order to shore up capabilities. The DIS, for instance, has bolstered its horizon scanning capacity with a new computer database that provides information on countries at risk of instability, emerging threats, international factors including globalisation, state failure and regional instability, and,

⁷⁰³ (2005). Review of Intelligence on Weapons of Mass Destruction: Implementation of Conclusions. London, The Stationary Office.

⁷⁰⁴ Ibid.: 9-10

⁷⁰⁵ Private interview with ‘D’.

⁷⁰⁶ Ibid.

⁷⁰⁷ Ibid.

⁷⁰⁸ Ibid.

indicators and warnings. This database will be available to customer departments on the SCOPE highly-classified government intranet system, due to be rolled out in late 2007.⁷⁰⁹ The threats that take up most horizon-scanning resources are international terrorism, WMD and conventional weapons proliferation, missiles and novel technologies. The new Joint Environment Directorate, established in April 2004, provides an umbrella for all IMINT capabilities dedicated to surveying and measuring environmental topography.⁷¹⁰ The threat of international terrorism has also affected MI5 and SIS. As of 2006, international counter-terrorism activity takes up over 87% of the MI5 resources.⁷¹¹ The number of Security Service staff – roughly 2,800 – has risen by 50% since 9/11, and is due to be twice the size of its 9/11 capacity by 2008.⁷¹² MI5 officers are monitoring 200 groups comprising over 1600 individuals determined to be actively engaged in ‘plotting, or facilitating’ terrorist acts in the UK and overseas. There are said to be currently around 30 terrorist plots targeting the UK, many with international links.⁷¹³ In line with the need to determine and act against terrorist actors that originate and operate abroad, SIS has unprecedented numbers of officers abroad identifying and collecting information on terrorist threats across the globe.⁷¹⁴

SECTION TWO: US CAPABILITY TO FULFIL THE INTELLIGENCE REQUIREMENTS OF A CONTROLLING SECURITY STRATEGY

Pre-9/11 Strategic Intelligence Capability

The post-Cold War reality heralded new strategic thinking in Washington. The US considered itself the victor in its 40-year ideological tussle with the Soviet Union, and assumed a leadership role in international society that entailed increased engagement in

⁷⁰⁹ (2005). Review of Intelligence on Weapons of Mass Destruction: Implementation of Conclusions.

⁷¹⁰ (December 2005). The Defence Intelligence Staff.

⁷¹¹ Evans, M. and P. Webster (9 August 2006). MI5 diverts record amount of budget to fight terrorism. The Times.

⁷¹² (10 November 2006). "MI5 tracking '30 UK terror plots'." from <http://news.bbc.co.uk/1/hi/uk/6134516.stm>.

⁷¹³ Johnston, P. (11 November 2006). Terrorists are recruiting in our schools, says MI5 boss. The Daily Telegraph.

⁷¹⁴ (May 2006). Report into the London Terrorist Attacks on 7 July 2005, Intelligence and Security Committee.

foreign affairs.⁷¹⁵ However, the opportunity to shape international society through assertive leadership was accompanied by a range of new challenges to US hegemony, including ‘rogue’ states, unregulated WMD proliferation within the former Soviet space and international terrorism.⁷¹⁶ In response to this strategic reality, US National Security Strategy of 1991 aimed to establish of a US-led international coercive regime of law and order, whilst acknowledging that the ‘unprecedented scope and pace of change in today’s world’ and ‘the increasing number of actors now able to threaten global peace’ highlighted ‘the need for reliable information and a sophisticated understanding of events and trends’.⁷¹⁷ The role of intelligence in the post-Cold War strategic reality was declared to be ‘crucial not only to our own security, but also to our leadership role in responding to international challenges’, including regional instability, terrorism and drug trafficking.⁷¹⁸ ‘Regional turmoil’, the strategy document concluded, placed ‘growing burdens on intelligence collection, processing and analysis’, whilst addressing transnational threats meant that US intelligence organisations ‘must track the threats posed by narcotics trafficking, terrorism and the proliferation of advanced weapons’.⁷¹⁹

In 1999, the Clinton administration published ‘A National Security Strategy for a New Century’, in which the opportunities and challenges of the post-Cold War world set out in the 1991 document were developed further. At the cusp of the 21st century, US engagement in global affairs had prompted ‘globalization’, or, as the 1999 strategy document put it, the ‘process of accelerating economic, technological, cultural and political integration’, in which a ‘growing number of nations around the world have embraced America’s core values of democratic governance’.⁷²⁰ However, whilst claiming that the US-driven process of globalization had created opportunities for greater peace through increased interdependence, the 1999 US security strategy recognised the downsides. Among the most pressing security concerns listed in the document are ‘outlaw states’ and ethnic conflict, weapons of mass destruction,

⁷¹⁵ (August 1991). National Security Strategy of the United States, The White House.

⁷¹⁶ Ibid.

⁷¹⁷ Ibid.

⁷¹⁸ Ibid.

⁷¹⁹ Ibid.

⁷²⁰ (December 1999). A National Security Strategy for a New Century, The White House: 1

terrorism, drug-trafficking and international crime.⁷²¹ The dangers associated with globalisation stiffened America's intention to 'maintain our information advantage in the international arena.'⁷²² This 'information advantage' supported the US's coercive security strategy of reacting rapidly to the eruption of crises through effective surveillance of threats worldwide.

The organisations tasked with ensuring American 'information advantage' in the post-Cold War world were products of the Cold War situation. The requirement to monitor post-Cold War threats in the 1990s was fulfilled by intelligence services that had been developed over time in light of Soviet adversity – by the mid 1990s, members of the US intelligence community numbered fourteen, six of which were national organisations whilst the remaining eight were branches of either the armed services or federal policy departments.⁷²³ Five organisations have evolved over the latter half of the 20th century to constitute the core of the US intelligence community: the Central Intelligence Agency (CIA); the National Security Agency (NSA); the Defense Intelligence Agency (DIA); the Bureau of Intelligence and Research (INR); and, the Federal Bureau of Investigation (FBI). During the 1990s, the National Imagery and Mapping Agency (NIMA) and the National Reconnaissance Office (NRO) were responsible for supporting combat operations and contributing to national intelligence collection efforts through the provision of IMINT and GEOINT.⁷²⁴ Brief descriptions of the five core organisations follow.

Central Intelligence Agency

The unexpected raids by the Japanese air force against Pearl Harbour in 1941 prompted the US Government to consider strengthening American intelligence capabilities to support US post-1945 strategic interests and mitigate the risk of another

⁷²¹ (December 1999). A National Security Strategy for a New Century, The White House: 1

⁷²² Ibid: 5

⁷²³ "Members of the Intelligence Community (IC)." from <http://www.intelligence.gov/1-members.shtml>.

⁷²⁴ Lowenthal, M. M. (2003). *Intelligence: From Secrets to Policy*. Washington, CQ Press.

surprise attack.⁷²⁵ At the end of World War Two, the Office of Strategic Services (OSS), which served as the American central intelligence organisation during the war, shut down, and its component parts were distributed amongst federal departments.⁷²⁶ However, in response to perceived post-1945 national security needs, President Truman sought to centralise US intelligence machinery.⁷²⁷ To this end, the CIA was created by the National Security Act of 1947 to ‘correlate and evaluate intelligence relating to the national security and provide for the appropriate dissemination of such intelligence...’⁷²⁸

Beyond its principle function of collecting of HUMINT overseas, the CIA was also charged with performing covert operations – a task that was elucidated upon by the National Security Council in its Directive on Office of Special Projects on 18 June 1948. The Directive instructs the CIA to:

Plan and conduct covert operations which are conducted or sponsored by this government against hostile foreign states or groups or in support of friendly foreign states or groups but which are so planned and conducted that any US Government responsibility for them is not evident to unauthorised persons and that if uncovered the US Government can plausibly disclaim any responsibility for them.⁷²⁹

The CIA is based in Langley, Virginia, consisting of three main directorates: Operations, Intelligence and Science and Technology.

National Security Agency

The NSA, based at Fort Meade in Maryland, is responsible for SIGINT, COMINT and ELINT activities. Its roots can be traced back to the Armed Forces Security Agency (AFSA), which was established in 1949 to direct the COMINT and ELINT

⁷²⁵ Berkowitz, B. D. and A. E. Goodman (1989). Strategic Intelligence for American National Security.

⁷²⁶ Ibid.

⁷²⁷ Ibid.

⁷²⁸ Freedman, L. (1986). US Intelligence and the Soviet Strategic Threat. Princeton, Princeton University Press: 14

⁷²⁹ (18 June 1948). National Security Council Directive (NSC 10/12).

activities of armed service intelligence units after World War Two.⁷³⁰ In response to CIA perceptions of ineffective AFSA performance in this area, in 1952 the Brownell Committee recommended the establishment of a national organisation that operated beyond a narrow military remit.⁷³¹ President Truman agreed, and the NSA was formally created on 24 October 1952 by National Security Council Intelligence Directive 9 as an organisation within the Department of Defense, but, considering its national and civilian functions, not part of the Department of Defense.⁷³² In 1958, NSCID 6, entitled 'Communications and Electronics Intelligence', was issued in confidence, apparently detailing all the functions of the NSA. In 1972, the publicly known NSCID 6, entitled 'Signals Intelligence', can be seen to direct the NSA to produce communications, signals and electronic intelligence 'in accordance with objectives, requirements and priorities established by the Director of Central Intelligence and the United State Intelligence Board' – as provided for by Executive Order 12333 in 1981, which is considered to be the 'charter' for the NSA and other US intelligence agencies.⁷³³

Defense Intelligence Agency

In the spirit of post-war centralisation, the US administration sought to tighten up the military intelligence effort that was managed by the loosely connected intelligence units of the three separate armed services, the Army, Navy and Air Force.⁷³⁴ In 1958, the Defense Reorganisation Act attempted to centralise military intelligence machinery under the Unified and Specified Command.⁷³⁵ However, in response to perceptions of unclear intelligence functions and poor performance, a Joint Study Group in 1960 was charged with coming up with a better way to organise American military intelligence activities.⁷³⁶ In 1961, Secretary of Defense Robert McNamara decided to establish the

⁷³⁰ Richelson, J. T. and D. Ball (1985). The Ties that Bind.

⁷³¹ Ibid.

⁷³² Ibid.

⁷³³ Ibid.

⁷³⁴ Ibid.

⁷³⁵ Ibid.

⁷³⁶ Ibid.

Defense Intelligence Agency under the auspices of the Department of Defense.⁷³⁷ The Joint Chiefs of Staff published DoD Directive 5105.21, entitled 'Defense Intelligence Agency', on 1 August, and the DIA became operational on 1 October 1961.⁷³⁸

The DIA comprises four primary directorates.⁷³⁹ Each has specific responsibilities. The Directorate for Human Intelligence (DH) is responsible for producing HUMINT, whilst the Directorate for Technical Collection (DT) collects MASINT (measurement and signature intelligence) involving, amongst other techniques, the use of radar, acoustic and laser intelligence gathering methods.⁷⁴⁰ The Directorate for Analysis (DI) is tasked with analysing and disseminating all-source intelligence products that focus on military issues for the DoD and the wider intelligence community, and the Directorate for Intelligence Joint Staff (J2) provides the Joint Chiefs of Staff with foreign military intelligence for defence policy and war planning purposes.⁷⁴¹ The DIA also runs the Joint Military Intelligence College.

Bureau of Intelligence and Research (INR)

INR is a relatively small bureau in the US State Department tasked with analysing information in support of US diplomatic efforts. The group has been known as INR since 1957, when it's previous designation as the Interim Research and Intelligence Service – a direct descendent of the OSS Research and Analysis branch – was replaced. INR is responsible for producing all-source assessments of issues important to the work of the Secretary of State and the State Department, but also contributes to the National Intelligence Estimates process and other intelligence community-wide projects.⁷⁴²

⁷³⁷ Richelson, J. T. and D. Ball (1985). The Ties that Bind.

⁷³⁸ Ibid.

⁷³⁹ "Organisation of the Defense Intelligence Agency." from <http://www.dia.mil/thisisdia/intro/chart.htm>.

⁷⁴⁰ (2006). Strategic Plan 2007-2012: Leading the Defense Intelligence Enterprise, Defense Intelligence Agency.

⁷⁴¹ Ibid.

⁷⁴² "Bureau of Intelligence and Research." from <http://www.state.gov/s/inr/>.

Federal Bureau of Investigation

The FBI, based in the J. Edgar Hoover building in Washington, is responsible for investigating and countering a range of threats to US national security. Founded by Attorney General Charles Joseph Bonaparte in 1908 as a force of Special Agents, the FBI came into being proper in 1935.⁷⁴³ Its continuing mission is to 'protect and defend the United States against terrorist and foreign threats, to uphold and enforce the criminal laws of the United States, and to provide leadership and criminal justice services to federal, state, municipal, and international agencies and partners'.⁷⁴⁴

Although pre-dominantly a law enforcement agency, the FBI has intelligence functions. Indeed, in 1940, President Roosevelt tasked the FBI to collect non-military intelligence in the Western Hemisphere.⁷⁴⁵ The FBI formed the Special Intelligence Service (SIS) for that purpose. Although the FBI's SIS closed down after World War Two, the FBI maintained Legal Attachés in embassies abroad in order to collect foreign intelligence.⁷⁴⁶ In 1981, Executive Order 12333 codified the FBI's intelligence functions by granting the FBI the power to:

Conduct within the United States, when requested by officials of the intelligence community designated by the President, activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the intelligence community.

The FBI's foreign intelligence functions were increased in the post-Cold War environment in light of the burgeoning threats posed by the global proliferation of WMD and international terrorism. The creation of the National Security Threat List, which identified all countries that presented a threat to the United States, marked a change in the FBI's approach in line with President Clinton's view that 'national security now means economic security' in a globalised world.⁷⁴⁷ By July 1994, the FBI

⁷⁴³ "Timeline of FBI History." from <http://www.fbi.gov/libref/historic/history/historicdates.htm>.

⁷⁴⁴ "About Us—Quick Facts." from <http://www.fbi.gov/quickfacts.htm>.

⁷⁴⁵ "Timeline of FBI History." from <http://www.fbi.gov/libref/historic/history/historicdates.htm>.

⁷⁴⁶ Ibid.

⁷⁴⁷ "National Security Threat List." from http://www.ntc.doe.gov/cita/CI_Awareness_Guide/T1threat/Nstl.htm.

had opened an FBI Legal Attaché Office in Moscow and by 1995 it had 21 Legal Attaché offices overseas and stronger international links in the fight against terrorism.⁷⁴⁸ The 1993 bombing of the World Trade Centre in New York City by Ramzi Yousef prompted the FBI to take a lead in investigations into the emerging Islamist terrorist threat.⁷⁴⁹ Up to the year 2001, the FBI adjusted to the increasing internationalisation of national security threats with the assistance of a \$1.27 billion rise in budget and the recruitment of 5,029 new agents.⁷⁵⁰

Post-9/11 Controlling Security Strategy

The oft-cited 2002 US National Security Strategy was, like the UK's SDR 'New Chapter', a response to the post-9/11 strategic reality. The task, the document claimed, to protect US security changed after 9/11 from addressing 'great armies and great industrial capabilities' of competing states to tackling 'shadowy networks of individuals' that had the capacity to 'bring great chaos and suffering to [US] shores for less than it costs to purchase a single tank'.⁷⁵¹ The aim of the US's post-9/11 security strategy was, evidently, to control threats through pro-active mechanisms, rather than coerce threats through reactive mechanisms. As President Bush declared in the preface to the 2002 US National Security Strategy:

We cannot defend America and our friends by hoping for the best. So we must be prepared to defeat our enemies' plans, using the best intelligence and proceeding with deliberation. History will judge harshly those who saw this coming danger but failed to act. In the new world we have entered, the only path to peace and security is the path of action.⁷⁵²

The US's post-9/11 controlling security strategy enveloped other security issues that featured in the post-9/11 world. Hostile states, WMD proliferation and regional

⁷⁴⁸ "History of the FBI: Rise of a Wired World: 1993-2001." from <http://www.fbi.gov/libref/historic/history/wiredworld.htm>.

⁷⁴⁹ Ibid.

⁷⁵⁰ Ibid.

⁷⁵¹ (September 2002). The National Security Strategy of the United States of America: iv

⁷⁵² Ibid.: v

instability became fronts in an all-encompassing, so-called ‘war on terror’.⁷⁵³ The 2002 national strategy document was quick to identify a terrorism-WMD threat nexus that incorporated hostile states and regional instability. Talk of regional instability as ‘terrorism drivers’ and ‘new deadly challenges’ emerging from ‘rogue states and terrorists’ underpinned the imperative to ‘be prepared to stop rogue states and their terrorist clients before they are able to threaten or use weapons of mass destruction against the United States and our allies and friends’.⁷⁵⁴ This imperative to pro-act against a terrorism-WMD threat nexus influenced the construction of the ‘Bush doctrine’ that focused on America’s ability to ‘forestall or prevent such hostile acts by our adversaries’, and ‘act pre-emptively... in an age where the enemies of civilization openly and actively seek the world’s most destructive technologies’.⁷⁵⁵ It also provided the rationale for President Bush’s controversial policy of making ‘no distinction between terrorists and those who knowingly harbour or provide aid to them’.⁷⁵⁶ Although the focus of the 2006 US National Security Strategy reverts back to the concept of democratisation in continuation of the strategic theme established by the 1991 and 1999 strategy documents, the imperative to prevent a terrorism-WMD threat nexus remains at the core of contemporary US controlling strategy, and is reflected in the two security aims seeking to ‘[s]trengthen alliances to defeat global terrorism and work to prevent attacks against us and our friends’ and ‘[p]revent our enemies from threatening us, our allies, and our friends with weapons of mass destruction’.⁷⁵⁷

Post-9/11 Strategic Intelligence Requirements

America’s post-9/11 controlling security strategy seeks to prevent rather than react to the observable terrorism-WMD threat, and depends on ‘using the best intelligence and proceeding with deliberation’ in the fuzzy and complex world of covert terrorist

⁷⁵³ (September 2002). The National Security Strategy of the United States of America.

⁷⁵⁴ Ibid.: 14

⁷⁵⁵ Ibid.: 15

⁷⁵⁶ Ibid.: 5

⁷⁵⁷ (March 2006). The National Security Strategy of the United States of America, The White House: 1

networks.⁷⁵⁸ According to the 2002 US national security document, using the best intelligence entails ‘increased emphasis on intelligence collection and analysis... and more integrated intelligence capabilities to provide timely, accurate information on threats, wherever they may emerge’.⁷⁵⁹ Indeed, the surprise attacks of 9/11 shocked the American people and exposed fatal gaps in America’s strategic intelligence capability. Two major intelligence requirements were identified, in the areas of intelligence organisation and activity, respectively: firstly, to transform intelligence capabilities and ‘build new ones to keep pace with the nature of these threats’; and, secondly, to ‘strengthen intelligence warning and analysis to provide integrated threat assessments’.⁷⁶⁰

Other US strategy documents highlighted intelligence requirements for a post-9/11 controlling security strategy, considering the terrorism-WMD threat nexus. The 2002 ‘National Strategy to Combat Weapons of Mass Destruction’, for instance, claimed that a ‘more accurate and complete understanding of the full range of WMD threats is, and will remain, among the highest US intelligence priorities’ in the post-9/11 environment, where the ‘ability to obtain timely and accurate knowledge of adversaries’ offensive and defensive capabilities, plans, and intentions is key to developing effective counter- and non-proliferation policies and capabilities’.⁷⁶¹ Moreover, the 2003 ‘National Strategy for Combating Terrorism’ set the objective to ‘know the enemy’, especially considering the ‘global reach or aspirations to acquire and use WMD’ for terrorist purposes, and deploy ‘decisive military power and specialized intelligence resources to defeat terrorist networks globally.’⁷⁶² The 2002 US National Strategy for Homeland Security describes the essence of the intelligence requirements for America’s post-9/11 controlling security strategy thusly:

⁷⁵⁸ (September 2002). The National Security Strategy of the United States of America: 5

⁷⁵⁹ Ibid.: 14

⁷⁶⁰ Ibid.: 30

⁷⁶¹ (December 2002). National Strategy to Combat Weapons of Mass Destruction, The White House: 5-6

⁷⁶² (February 2003). National Strategy for Combating Terrorism, The White House: 17

Terrorism depends on surprise... It follows that the United States must take every appropriate action to avoid being surprised by another terrorist attack. To secure the homeland, we must have an intelligence and warning system that is capable of detecting terrorist activity before it manifests itself in an attack so that proper preemptive, preventive, and protective action can be taken.⁷⁶³

Post-9/11 Strategic Intelligence Capabilities

The 9/11 attacks were widely interpreted in America as a failure of US intelligence. This intelligence failure was compounded by US intelligence failure over Iraqi WMD. The requirements to reform US intelligence organisations and adapt intelligence activity in light of the post-9/11 strategic reality have led to significant changes in US intelligence capabilities. The 9/11 Commission, which reviewed US intelligence capabilities prior to the al-Qaida attacks on 11 September 2001, concluded that the intelligence capabilities that supported America's Cold War effort were ill-equipped to control 21st century terrorism threats. The 9/11 Commission report reads:

Before 9/11, the United States tried to solve the al Qaeda problem with the capabilities it had used in the last stages of the Cold War and its immediate aftermath. These capabilities were insufficient. Little was done to expand or reform them. The CIA had minimal capacity to conduct paramilitary operations with its own personnel, and it did not seek a large-scale expansion of these capabilities before 9/11. The CIA also needed to improve its capability to collect intelligence from human agents. At no point before 9/11 was the Department of Defense fully engaged in the mission of countering al Qaeda, even though this was perhaps the most dangerous foreign enemy threatening the United States.⁷⁶⁴

The Commission on the Intelligence Capabilities of the United States regarding Weapons of Mass Destruction, which issued its report in March 2005, reached conclusions similar to those contained in the 9/11 report. The debacle over Iraq signalled the failure of US intelligence capabilities to fulfil the requirements of a security strategy that sought to mitigate risk. The WMD Commission's report reads:

⁷⁶³ (July 2002). National Strategy for Homeland Security, Office of Homeland Security: viii

⁷⁶⁴ (2004). The 9/11 Commission Report: Executive Summary

The demands of this new environment can only be met by broad and deep change in the Intelligence Community. The Intelligence Community we have today is buried beneath an avalanche of demands for 'current intelligence'— the pressing need to meet the tactical requirements of the day. Current intelligence in support of military and other action is necessary, of course. But we also need an Intelligence Community with *strategic* capabilities: it must be equipped to develop long-term plans for penetrating today's difficult targets, and to identify political and social trends shaping the threats that lie over the horizon. We can imagine no threat that demands greater strategic focus from the Intelligence Community than that posed by nuclear, biological, and chemical weapons.⁷⁶⁵

US governmental responses to the 9/11 attacks and the Iraq debacle, and the reports of the respective relevant inquiries, have been focused on creating new structures with the aim of reforming the US intelligence community to fulfil the requirements of America's post-9/11 controlling security strategy. A description of post-9/11 developments in the US intelligence capability follows.

Department of Homeland Security

In the immediate aftermath of 9/11, President Bush announced the establishment of the Office of Homeland Security, which was to be responsible for the co-ordination of efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.⁷⁶⁶ The first head of the Office, Governor Tom Ridge, was granted the title of 'Assistant to the President for Homeland Security'.⁷⁶⁷ The Department of Homeland Security (DHS) was established by the Homeland Security Act of 2002. Tom Ridge was duly named Secretary of Homeland Security in January 2003.⁷⁶⁸ Marking the largest government reorganisation since the

⁷⁶⁵ (March 2005). Report of The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction. Washington D.C.: 5

⁷⁶⁶ (8 October 2001). "Executive Order Establishing Office of Homeland Security." from <http://www.whitehouse.gov/news/releases/2001/10/text/20011008-2.html>.

⁷⁶⁷ Ibid.

⁷⁶⁸ (24 January 2003). "Ridge Sworn In as Secretary of Homeland Security: Remarks by the President at Swearing-In of Tom Ridge, Secretary of the Department of Homeland Security." from <http://63.161.169.137/news/releases/2003/01/20030124-5.html>.

creation of the Department of Defense in 1947, DHS currently employs 180,000 people under a new secretary, Michael Chertoff.⁷⁶⁹ In line with the imperative of prevention, DHS aims to 'gather and fuse' all terrorism related intelligence, conduct analysis and coordinate the dissemination of information on anticipated threats.⁷⁷⁰

National Clandestine Service

Another immediate development after 9/11 was the creation of the National Clandestine Service (NCS), responsible for co-ordinating the American human intelligence capability.⁷⁷¹ NCS represents the operational amalgamation of the CIA's Directorate of Operations and HUMINT elements of the FBI and DoD intelligence capabilities.⁷⁷² The current Director of NCS, Jose A. Rodriguez, Jr., reports to the Director of the CIA.⁷⁷³ The aim of the NCS is to bolster intelligence collection capabilities after 9/11 and improve joined-up collection activities across the US intelligence community.⁷⁷⁴

The Intelligence Reform and Terrorism Prevention Act of 2004

The most significant piece of legislation that reflects the drive for change in US intelligence capabilities is the 2004 Intelligence Reform and Terrorism Prevention Act. In accordance with the recommendations of the reports of the 9/11 and WMD commissions, the Act created a Director of National Intelligence (DNI) to direct and manage the activities of the entire US intelligence community, and serve as the principle advisor to the US president on intelligence matters. The Act also established an operationally independent National Counter-Terrorism Center (NCTC), which had

⁷⁶⁹ (3 March 2005). "President Thanks DHS Secretary Chertoff at Swearing-In Ceremony." from <http://www.whitehouse.gov/news/releases/2005/03/20050303-1.html>.

⁷⁷⁰ (2004). Securing Our Homeland: U.S. Department of Homeland Security Strategic Plan, U.S. Department of Homeland Security: 11

⁷⁷¹ (13 October 2005). "US setting up new spying agency." from <http://news.bbc.co.uk/1/hi/world/americas/4340318.stm>.

⁷⁷² Ibid.

⁷⁷³ Ibid.

⁷⁷⁴ Ibid.

been originally created as the Terrorism Threat Integration Center (TTIC) within the CIA, in 2003.⁷⁷⁵ NCTC, the rough equivalent to the UK's JTAC, is responsible for analysing all terrorism-related intelligence and disseminating threat reports.⁷⁷⁶ The Act also created a National Counter-proliferation Center within the FBI to bolster the FBI's intelligence capability.

Director of National Intelligence

The Director of National Intelligence, currently Mike McConnell, is responsible for serving as the principal adviser on intelligence matters to the US president, the National Security Council, and the Homeland Security Council.⁷⁷⁷ The DNI also serves as the head of the US intelligence community and directs the US National Intelligence Program.⁷⁷⁸ The creation of a DNI reflects the awareness after 9/11 and the Iraq invasion of a weakness in leadership and co-ordination at the top of the US intelligence community. The 9/11 and WMD commissions both highlighted poor intelligence structures and woeful levels of co-operation between various intelligence agencies.⁷⁷⁹ The DNI is designed to bring together the disparate elements of the US intelligence capability within a more coherent structure and in line with a universal intelligence National Intelligence Strategy, so that informational flows are optimised and existing dots, where they exist in the different corners of the US intelligence community, can be joined.⁷⁸⁰

According to the 2004 Intelligence Reform and Terrorism Prevention Act, the Office of the DNI is tasked to:

⁷⁷⁵ (2 August 2004). "Fact Sheet: Making America Safer by Strengthening Our Intelligence Capabilities." from <http://www.whitehouse.gov/news/releases/2004/08/20040802-7.html>.

⁷⁷⁶ Ibid.

⁷⁷⁷ (2007). An Overview of the United States Intelligence Community, Office of the Director of National Intelligence.

⁷⁷⁸ Ibid.

⁷⁷⁹ See (2004). The 9/11 Commission Report: 399-410; (March 2005). Report of The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction: 18-32

⁷⁸⁰ (October 2005). The National Intelligence Strategy of the United States of America, Office of the Director of National Intelligence.

1. Ensure that timely and objective national intelligence is provided to the President, the heads of departments and agencies of the executive branch; the Chairman of the Joint Chiefs of Staff and senior military commanders; and the Congress;
2. Establish objectives and priorities for collection, analysis, production, and dissemination of national intelligence;
3. Ensure maximum availability of and access to intelligence information within the Intelligence Community;
4. Oversee coordination of relationships with the intelligence or security services of foreign governments and international organisations;
5. Ensure the most accurate analysis of intelligence is derived from all sources to support national security needs.⁷⁸¹

Two years after the establishment of the DNI, the jury is still pondering over the amount of good achieved by the creation of the post. On the one hand, commentators view the Office of the DNI as an unnecessary and cumbersome level of bureaucracy that stifles, rather than facilitates, required improvements in the areas of intelligence co-operation and adaptability. Paul Pillar, former deputy director of the CIA's Counter-Terrorism Center, rejects the idea that the effects produced by the DNI signify a 'net improvement' in US intelligence capabilities.⁷⁸² Whilst the 9/11 Commission recommended the creation of a DNI to get a grip on a fragmented American intelligence community, Tim Roemer, who was a member of the 9/11 Commission, claims that he and other Commission members are unhappy with the size of the DNI structure.⁷⁸³ When John Negroponte was sworn in as the first DNI in April 2005, it had been envisioned that his Office would comprise of around only 80 staff, but it soon grew to number over 1,500.⁷⁸⁴ When Negroponte resigned in 2007 to become Deputy Secretary of State, it is reported that he described the DNI organisation as an 'unwieldy mess'.⁷⁸⁵

⁷⁸¹ (2007). An Overview of the United States Intelligence Community: 1

⁷⁸² Thomas, G. (11 October 2006). "Terror Spurs U.S. Intelligence Reform." from <http://www.voanews.com/english/archive/2006-10/Terror2006-10-11-voa47.cfm>.

⁷⁸³ Ibid.

⁷⁸⁴ Ibid.

⁷⁸⁵ Reid, T. (4 January 2007). Bush's spy chief quits to support Iraq 'surge'. *The Times*.

On the other hand, others claim that the creation of the DNI was needed to drive through the required post-9/11 improvements. Greg Treverton, senior analyst on intelligence policy at the RAND Corporation and former vice-chair of the US National Intelligence Council, claims that the fundamental weakness of the existing DNI structure is that it isn't powerful enough, especially considering that the Department of Defense is refusing to surrender existing levels of influence over major intelligence organisations, including NSA, DIA and the revamped National Geospatial-Intelligence Agency (NGA).⁷⁸⁶ Treverton claims that competition between the DoD and the DNI could impair much-needed cohesion in the US intelligence community, in which case it might be wise to consider bestowing the DNI with greater authority.⁷⁸⁷

The development of the DNI is bound to be controversial and riddled with complexities, considering the vast magnitude of the US intelligence community and the wide diversity of the roles performed by the assortment of agencies and departments that count themselves as members. Whilst it is too early to meaningfully conclude whether the DNI has improved US intelligence capabilities after 9/11, the sheer fact of the enterprise reflects the seriousness with which the US is taking intelligence as a component of its post-9/11 controlling security strategy.

National Counter-Terrorism Center

Along with the DNI, the 2004 Intelligence Reform and Terrorism Prevention Act created the NCTC. The Terrorist Threat Integration Center (TTIC), the CIA precursor to the NCTC, was established on 1 May 2003 in response to recommendations made by the 9/11 Commission.⁷⁸⁸ The TTIC became the NCTC to serve as the central organisation responsible for analysing and assessing terrorism threats in support of US counter-terrorism strategy.⁷⁸⁹ During Admiral John Scott Redd's confirmation at the US Senate, he stated that NCTC 'is a central element of Congress's plan to strengthen US intelligence capabilities and to mobilize all government agencies in the war on

⁷⁸⁶ Thomas, G. (11 October 2006). "Terror Spurs U.S. Intelligence Reform."

⁷⁸⁷ Ibid.

⁷⁸⁸ (2 August 2004). "Fact Sheet: Making America Safer by Strengthening Our Intelligence Capabilities."

⁷⁸⁹ Ibid.

terrorism'.⁷⁹⁰ NCTC is comprised of a number of members of America's intelligence community, including the CIA, FBI, and the Departments of State, Defense, and Homeland Security. NCTC's to lead the 'counterterrorism enterprise in strategic operational planning and counterterrorism intelligence for USG in order to diminish the ranks, capabilities and threats of terrorists to the US and its interests'.⁷⁹¹

As an organisation that brings together different intelligence agencies, a major task of NCTC is to improve intelligence sharing across the US intelligence community and with foreign partners in international efforts to prevent the common terrorist threat. In its 'Progress Report' published in September 2006, NCTC provides a summary of improvements it claims to have made in intelligence sharing five years on from 9/11. Prior to 9/11, NCTC claims that no governmental organisation in the US 'had access to the full range of terrorism information available to the various Federal agencies and departments'.⁷⁹² In 2006, NCTC boasted having 'access to dozens of networks and information systems from across the intelligence, law enforcement, military, and homeland security communities, containing many hundreds of data repositories'.⁷⁹³ These systems contain foreign and domestic information pertaining to international terrorism and sensitive operational and law enforcement activities'.⁷⁹⁴ In an attempt to increase awareness of the terrorist threat 'either across the US Government or with foreign partners', NCTC has developed the means to host 'counterterrorism community-wide secure video teleconferences (SVTCs) three times daily to ensure broad awareness of ongoing operations and newly detected threats' and contributes to the Presidents Daily Brief.⁷⁹⁵ NCTC also disseminates its own products: the daily National Terrorism Bulletin, the Senior Executive Threat Report, the Threat Matrix, twice-daily terrorism situations reports, as well as 'numerous special analysis reports,

⁷⁹⁰ (21 July 2005). "Statement of Admiral John Scott Redd Before the Senate Select Committee on Intelligence." from http://www.nctc.gov/press_room/speeches/con_statement.html.

⁷⁹¹ "About the National Counterterrorism Center." from http://www.nctc.gov/about_us/about_nctc.html.

⁷⁹² (September 2006). NCTC and Information Sharing: Five Years since 9/11: A Progress Report, National Counter Terrorism Center: 5

⁷⁹³ Ibid.: 5

⁷⁹⁴ Ibid.: 5

⁷⁹⁵ Ibid.: 6

spot commentaries, threat alerts, advisories, and assessments summarizing the latest intelligence reporting related to terrorism threats'.⁷⁹⁶

Moreover, the NCTC 'classified repository, NCTC Online (NOL)', is said to serve as the 'counterterrorism community's library of terrorism information' and enable the elimination of barriers that compartmentalized such information before 9/11.⁷⁹⁷ The Interagency Intelligence Committee on Terrorism (IICT), which meets on a monthly basis at NCTC, has more than 100 members and allows for the free-flow of information between different parts of the intelligence community that fly in the face of Cold War restrictions.⁷⁹⁸ The Terrorist Identities Datamart Environment (TIDE) is the single all-source database on international terrorist identities that is available to all members of the US counterterrorism community and in support of the work done by the Terrorist Screening Center (TSC).⁷⁹⁹ NCTC claims that TIDE contains the names and aliases of over 300,000 individuals.⁸⁰⁰ These improvements in shared information provision are built upon by a newly-established Program Manager for the Information Sharing Environment, which is 'tasked to improve terrorism information sharing among Federal and non-Federal entities'.⁸⁰¹ NCTC also liaises with foreign partners, and provides sanitised versions of counterterrorism intelligence products on top of 'hosting conferences, and forward-deploying NCTC officers as warranted'.⁸⁰²

SECTION THREE: UN CAPABILITY TO FULFIL THE INTELLIGENCE REQUIREMENTS OF A CONTROLLING SECURITY STRATEGY

Pre-9/11 Intelligence Capability

Subsequent to the meeting of the UN Security Council at the level of heads of state and government on 31 January 1992, at which it was declared that the 'absence of war

⁷⁹⁶ (September 2006). NCTC and Information Sharing: 6

⁷⁹⁷ Ibid.: 7

⁷⁹⁸ Ibid.: 8

⁷⁹⁹ Ibid.: 9

⁸⁰⁰ Ibid.: 9

⁸⁰¹ Ibid.: 8

⁸⁰² Ibid.: 8

and military conflicts amongst States does not in itself ensure international peace and security', the UN Secretary-General Boutros Boutros-Ghali launched 'An Agenda for Peace'. This agenda provided the blueprint for the UN's coercive security strategy of preventive diplomacy that sought to maintain international peace and security through pro-active engagement with post-Cold War threats. The purpose of preventive diplomacy was to prevent instances of conflict that were occurring within sovereign state borders. The ambition of the UN to prevent conflict was made clear in the document:

United Nations operations in areas of crisis have generally been established after conflict has occurred. The time has come to plan for circumstances warranting preventive deployment, which could take place in a variety of instances and ways.⁸⁰³

The UN's coercive strategy to prevent conflict through diplomatic mechanisms consisted of five major components: measures to build confidence, fact-finding, early warning, preventive deployment and demilitarized zones.⁸⁰⁴ The post-Cold War strategic reality of intrastate war entailed the imperative to prevent conflict waged by non-state belligerents that targeted unarmed civilian populations and challenged regional and international stability (See Chapter 2).

The UN system of collective security, which was constructed in the post-1945 era in the face of the threat posed by inter-state war, is not designed with an intelligence component in mind. The threats conceived by the architects of the UN Charter were demonstrable exclusively through the perception of an actual armed attack. The reactive mechanisms of the UN's coercive security strategy, therefore, have no need to be capable of anticipating attacks in order to work properly. In the post-Cold War strategic environment, however, the UN's coercive security strategy evolved and sought to prevent anticipated escalations of conflict. As such, the UN required an intelligence capability in order to achieve its strategic aims. Whilst preventive diplomacy remained a coercive security strategy – threats were identified through

⁸⁰³ (17 June 1992). *An Agenda for Peace*.

⁸⁰⁴ *Ibid.*

perceptions of actual conflict, not through information assessments indicating potential conflict – achieving the aim to prevent bad situations from getting worse did require the capability to gather and analyse information on future trends.⁸⁰⁵

In ‘An Agenda for Peace’, in line with the UN’s cautious approach to intelligence, the intelligence requirements of preventive diplomacy were described in vague, but discernable, terms. In support of a UN fact-finding capability, ‘An Agenda for Peace’ reads:

Preventive steps must be based upon timely and accurate knowledge of the facts. Beyond this, an understanding of developments and global trends, based on sound analysis, is required.

Similarly, the case for an early warning capability to supplement a UN fact-finding capacity was made:

In recent years the United Nations system has been developing a valuable network of early warning systems concerning environmental threats, the risk of nuclear accident, natural disasters, mass movements of populations, the threat of famine and the spread of disease. There is a need, however, to strengthen arrangements in such a manner that information from these sources can be synthesized with political indicators to assess whether a threat to peace exists and to analyse what action might be taken by the United Nations to alleviate it.⁸⁰⁶

On 21 August 2000, the report of the High Level Panel on United Nations Peace Operations, known as the ‘Brahimi report’ after the chair of the Panel, Lakhdar Brahimi, was published. In it, the intelligence requirements of the UN’s post-Cold War coercive security strategy were described in more robust terms, given the UN’s failure to prevent conflicts in, amongst other places, Bosnia-Herzegovina, Rwanda and Somalia. A strategic intelligence requirement was identified by the Panel’s review of the UN’s strategy of preventive diplomacy. In their report, the Panel built upon the fact-finding and early-warning requirements identified in ‘An Agenda for Peace’, and

⁸⁰⁵ Dorn, W. A. (2004). Early and Late Warning by the UN Secretary General of Threats to the Peace: Article 99 Revisted. Conflict Prevention from Rhetoric to Reality. A. Schnable and D. Carment, Lexington Books: 305 - 344.

⁸⁰⁶ (17 June 1992). An Agenda for Peace.

recommended 'more effective collection and assessment of information at United Nations Headquarters, including an enhanced conflict early warning system that can detect and recognize the threat or risk of conflict or genocide.'⁸⁰⁷ Under the section entitled 'Doctrine, strategy and decision-making for peace operations', the Panel insisted that the UN 'must... fine-tune its analytical and decision-making capacities to respond to existing realities and anticipate future requirements.'⁸⁰⁸ The following provides brief descriptions of the organisations (or, in the case of the EISAS, below, an unrealised proposal) charged with fulfilling the UN's strategic intelligence requirements before 9/11.

Situation Centre

The UN's Situation Centre (SC) was established in 1993, when it was tasked with 'supporting the decision-making process and connecting civilian, military and police flows of information at the strategic level.'⁸⁰⁹ Born as part of the UN Secretariat Information Management System, the Situation Centre was created to satisfy the demands of the UN's 'Agenda for Peace', and to support the fact-finding, early warning and preventive deployment elements of the preventive diplomacy programme.⁸¹⁰ It continues to support the UN's peacekeeping activities and is currently located in the UN's Department of Peacekeeping Operations. The SC's role is to co-ordinate contact between the UN Secretary-General and peacekeeping operations, as well as to disseminate information to the UN Secretariat and the 60,000 plus personnel employed in the field by the UN system.⁸¹¹

The SC operates 24 hours a day, 7 days a week and has a specific 'dark hours' capacity.⁸¹² There are 2 desks, each with 5 members of staff. 'Desk 1' is responsible for peacekeeping operations in Africa, and 'Desk 2' for peacekeeping operations elsewhere

⁸⁰⁷ (21 August 2000). Report of the Panel on United Nations Peace Operations: 1

⁸⁰⁸ Ibid.: 2

⁸⁰⁹ "Situation Centre." from <http://www.un.org/Depts/dpko/dpko/sitcen/sitcentre.html>.

⁸¹⁰ Dorn, W. A. (2004). Early and Late Warning by the UN Secretary General of Threats to the Peace

⁸¹¹ (15 April 2004). Personal Interview with Kristina Segulja, Coordinator, UN Situation Centre.

⁸¹² Ibid.

in the world.⁸¹³ Because of an increase in workload, the SC is hoping to add a third desk to manage the 15 ongoing peacekeeping operations, 14 of which are mandated by the Security Council. Staff members are recruited from member states around the world, and each stays for a maximum of 5 years.⁸¹⁴ In addition to the 10 members of staff, 3 military liaison officers from the leading Troop Contributing Countries (TCCs) stay for a maximum of 3 years.⁸¹⁵

The SC produces two products: the ‘morning situation report’ and the ‘afternoon brief’.⁸¹⁶ The morning situation report contains reports from the peacekeeping mission on the ground.⁸¹⁷ These reports are broken up into political, military and humanitarian assessments.⁸¹⁸ The afternoon brief is disseminated to the relevant UN specialist agencies and draws on the situation reports and other open-source information, including media reports, which are sourced.⁸¹⁹ The brief also has some maps and cartographic graphics produced with GIS software, which is being introduced more widely within the UN.⁸²⁰ The SC has a ‘town-hall meeting’ on Thursday afternoons with the TCCs.⁸²¹ This is not a Q&A session, but a briefing session by the SC to update TCCs on peacekeeping missions.⁸²² The SC meets with key states, including France and the UK, on Fridays and goes through the cables and situation reports and discusses issues with them.⁸²³ These Friday sessions involve the Assessments and Projects Unit (APU), the successor of the Information and Research Unit (IRU), which was dissolved in 1997 when the supply of gratis personnel from member states stopped flowing.⁸²⁴ Before 1997, the IRU employed intelligence officers from member states who provided research and analysis for the UN Secretariat, but also used their posts to report back to their national governments on the activities of the other

⁸¹³ (15 April 2004). Personal Interview with Kristina Segulja.

⁸¹⁴ Ibid.

⁸¹⁵ Ibid.

⁸¹⁶ Ibid.

⁸¹⁷ Ibid.

⁸¹⁸ Ibid.

⁸¹⁹ Ibid.

⁸²⁰ Ibid.

⁸²¹ Ibid.

⁸²² Ibid.

⁸²³ Ibid.

⁸²⁴ Ibid.

member states.⁸²⁵ Unsurprisingly given the Cold War context, the Americans and Russians were permanent members of the IRU and exploited the platform to gather intelligence on each other, rather than contribute to any serious UN analytical effort.⁸²⁶ Today, APU assesses the strategic requirements of peacekeeping operations, but falls short of providing the strategic analysis capability that the IRU supposedly fulfilled in the 1990s.⁸²⁷

Information and Strategic Analysis Secretariat (EISAS)

In March 2000, Algerian Lakhdar Brahimi led a High Level Panel to review the UN's peace and security activities. As noted in Chapter 4, the Brahimi report identified the requirement for an information-gathering, information analysis, and strategic planning capability to support the UN's conflict prevention agenda. An Information and Strategic Analysis Secretariat (EISAS), which would provide this capability, was proposed as one of the 'sharper tools' to aid the UN's Executive Committee for Peace and Security to 'gather and analyse relevant information', in order to allow ECPS 'to fulfil the role for which it was created' – that role being to function as 'the nominal high-level decision-making forum for peace and security issues'.⁸²⁸ The EISAS would be responsible for 'accumulating knowledge about conflict situations, distributing that knowledge effectively to a wide user base, generating policy analysis and formulating long-term strategies'.⁸²⁹ It would also 'strengthen the daily reporting function of the DPKO [Department of Peace-keeping Operations] Situation Centre, generating all-source updates on mission activity and relevant global events'.⁸³⁰

Although the UN Secretary-General Kofi Annan agreed to implement the recommendations of the Brahimi report, EISAS never came to fruition. The main reason that plans for EISAS were scuppered was concern expressed by some member states over the power of EISAS to monitor and intrude in their internal affairs; an

⁸²⁵ (15 April 2004). Personal Interview with Kristina Segulja.

⁸²⁶ Ibid.

⁸²⁷ Ibid.

⁸²⁸ (21 August 2000). Report of the Panel on United Nations Peace Operations: 12

⁸²⁹ Ibid.: 12

⁸³⁰ Ibid.: 12-13

unwanted situation in its own right, but particularly problematic considering the politically neutral and bureaucratically transparent nature of the UN organisation.⁸³¹ India and Nigeria harboured the most intense ill-feeling about the project, and succeeded to mobilise the G77 to oppose the creation of EISAS, although not every G77 member state stood against its development.⁸³² Among the other fears of the states that did oppose EISAS was the worry that EISAS would cream off the top people in the UN and leave nothing for anyone else to do, just as the superpower-led joined-up DPA/DPKO super-unit did during the Cold War.⁸³³ These fears were not shared by DPA, and its head Kieran Prendergast was keen to build a strategic information system to support the UN prevention agenda that worked better than the existing set-up, which was acknowledged to be wholly inadequate.⁸³⁴ However, the G77 pressure proved too great for DPA to push through the plans for EISAS, and no serious efforts to create a similar capability outside of the UN have been made.⁸³⁵

UNSCOM and UNMOVIC

The United Nations Special Commission (UNSCOM) and its successor the United Nations Monitoring, Verification and Inspection Committee (UNMOVIC) are the UN agencies most commonly compared with a UN intelligence capability.

UNSCOM was established under Chapter VII by UN Security Council resolution 687 in the aftermath of the first Gulf War, in April 1991. The provisions of resolution 687 called for the eradication of Iraqi WMD weapons, programmes and facilities, and UNSCOM was created to enforce Iraqi compliance with them, in cooperation with the International Atomic Energy Agency (IAEA) in the nuclear field.⁸³⁶ Membership of UNSCOM comprised the permanent 5 members of the Security Council, plus 15 other states. On 9 June 1991, UNCSOM inspectors entered Iraq for the first time to

⁸³¹ (2001). *Refashioning the Dialogue: Regional Perspectives on the Brahimi Report on UN Peace Operations*, International Peace Academy and the Center on International Cooperation.

⁸³² (24 June 2004). Personal Interview with Teresa Whitfield.

⁸³³ (15 April 2004). Personal Interview with Andres Salazar, Special Assistant to UN Assistant Secretary General for Political Affairs.

⁸³⁴ *Ibid.*

⁸³⁵ *Ibid.*

⁸³⁶ (3 April 1991). UN Security Council Resolution 687.

implement resolution 687, in accordance with a three-pronged strategy to assess, destroy, and monitor and verify the elimination of Iraqi WMD capabilities.⁸³⁷ UNSCOM operated in Iraq until all UN personnel were withdrawn in December 1998 in the face of Iraqi non-compliance, which was met with the commencement of military action by a US-led coalition.⁸³⁸

The strategic intelligence function of UNSCOM was to provide the Security Council with information it required to formulate policy regarding the threat posed by Iraq's WMD capability. UNSCOM represented for the first time the institutionalization of intelligence power within the framework of the UN: the capability of the Security Council to function as a decision-maker and to exercise its responsibilities to enforce resolution 687 depended entirely on information provided by UNSCOM. The scope and nature of UNSCOM's work was unprecedented. UNSCOM enjoyed active relationships with intelligence services in the US, UK and Israel, which aided UNSCOM's work in securing written declarations on the status of Iraqi WMD programmes, obtaining the sampling and identification of biological warfare agents, monitoring suspect facilities, conducting aerial surveillance and gathering human intelligence.⁸³⁹ This adventure into the intelligence world was, and remains to this day, an anomaly in the work of the UN, which takes great strides to shun any association with intelligence activity.

Indeed, UNSCOM enjoyed close links with Western intelligence services. The UK provided support to UNSCOM and the IAEA through a DIS outfit known as *Operation Rockingham*.⁸⁴⁰ For most of the 1990s, *Rockingham* briefed and advised members of UNSCOM and IAEA inspection teams, and processed information obtained by UN inspections.⁸⁴¹ Additionally, *Rockingham* advised UK policy departments on whom from the UK to second to the UNSCOM and the IAEA inspection teams.⁸⁴² A *Rockingham* officer detached to Bahrain staffed an organisation

⁸³⁷ Blix, H. (2004). Disarming Iraq.

⁸³⁸ Ibid.

⁸³⁹ Ibid.

⁸⁴⁰ (14 July 2004). Review of Intelligence on Weapons of Mass Destruction.

⁸⁴¹ Ibid.

⁸⁴² Ibid.

known as GATEWAY to liaise with UN inspection teams as they crossed into and out of Iraq.⁸⁴³ In 1998, as UNSCOM ground to a halt, the capacity of *Rockingham* was reduced and performed exclusively monitoring activities.⁸⁴⁴

Although tasked by the Security Council with its own intelligence mission, UNSCOM's association with intelligence activity has triggered criticism by those who regard UNSCOM to have been a Trojan horse for the intelligence services of the US, UK and Israel, rather than acting for the legitimate purposes of the UN. Dr. Hans Blix, who headed UNMOVIC, the successor of UNSCOM established in 1999, claimed that rather than providing the UN with an intelligence capability, UNSCOM became 'infiltrated' by national intelligence services, which used the commission to gather and disseminate intelligence for national purposes, rather than the purposes of resolution 687 and the Security Council.⁸⁴⁵ As such, the integrity of UNSCOM suffered, as did its ability to operate objectively and independently; the UN was forced to withdraw UNSCOM staff from Iraq in 1998 and put an end to its operation.⁸⁴⁶

In December 1999, Security Council resolution 1284 established the Monitoring, Verification and Inspection Commission to continue the work of UNSCOM in Iraq, free from any debilitating association with intelligence activity.⁸⁴⁷ UNMOVIC is staffed by UN-employed international civil servants, rather than national secondees.⁸⁴⁸ Indeed, although *Operation Rockingham* was reactivated to provide UK support to UNMOVIC, no institutional linkage between UNMOVIC and DIS occurred, despite the fact that *Rockingham* continued to provide UNMOVIC and the IAEA with UK intelligence assessments on Iraq's WMD programmes and installations.⁸⁴⁹

Post 9/11 Controlling Security Strategy

⁸⁴³ (14 July 2004). Review of Intelligence on Weapons of Mass Destruction.

⁸⁴⁴ Ibid.

⁸⁴⁵ Blix, H. (2004). *Disarming Iraq*: 36

⁸⁴⁶ Ibid.

⁸⁴⁷ Ibid.

⁸⁴⁸ Ibid.

⁸⁴⁹ (14 July 2004). Review of Intelligence on Weapons of Mass Destruction.

Two and a half weeks after the 9/11 attacks, the UN Security Council passed resolution 1373, which reaffirmed the status of any act of international terrorism as a threat to international peace and security, and highlighted the ‘need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts’.⁸⁵⁰ This ‘need’ encapsulated the imperative for states to ‘prevent and suppress terrorist acts’ and for the intensification of the ‘exchange of information, especially regarding actions or movements of terrorist persons or networks... and the threat posed by the possession of weapons of mass destruction by terrorist groups’.⁸⁵¹ The identification of a possible terrorism-WMD threat nexus was made by the UNSC quickly. Indeed, the framework for a UN counter-terrorism approach constructed by resolution 1373 was extended in April 2004, when UNSC resolution 1540 called upon states to ‘prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes...’.⁸⁵² It was at this point that the terrorism-WMD threat nexus was legislated for at the international level as a threat to peace and security, and UN counter-terrorism strategy became inexplicably linked with UN counter-proliferation efforts.

However, the construction of a UN controlling security strategy reflecting the post-9/11 strategic reality has been an extremely difficult process, considering that the logic of controlling security strategies contradicts the provisions of the UN Charter. In October 2001, UN Secretary-General Kofi Annan, in an attempt to develop a realistic approach to the terrorism-WMD threat nexus, established the Policy Working Group on the United Nations and Terrorism. On 6 August 2002, it published its report. In it, the Group laid out the possible basis of a prospective UN counter-terrorism strategy. The three pillars of this strategy aimed to dissuade disaffected groups from embracing terrorism, deny groups or individuals the means to carry out acts of terrorism; and, sustain broad-based international cooperation in the struggle against terrorism.⁸⁵³

⁸⁵⁰ (28 September 2001). UN Security Council Resolution 1373.

⁸⁵¹ Ibid.

⁸⁵² (28 April 2004). UN Security Council Resolution 1540.

⁸⁵³ (6 August 2002). Report of the Policy Working Group on the United Nations and Terrorism, United Nations.

Despite these strategic aims, the Group claimed that they did not believe that the 'United Nations is well placed to play an active operational role in efforts to suppress terrorist groups, to pre-empt specific terrorist strikes, or to develop dedicated intelligence-gathering capacities' required to enable the UN to adopt and execute a controlling security strategy that sought to prevent terrorist attacks through pro-active mechanisms.⁸⁵⁴

In the wake of US-UK intelligence-driven preventive action against Iraq in March 2003, Kofi Annan announced the establishment of a High Level Panel on Threats, Challenges and Change whose task it was to look into collective security arrangements in the post-9/11 strategic reality. The major theme of the Panel's report, 'A More Secure World: A Shared Responsibility', is 'the challenge of prevention' – how to control unconstrained threats in line with the UN Charter.⁸⁵⁵ The Panel identified a new, post-9/11 strategic reality, concluding that '[t]errorism is a threat to all States, and to the UN as a whole'.⁸⁵⁶ The panel also identified new strategic imperatives entailing from the post-9/11 reality and the existence of an observable terrorism-WMD threat nexus, by accepting that '[n]ew aspects of the threat – including the rise of a global terrorist network, and the potential for terrorist use of nuclear, biological or chemical weapons – require new responses'.⁸⁵⁷

Indeed, the High Level Panel declared that '[m]eeting the challenge of today's threats means getting serious about prevention; the consequences of allowing latent threats to become manifest, or of allowing existing threats to spread, are simply too severe'.⁸⁵⁸ In doing so, it demonstrated a shift in thinking away from the logic of coercive security strategies that seek to react to actual attacks, towards the logic of controlling security strategies that seek to pro-act to prevent potential attacks. Considering the imperative

⁸⁵⁴ (6 August 2002). Report of the Policy Working Group on the United Nations and Terrorism: 4

⁸⁵⁵ (December 2004). A More Secure World.

⁸⁵⁶ (December 2004). A More Secure World, Executive Summary: 3

⁸⁵⁷ Ibid.: 3

⁸⁵⁸ Ibid.: 2

of prevention in the post-9/11 strategic reality, the Panel concluded that the UN's security strategy requires pro-active mechanisms in order to achieve its aims:

In the world of the twenty-first century, the international community does have to be concerned about nightmare scenarios combining terrorists, weapons of mass destruction and irresponsible States, and much more besides, which may conceivably justify the use of force, not just reactively but preventively and before a latent threat becomes imminent.⁸⁵⁹

As a consequence of the strategic imperative to prevent threats through a controlling security strategy, the report claimed that the UNSC will 'need to be prepared to be much more proactive on these issues, taking more decisive action earlier, than it has been in the past.'⁸⁶⁰ And, in an effort to reconcile the rationale of controlling security strategies with the legitimising institutions of the UN Charter, states that determine 'distant threats have an obligation to bring these concerns to the Security Council'.⁸⁶¹

In response to the recommendations of the Panel's report, the UN General Assembly, for the first time, adopted a UN counter-terrorism strategy on 8 September 2006, which builds on Kofi Annan's report 'Uniting against Terrorism: Recommendations for a Global Counter-Terrorism Strategy' of 2 May 2006. The UN's plan of action against the terrorism threat provides for 'measures to prevent and combat terrorism' that seek to deny terrorists 'access to the means to carry out their attacks, to their targets and to the desired impact of their attacks'.⁸⁶² Measures to 'build States' capacity to prevent and combat terrorism and to strengthen the role of the United Nations system' are also established.⁸⁶³

Post-9/11 Strategic Intelligence Requirements

⁸⁵⁹ (December 2004). A More Secure World: 64

⁸⁶⁰ Ibid.: 64

⁸⁶¹ (December 2004). A More Secure World, Executive Summary: 4

⁸⁶² (8 September 2006). UN General Assembly Resolution 60/288: The United Nations Global Counter-Terrorism Strategy.

⁸⁶³ Ibid.

Controlling security strategies require intelligence in order to work effectively. The UK and US, as described above, have vital intelligence requirements for their respective post-9/11 controlling security strategies that seek to prevent anticipated attacks. The UN, in identifying the strategic goal to ‘meet the challenge of prevention’, also seeks to prevent anticipated attacks. Likewise, the UN’s post-9/11 controlling security strategy has vital intelligence requirements. Indeed, the intelligence requirements for UN security strategy identified in the Brahimi report in 2000 are more urgent after 9/11, considering the imperative to prevent the terrorism-WMD threat.

The UN’s High Level Panel for Threats, Challenges and Change found it extremely difficult to broach the subject of intelligence during its considerations.⁸⁶⁴ However, it did manage to declare the need to underpin UNSC enforcement activity with ‘credible, shared information and analysis’, and recommend that the ‘ability of the Security Council to generate credible information about potential instances of proliferation should be strengthened’. In the area of counter-terrorism specifically, the Panel’s report suggests that improved counter-terrorism instruments should involve ‘intelligence-sharing, where possible’.

Significantly, the Panel does address the potential legitimising power of intelligence in collective security arrangements. In considering ‘collective security and the use of force’, the Panel sets out guidelines for the legitimate use of force in line with the imperative to prevent threats through pro-active mechanisms.⁸⁶⁵ The presentation of evidence is a central requirement for the legitimisation of controlling security strategies that seek to use pro-active military force. The panel regards that anticipatory self-defence – action taken under Article 51 of the UN Charter – is legitimate only if the Security Council is able to assess the information that determines the threat and demonstrates necessity of action.⁸⁶⁶ The Panel’s report states:

⁸⁶⁴ The difficulty if the intelligence issue was described to me by Dr. Bruce Jones, Deputy Director of Research for the High Level Panel, whilst I was a Visiting Scholar at New York University’s Center on International Cooperation, March – July 2004.

⁸⁶⁵ (December 2004). *A More Secure World*: 59-74

⁸⁶⁶ *Ibid.*

If there are good arguments for preventive military action, with good evidence to support them, they should be put to the Security Council, which can authorize such action if it chooses to.⁸⁶⁷

Moreover, the potential power of intelligence to legitimise prevention extends beyond the limited parameters of the right to self-defence, according to the Panel's report. In situations where preventive military action is contemplated under Article 42 of the UN Charter, rather than Article 51, the Panel states that the credibility of evidence will determine whether or not pro-active measures should be taken. The Panel's report states:

Questions of legality apart, there will be issues of prudence, or legitimacy, about whether such preventive action *should* be taken: crucial among them is whether there is credible evidence of the reality of the threat in question (taking into account both capability and specific intent)...⁸⁶⁸

Indeed, the UN's global counter-terrorism strategy has specifically highlighted the need for an improved intelligence capability. In the section entitled 'Measures to prevent and combat terrorism', the UN strategy aims to 'intensify cooperation, as appropriate, in exchanging timely and accurate information concerning the prevention and combating of terrorism'.⁸⁶⁹ UN security strategy, therefore, requires intelligence not only to facilitate rational action in the face of covert and unconstrained threats to international peace and security, but to provide the evidence that is needed in order to legitimise controlling security strategies, in accordance with the UN Charter.

Post-9/11 Strategic Intelligence Capability

Counter-Terrorism Committee

After 9/11, the UN's conflict prevention agenda hardened. Security Council resolution 1373, passed on 28 September 2001, required member states to share 'information,

⁸⁶⁷ (December 2004). A More Secure World: 63

⁸⁶⁸ Ibid.: 64

⁸⁶⁹ (8 September 2006). UN General Assembly Resolution 60/288: The United Nations Global Counter-Terrorism Strategy.

especially regarding actions or movements of terrorist persons or networks... and the threat posed by the possession of weapons of mass destruction by terrorist groups' in order to 'prevent and suppress terrorist acts'. A UN Counter-Terrorism Committee (CTC) was established pursuant of resolution 1373 to fulfil this requirement. The role of the CTC is to enforce the provisions of resolution 1373, including the exchange of information in support of action to prevent terrorist attacks, as well as to uphold the 12 conventions on international terrorism.⁸⁷⁰ The CTC has the universal support of UN member states, and it represents the 15 members of the Security Council on terrorism issues.⁸⁷¹

In discharging its responsibilities, the CTC has a 'cycle' consisting of 3 stages.⁸⁷² Firstly, states report to the CTC on what they are doing in support of the 12 conventions and the requirements established by 1373.⁸⁷³ Secondly, experts recruited by the CTC identify gaps in the performance of states in fulfilling these requirements.⁸⁷⁴ And, thirdly, the CTC reports back to states on what further steps need to be taken in order to fulfill the requirements of 1373 and the terrorism conventions.⁸⁷⁵ The failure of the CTC to meet the demands of the new UN terrorism regime soon became apparent. In December 2003, a 'Problems' report was published by the Chairman of the CTC, which identified a broad range of weaknesses in the CTC's structure and procedures that impeded the effective implementation and enforcement of resolution 1373.⁸⁷⁶ Among the problems was the issue of poor information-sharing amongst CTC member states.⁸⁷⁷ Indeed, the problems facing the CTC over the matter of information-sharing are legion. Firstly, there are legal impediments that prevent the UN, an independent political body, from exchanging

⁸⁷⁰ (28 September 2001). UN Security Council Resolution 1373.

⁸⁷¹ (5 May 2004). Personal Interview with Axel Wennmann, Deputy Secretary of the UN Counter-terrorism Committee.

⁸⁷² Ibid.

⁸⁷³ Ibid.

⁸⁷⁴ Ibid.

⁸⁷⁵ Ibid.

⁸⁷⁶ Report by the Chair of the Counter-Terrorism Committee on the problems encountered in the implementation of Security Council resolution 1373 (2001)

⁸⁷⁷ Ibid.

information with other international and regional organisations.⁸⁷⁸ Such impediments are unique to the UN; the G8 Counter-Terrorism Action Group, for example, which is not a single political body but, rather, a loose association of like-minded states, can share information in ways that the UN's CTC cannot.⁸⁷⁹ The sensitive nature of the terrorism subject, and the need for secrecy, means that member states and the UN as an organisation are reluctant to share information.⁸⁸⁰ However, the most debilitating problem is that the CTC has no teeth, and what leverage it has is not applied: states are 'encouraged' to provide the required information in support of resolution 1373, but any state that refuses to comply will not be named and shamed.⁸⁸¹

Even when information flows, it is restricted to the Permanent 5 members of the Security Council, the US, UK, France, Russia and China.⁸⁸² The flow of information usually follows a route starting with the 'Permanent 2', the US and UK, through France, to Russia, and ending with China.⁸⁸³ Not only does this information route create tension amongst the P5, it also generates a resentment amongst the excluded non-permanent members that often slows down the work of the Security Council.⁸⁸⁴ A prime example of this is the negotiations over the content of resolution 1540 concerning terrorism and WMD proliferation, which were prolonged because obstinate non-permanent Security Council members obstructed proceedings by refusing to engage in talks, angered as they were residing outside the terrorism/WMD information loop, which circulated according to the usual P2-France-Russia-China route.⁸⁸⁵

As for an intelligence capacity, the CTC has none. The job of the CTC is to gather and use 'information, especially regarding actions or movements of terrorist persons or networks... and the threat posed by the possession of weapons of mass destruction by

⁸⁷⁸ (5 May 2004). Personal Interview with Axel Wennmann, Deputy Secretary of the UN Counter-terrorism Committee.

⁸⁷⁹ Ibid.

⁸⁸⁰ Ibid.

⁸⁸¹ Ibid.

⁸⁸² Ibid.

⁸⁸³ Ibid.

⁸⁸⁴ Ibid.

⁸⁸⁵ Ibid.

terrorist groups', in order to 'prevent and suppress terrorist acts'.⁸⁸⁶ Despite this and the fact that the CTC is a committee operating under Chapter VII of the UN Charter to implement the provision of Security Council resolution 1373 and the terrorism conventions, the CTC is said to be 'not concerned with intelligence or law enforcement'.⁸⁸⁷ The CTC does operate in secret, but the secrecy of the CTC's work is due to legal and political considerations, rather than the need to protect knowledge of intelligence sources and methods, which the CTC does not possess.⁸⁸⁸ States are reluctant to share intelligence with other member states within the UN framework. Firstly, as discussed in Chapter 3, despite the internationalization of intelligence targets, intelligence power is viewed by many to be the last pure expression of national sovereignty, and great efforts are made to ensure that it is not deferred or compromised through uncontrolled dissemination of sensitive material.⁸⁸⁹ The UN employs international staff with allegiances to national governments, so any UN intelligence capability will inevitably be contaminated by state politics.⁸⁹⁰ The UNSC would continue to find it difficult to reach agreement on issues even with an in-house UN intelligence capability, because of the political nature of the UN decision-making process. The UN is a political organisation, and all decisions reflect the national interests of states, not the veracity of intelligence material. As one UN official put it, 'there is no added value in involving the UN Security Council in intelligence matters'.⁸⁹¹

Secondly, aside from the issue of intelligence as an expression of national sovereignty, the UN as an organisation is not well placed to deal with intelligence. The Security Council does not like 'standing groups' that exist as permanent fixtures in the UN furniture, which a UN intelligence organisation would most probably have to be.⁸⁹² Bestowing the CTC with an intelligence capability would set a precedent that Security Council members would rather avoid, preferring as they do temporary, ad hoc and flexible committees build on merit, fit for purpose, and adaptable and flexible to

⁸⁸⁶ (28 September 2001). UN Security Council Resolution 1373.

⁸⁸⁷ (5 May 2004). Personal Interview with Axel Wennmann.

⁸⁸⁸ Ibid.

⁸⁸⁹ Ibid.

⁸⁹⁰ Ibid.

⁸⁹¹ Ibid.

⁸⁹² Ibid.

their wills.⁸⁹³ Were the CTC to become responsible for dealing in intelligence matters, the nature of its character and parameters would scrape against the grain of UN tradition, and restrict the freedom to move so valued by Security Council members.⁸⁹⁴ For these reasons, the UN in general and the CTC in particular have not raised the issue of intelligence, despite the fact that the CTC requires and desires much better information-sharing processes, and higher quality of information relating to terrorism and WMD threats. Security Council resolution 1535, passed on 24 March 2004 sought to revitalise the CTC, and created an Executive Directorate headed by a Director charged with supervising the ‘collection of all information for the follow-up of the implementation of UNSCR 1373’. However, resolution 1535 does not address the issue of intelligence in support of a controlling security strategy under Chapter VII of the UN Charter.

Resolution 1540

Resolution 1373 laid down the requirement for ‘information, especially regarding actions or movements of terrorist persons or networks... and the threat posed by the possession of weapons of mass destruction by terrorist groups’.⁸⁹⁵ However, it wasn’t until 28 April 2004 that the issues of terrorism and WMD proliferation were brought together to form an identifiable threat matrix. Resolution 1540 declares that the Security Council is:

1. Gravely concerned by the threat of terrorism and the risk that non-State actors... may acquire, develop, traffic in or use nuclear, chemical and biological weapons and their means of delivery; and,
2. Gravely concerned by the threat of illicit trafficking in nuclear, chemical, or biological weapons and their means of delivery, and related materials, which adds a new dimension to the issue of proliferation of such weapons and also poses a threat to international peace and security.⁸⁹⁶

⁸⁹³ (5 May 2004). Personal Interview with Axel Wennmann.

⁸⁹⁴ Ibid.

⁸⁹⁵ (28 September 2001). UN Security Council Resolution 1373.

⁸⁹⁶ (28 April 2004). UN Security Council Resolution 1540.

The resolution also states the recognition of the 'need to enhance coordination of efforts on national, sub-regional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security'.⁸⁹⁷ In light of these concerns and requirements, resolution 1540 imposes three major obligations on states. These are:

1. To refrain from providing any support to non-state actors who are attempting to manufacture, possess, transport or use WMD and their means of delivery;
2. To prohibit in their domestic law any such activities by non-state actors, particularly for terrorist purposes, and to prohibit any assistance or financing of such activities;
3. To adopt domestic measures to prevent the proliferation of WMD, their means of delivery and related materials, including by accounting for and physically protecting such items; establishing and maintaining effective border controls and law enforcement measures; and reviewing and maintaining national export and trans-shipment controls (with appropriate criminal or civil penalties).

Just as the CTC was established to implement resolution 1373, the '1540 committee' was created to enforce the provisions of resolution 1540, on a mandate lasting 2 years. The prospect of the 1540 committee had brought hope to those associated with terrorism issues at the UN that a better information system could be instituted.⁸⁹⁸ However, the 1540 committee is struggling to overcome the problems with information sharing and intelligence co-operation experienced by the CTC, hampering the development of a credible UN controlling security strategy in the face of a terrorism-WMD threat to international peace and security.⁸⁹⁹

CONCLUSIONS

After 9/11, the UK, US and UN aim to meet the challenge of prevention through proactive mechanisms in the face of a perceivable terrorism-WMD threat nexus. The 9/11 attacks highlighted the need to bolster intelligence capabilities to fulfil the requirements

⁸⁹⁷ (28 April 2004). UN Security Council Resolution 1540.

⁸⁹⁸ (5 May 2004). Personal Interview with Axel Wennmann.

⁸⁹⁹ Ibid.

of controlling security strategies that seek to prevent threats prior to their materialisation. The Iraq fiasco reinforced the importance of intelligence assessments in decision-making processes in view of terrorism-WMD threats to international peace and security. The capabilities of the UK, US and UN to fulfil the intelligence requirements of controlling security strategies, however, vary in significant degrees. The UK has attempted to fulfil the intelligence requirements of a post-9/11 controlling security strategy by improving its established intelligence machinery with the creation of the Joint Terrorism Analysis Centre, intelligence agency reforms and the creation of a Professional Head of Intelligence Analysis, which spearheads the UK's efforts to strengthen its intelligence analysis and assessment capabilities. The US has created new institutions to adapt the US intelligence community to the post-9/11 strategic reality, including the National Clandestine Service, which seeks to address intelligence collection weaknesses, and the NCTC, which is intended to boost analysis and assessment capabilities in the face of the 'new' terrorism threat. The appointment of a US Director of National Intelligence provides direction for a national intelligence strategy that aims to underpin the US effort to prevent attacks. The UN, however, whilst maintaining its Situation Centre, fails to fulfil the intelligence requirements of a controlling security strategy that seeks to meet its challenge of prevention. The UN Counter-Terrorism and 1540 committees lack any serious intelligence capability to support decision-making processes in view of an acknowledged terrorism-WMD threat to international peace and security.

CHAPTER SIX

Intelligence Power and Prevention: Implications for International Order and Intelligence Affairs

INTRODUCTION

The differentials in the levels of intelligence power between the UN and states such as the UK and US entail significant implications for international order. The UN is uniquely responsible for legitimising responses to international security threats, and has adopted a controlling security strategy to pro-act against threats that demand prevention. However, its lack of any serious strategic intelligence capability means that the UNSC is unable to implement a serious controlling security strategy, considering the intimate relationship between information and prevention: an actor is incapable of preventing what it is incapable of anticipating. With no means of assessing information of threats prior to their materialisation, the UNSC has no means of acting pro-actively in order to prevent acts of aggression. Given the imperative to prevent acts of terrorism, especially considering the risk of terrorism involving WMD, the UNSC is not well placed to determine and respond to the pre-eminent threats to international peace and security today.

States, like the UK and US, with established and adaptive strategic intelligence capabilities are better placed to make decisions based on the assessment of information of threats, and respond to them pro-actively in line with the aims of their respective controlling security strategies. However, they are not well placed to legitimise controlling security strategies. Unilateral intelligence-driven state practice that seeks to

prevent threats through pro-active mechanisms contravenes the logic of the *Caroline* formula and the provisions of the UN Charter. Rational action in the post-9/11 strategic reality, therefore, does not mean legitimate action. This rational action/legitimate action astigmatism undermines international order by creating discord between action undertaken in line with security goals entailed by material reality and what is socially acceptable behaviour, as prescribed in international law. In the post-9/11 world, values have not been constructed around material realities and, consequently, international order has been weakened. International law has lost the authority and control over state practice, because legitimising institutions are incapable of facilitating rational action in the face of threats that demand prevention.

Intelligence-driven controlling state practice that bypasses the UNSC and contravenes international law represents rational responses to strategic realities that fail to fit into existing legitimising processes. Without the capability to legitimise pro-action based on the assessment of information of potential attacks, as opposed to reaction based on observation of actual attacks, the UNSC is incapable of facilitating rational action in the post-9/11 strategic reality. The UNSC is incapable of acting in accordance with the aims of its own controlling security strategy. The consequences of this incapability are increased unilateralism and a decline in the power of the UNSC to constrain state behaviour. In order for international order to be maintained in the post-9/11 strategic reality, the UNSC needs to develop an intelligence-assessment capability that will help to enable it to facilitate and legitimise pro-action against anticipated threats in line with its and other states' strategic goals.

Differentials in levels of intelligence power also entail significant implications for the role of intelligence in the maintenance of international order. The power of intelligence to facilitate and legitimise prevention has direct consequences on intelligence knowledge, activity and organisation. In order to facilitate prevention of threats to international security, intelligence knowledge needs to be international in scope: international dots require the drawing of international lines if they are to be joined and responded against effectively. This expansion of intelligence knowledge requires an increase in levels of international co-operation in the intelligence sphere. Indeed, as

David Handley has claimed, the post-9/11 world is an era of intelligence interdependence.⁹⁰⁰ In terms of activity, state-based collection activities need to be complemented by international analytical and assessment activities, so that the appropriate type of intelligence knowledge is produced. The dissemination of intelligence assessments to international customers, including the President of the UNSC and the UN Secretary-General, also needs to occur as part of collective intelligence machinery that supports international decision-making processes. This collective intelligence machinery requires new organisational structures at the international level. And, in order to legitimise prevention, intelligence material will need to be able to provide evidence for UNSC threat determination purposes, and be credible in the eyes of its international and public customers.

This chapter has two sections. Section one examines the implications of intelligence power differentials for international order considering the imperative of prevention, focusing on the impact intelligence power differentials have on the rational and legitimate management of threats that demand prevention through pro-active controlling security strategies. The case of the 2006/07 Ethiopian invasion of Somalia is examined, as well as the threat posed by Iran's suspected proliferation of WMD. Section two examines the implications of the imperative of prevention on intelligence power, focusing on the way in which the need to facilitate and legitimise prevention of threats to international security has impacted on the role of intelligence power, as well as issues of intelligence co-operation and credibility.

SECTION 1: IMPLICATIONS FOR INTERNATIONAL ORDER

Implications for Rational Action

The assumption that an adversary is undeterred by the provisions of international law entails a security strategy that seeks to control risk through pro-action. Controlling

⁹⁰⁰ Handley, D. (2006). Internationalising Intelligence Sharing.

security strategies that aim to prevent attacks by apparently incoercible threats depend on information to determine threats that have yet to fully materialise. Anticipating threats is a core function of intelligence organisations, and controlling security strategies have vital intelligence requirements. The capability to control unconstrained threats and mitigate the risk of attacks is essential to actors' ability to act rationally in a post-9/11 strategic reality, in the face of threats that appear to have no intention of complying with the *status quo*. The framework provided for by the *Caroline* formula, which defines the logical structure of the self-defence and collective security institutions, fails to furnish states with the mechanisms required to act rationally against perceivable security threats. The constraints imposed by the *Caroline* formula are encouraging states to undertake unilateral action to promote security goals, considering the UNSC's lack of intelligence-assessment capability. The onus is on states to demonstrate necessity through the analysis and assessment of information pertaining to potential attacks, rather than actual attacks, and act proportionately against risk that is hard to quantify in strategic terms. Proportionality is less easy to demonstrate considering that the achievement of strategic objectives necessary to the elimination of a transnational, ideologically-driven terrorist threat is much harder to display.

Real-world consequences of the problematic nature of the *Caroline* formula in the face of the post-9/11 terrorist threat were revealed at the end of 2006 and the start of 2007, when Ethiopia invaded Somalia to prevent an attack by the Union of Islamic Courts (UIC).⁹⁰¹ The threat posed by the UIC was determined through the assessment of information, not through the observation of an actual attack by UIC militants against the Ethiopian state. The Ethiopian action, which was initially bolstered by US troops and later accompanied by a US military campaign inside Somalia, was pro-active in the face of intolerable risk that demanded controlling.⁹⁰² The Ethiopian and US

⁹⁰¹ (24 December 2006). "Ethiopia admits Somalia offensive." from <http://news.bbc.co.uk/1/hi/world/africa/6207427.stm>.

⁹⁰² (9 January 2007). "Why US fears Somali 'terror' ties." from <http://news.bbc.co.uk/1/hi/world/africa/6243907.stm>.

action was strictly in contravention of the self-defence and collective security institutions: the invasion of Somalia was not in reaction to an attack that had already occurred, and the UNSC had not authorised the use of force. However, Ethiopia, the US and the Somali Transitional Federal Government (TFG), as well as a host of international leaders and organisations, sympathised with the rationality of the action in light of the nature of the UIC threat.⁹⁰³ The necessity and proportionality of the Ethiopian/US pro-action is difficult to ascertain, considering that no UIC attack had occurred.

The Case of Ethiopia's Invasion of Somalia

Somalia's Union of Islamic Courts was formed in 2000 as an umbrella organisation for a number of Islamic courts and groups that rivalled Somalia's Transitional Federal Government. By June 2006, the UIC controlled most of southern Somalia and the vast majority of its population, including Somalia's capital Mogadishu.⁹⁰⁴ The leader of the UIC, Hassan Dahir Aweys, is listed as a terrorist by the US Department of State. Aweys is the former head of the al-Qaida-linked terrorist group al-Itihaad al-Islamiya (AIAI), which, according to US authorities, was involved in the 1998 al-Qaida bombing of US embassies in Nairobi and Dar es Salaam.⁹⁰⁵ The UIC has been accused of sheltering al-Qaida operatives, including three individuals suspected of carrying out the 1998 US embassy bombings, Fazul Abdullah Mohammed, Saleh Ali Saleh Nabhan and Abu Taha al-Sudani.⁹⁰⁶ In July 2006, Aweys called on the Somali people 'to wage a holy war against Ethiopians in Somalia'.⁹⁰⁷ On 9 October 2006, Aweys' declaration of jihad extended to the country of Ethiopia itself.⁹⁰⁸ And, on 21 December 2006, Aweys,

⁹⁰³ (26 December 2006). "Ethiopia action in Somalia backed." from <http://news.bbc.co.uk/1/hi/world/africa/6209325.stm>.

⁹⁰⁴ (28 December 2006). "Somali troops enter capital city." from <http://news.bbc.co.uk/1/hi/world/africa/6214379.stm>.

⁹⁰⁵ (9 January 2007). "Why US fears Somali 'terror' ties."

⁹⁰⁶ Ibid.

⁹⁰⁷ (21 July 2006). "Somali Islamist orders 'holy war'." from <http://news.bbc.co.uk/1/hi/world/africa/5204212.stm>.

⁹⁰⁸ (9 October 2006). "Somalis vow holy war on Ethiopia." from <http://news.bbc.co.uk/1/hi/world/africa/6032907.stm>.

declared that Somalia was in a state of war, and urged all Somalis to 'take part in this struggle against Ethiopia'.⁹⁰⁹

On 24 December 2006, in anticipation of a UIC attack, Ethiopian Information Minister Berhan Hailu declared that the Ethiopian government had taken 'self-defensive measures' against the Union of Islamic Courts and 'foreign terrorist groups' in Somalia.⁹¹⁰ A day after Ethiopian troops crossed into sovereign Somali territory, the Ethiopian Prime Minister Meles Zenawi claimed that the invasion was 'completely legal and proportional' and 'forced by the circumstances'.⁹¹¹ The situation was described as 'complex' by US acting ambassador to the UN Alejandro Wolff.⁹¹² Indeed, after speedy Ethiopian success in driving UIC forces out of Mogadishu and the other major cities, the US added further to the complexity of the situation by entering into the conflict. On 8 January 2007, the US began conducting air strikes in Somalia based on 'credible intelligence' of al-Qaida leaders operating in the region.⁹¹³

The link between the UIC and al-Qaida was made publicly available for the world to see on the 5 January 2007, when al-Qaida deputy Ayman al-Zawahiri was heard in an audio message encouraging the Somali Islamists to fight on, and calling on all Muslims to wage jihad in Somalia. Al-Zawahiri appealed to 'the lions of Islam' in Yemen, the Arab Peninsula, Egypt, Sudan, the Arab Maghreb, and 'everywhere in the Muslim world to rise up to aid their Muslim brethren in Somalia'.⁹¹⁴

The reaction of the African Union to the Ethiopian invasion was generally sympathetic to Ethiopia. On 26 December 2006, Patrick Mazimhaka, the deputy chairman of the AU's Commission, told the BBC that the African Union would not

⁹⁰⁹ (24 December 2006). "Ethiopia admits Somalia offensive."

⁹¹⁰ Ibid.

⁹¹¹ (5 December 2006). "Ethiopia PM admits Somalia action." from <http://news.bbc.co.uk/1/hi/world/africa/6208373.stm>.

⁹¹² (28 December 2006). "Somalia peace hopes stalled at UN." from <http://news.bbc.co.uk/1/hi/world/africa/6213341.stm>.

⁹¹³ (9 January 2007). "US 'targets al-Qaeda' in Somalia." from <http://news.bbc.co.uk/1/hi/world/africa/6245943.stm>.

⁹¹⁴ (5 January 2007). "'Al-Qaeda' call for Somalia jihad." from <http://news.bbc.co.uk/1/hi/world/africa/6234167.stm>.

criticise Ethiopia as it had 'given us ample warning that it feels threatened by the UIC', adding that 'it is up to every country to judge the measure of the threat to its own sovereignty'.⁹¹⁵ Mazimhaka admitted that the AU had failed to act in time to prevent the threat posed by the UIC.⁹¹⁶ The UNSC was equally wrong-footed by the Ethiopian action. On 28 December 2006, the UNSC failed for a second time to agree on a statement calling for the withdrawal of Ethiopian and other foreign forces from Somalia.⁹¹⁷ Positive statements were made by some leaders in support of Ethiopian and US action in Somalia. British Prime Minister Tony, for instance, claimed that Ethiopia's pro-action was justified because the 'extremists who have been using methods of violence in order to get their way in Somalia pose a threat not just to the outside world but to people in Somalia as well', before declaring that 'we should be there standing up and supporting those who are combating that terrorism and giving people the chance to live in better circumstances'.⁹¹⁸ Somalia's interim President, Abdullahi Yusuf Ahmed, said the US had the right to bomb those who had attacked its embassies.⁹¹⁹

However, the controversial Ethiopian and US action attracted criticism. Italian foreign minister Massimo d'Alema said the Italian government opposed the 'unilateral initiatives that could spark new tensions'.⁹²⁰ The newly-installed UN Secretary General Ban Ki-moon expressed 'concern' that the air strikes could lead to an escalation of hostilities.⁹²¹ In addition, Salim Lone, the UN spokesman in Iraq in 2003, condemned the 'illegal war of aggression' by Ethiopian and US forces.⁹²² Lone claimed that the invasion was 'a clear violation of international law'.⁹²³ The US administration dismissed

⁹¹⁵ (26 December 2006). "Ethiopia action in Somalia backed."

⁹¹⁶ (26 December 2006). "African Union tested over Somalia." from <http://news.bbc.co.uk/1/hi/world/africa/6209583.stm>.

⁹¹⁷ (28 December 2006). "Somalia peace hopes stalled at UN."

⁹¹⁸ (10 January 2007). "In quotes: Reaction to Somali strikes." from <http://news.bbc.co.uk/1/hi/world/africa/6248847.stm>.

⁹¹⁹ (9 January 2007). "US 'targets al-Qaeda' in Somalia."

⁹²⁰ (10 January 2007). "In quotes: Reaction to Somali strikes."

⁹²¹ Ibid.

⁹²² Lone, S. (30 December 2006). International lawlessness. *The Guardian*.

⁹²³ Ibid.

the international criticism, claiming that it was imperative 'to defend the US and the international community from further al-Qaeda attacks'.⁹²⁴

The Ethiopia vs. UIC case demonstrates unilateral state practice to control security threats that are not currently manageable by existing UN processes. Without the capability to determine threats based on the assessment of information, the UNSC is incapable of facilitating pro-active responses to prevent potential attacks by aggressive non-state actors that have no interest in observing the rules of international society. In the post-9/11 strategic reality, the right to self-defence has been extended *de facto* in the face of new threats to international peace and security posed by extremist transnational networks that slip through the net of the existing machinery of collective security. The extension of the right to self-defence to include pro-active mechanisms that seek to prevent anticipated attacks signifies the inefficacy of the UN security institutions to promote security goals. It also undermines the control and authority of international law over state practice, and encourages unconstrained unilateralism at a time when transnational threats demand a multilateral response that protects, rather than challenges, international order.

The Case of Iran's WMD Threat

The rational action/legitimate action astigmatism affects cases where action might need to be taken in the future. In 2005, a US National Intelligence Estimate indicated that Iran's military is conducting clandestine work, through its energy programme, to acquire and master technologies that could assist in the development of nuclear bombs.⁹²⁵ At the time, the media reported that a senior intelligence official familiar with the 2005 NIE on Iran, the latest since 2001, said that 'it is the judgement of the intelligence community that, left to its own devices, Iran is determined to build nuclear weapons'.⁹²⁶ Sources of the Washington Post said that US intelligence considers 2015 to be a realistic date to expect Iran to achieve nuclear fission, in line with British and

⁹²⁴ (10 January 2007). "US denies southern Somali attacks." from <http://news.bbc.co.uk/1/hi/world/africa/6247111.stm>.

⁹²⁵ Linzer, D. (2 August 2005). Iran Is Judged 10 Years From Nuclear Bomb.

⁹²⁶ Ibid.

Israeli estimates.⁹²⁷ On 1 July 2005, a leaked intelligence assessment, drawing on British, French, German and Belgian reporting, concluded that Iran has developed an extensive network of front companies, official bodies, academic institutes and middlemen dedicated to purchasing the expertise, training, and an assortment of equipment required for the development of nuclear, chemical and biological programmes, including deployment systems.⁹²⁸ The assessment reported that 'Iran continues intensively to seek the technology and know-how for military applications of all kinds', concentrating on improving the specifications and range of its Shahab-3 missile, which currently has a range of 750 miles.⁹²⁹ Even at its present range, the Shahab is capable of reaching Israel, which Iranian president Mahmoud Ahmadinejad has said should be 'wiped off the map'.⁹³⁰

In the words of Timothy Garton Ash: 'Now we face the next big test of the west: after Iraq, Iran'.⁹³¹ In the face of a perceivable threat posed by Iran's suspected development of a WMD programme, the necessity and proportionality of a response will need to be demonstrated through the assessment of information. In order to satisfy the legitimisation processes of international society, the threat posed by Iran and any response against it will need to be determined by the UNSC. To avoid a repeat of the Iraq fiasco, the UNSC must be capable of empowering its decision-making process with an intelligence assessment capacity so that any pro-action that might be deemed rational has the opportunity to be legitimised, or rejected on credible grounds. It is no good for the UNSC to rap Tehran 'over the knuckles' and impose ineffective sanctions only for Iran to continue to enrich uranium in defiance of international will.⁹³² This situation will serve to further undermine the credibility and efficacy of the UN in the post-9/11 strategic reality, and encourage unilateralism in the face of

⁹²⁷ Linzer, D. (2 August 2005). Iran Is Judged 10 Years From Nuclear Bomb.

⁹²⁸ Cobain, I. and I. Traynor (4 January 2006). Secret services say Iran is trying to assemble a nuclear missile. The Guardian.

⁹²⁹ Ibid.

⁹³⁰ (27 October 2005). "Iran leader's comments attacked." from http://news.bbc.co.uk/1/hi/world/middle_east/4378948.stm.

⁹³¹ Ash, T. G. (January 12 2006). Let's make sure we do better with Iran than we did with Iraq. The Guardian.

⁹³² Ibid.

perceivable threats that demand prevention, in the manner of the Iraq invasion in 2003.

Indeed, the situation involving US action against Iran could possibly be even graver than the current Iraq situation. In 2006, investigative journalist Seymour Hersh claimed that the Bush administration is planning to use nuclear weapons against Iran, in order to prevent it from acquiring a nuclear capability.⁹³³ The use of tactical nuclear weapons, Hersh claimed, was due to the lack of reliable intelligence about Iranian underground facilities, which was fuelling pressure for tactical nuclear weapons to be included in the strike plans as the only guaranteed means to destroy all the sites simultaneously.⁹³⁴ Indeed, the need to focus on intelligence is urgent in order to facilitate rational responses to the Iranian crisis, and constrain actors whose responses might be irrational.

Implications for Legitimate Action

Legitimising rational responses, and increasing the chance of averting irrational responses, to challenges such as Iran's WMD programme depends on the integration of intelligence in collective security machinery. The existence of intelligence differentials between states means that capabilities to anticipate threats are not evenly distributed. Currently, the UNSC has no or very limited capability to anticipate threats, and this has led to a serious deficiency in UN security strategy which has, in turn, undermined the role of the UN in international security affairs after 9/11 and encouraged unilateral, intelligence-driven pro-action against threats that the UNSC is unable to determine and manage effectively. In line with the imperative of prevention is the imperative to collate intelligence that has the potential power to facilitate and legitimise prevention. In the case of Iran, it is vital that states share intelligence so that common analysis of the issue is achieved and a collective assessment of the threat reached, preferably under the auspices of the UNSC. As Garton Ash has remarked, European states have much intelligence to offer a US administration that is apparently

⁹³³ Hersh, S. M. (17 April 2006). The Iran Plans. The New Yorker.

⁹³⁴ Ibid.

starved of intelligence assets in Iran.⁹³⁵ In light of wrong US and UK assessments of Iraqi WMD programmes, increased intelligence co-operation at the international level is essential to challenging conventional wisdom, avoiding 'group-think', and promoting, as far as it is possible, accurate, informed and objective conclusions. Given that in 2005, General Michael V. Hayden, then director of national intelligence, said that NIE process would have 'a higher tolerance for ambiguity', a greater degree of consultation with intelligence partners is required in cases where intelligence has the potential power to facilitate and legitimise preventive responses to threats to international peace and security.⁹³⁶

The Ethiopian invasion of Somalia bypassed the legitimising processes of the UN Charter, because neither the self-defence nor the collective security institutions are configured to legitimise controlling security strategies. However, legitimacy is essential to the maintenance of international order. Socially-agreed values need to fit with security strategies that aim to achieve material goals. At the current juncture, the socially-agreed *Caroline* formula does not fit with the imperative of prevention, and the security institutions of international order are unable to facilitate and legitimise controlling security strategies that seek to pro-act against threats in line with the imperative of prevention. The UNSC, with no intelligence capacity capable of anticipating attacks, is badly-poised to undertake pro-active action in the face of threats that demand prevention. The consequence of this situation is an increase in unilateralism that is succeeding in challenging international order, considering the existence of a UN framework that is losing control and authority over state practice that aims to prevent anticipated threats from materialising. The case of Iran's WMD threat is set to further challenge the international community to resolve the rational action/legitimate action astigmatism in order to facilitate an effective response to a threat in development.

⁹³⁵ Ash, T. G. (January 12 2006). Let's make sure we do better with Iran than we did with Iraq.

⁹³⁶ Linzer, D. (2 August 2005). Iran Is Judged 10 Years From Nuclear Bomb.

The case of the US/UK invasion of Iraq has been used in this study as an example of illegitimate, intelligence-justified state practice that sought to prevent a perceivable threat, in line with post-9/11 strategic goals. Although the rationality of the US/UK pro-action is understandable within the context of the post-9/11 strategic reality, the bypassing of UN legitimisation processes challenged international order and split international opinion. The fact that the intelligence that provided the rationale for the 2003 Iraq war turned out to be wrong intensified the level of controversy surrounding the case. However, the intelligence that indicated that Iraq was conducting WMD activity was widely believed before an unfettered survey of Iraqi WMD programmes was possible after military action had taken place.⁹³⁷ As David Kay stated, the determination of Iraqi WMD 'based on the intelligence that existed' was reasonable.⁹³⁸ As such, the necessity of pro-action was arguably demonstrable. A major problem of legitimising prevention arises with the credibility of information pertaining to potential threats. The requirement of trust is a 21st century addition to the 19th century *Caroline* formula, and essential in the post-9/11 environment where problems of perception of threats that, as Gow claims, 'might be unperceived, but nonetheless perceptible in principle', or 'are perceived by some, but remain imperceptible to others, who might well be sceptical', complicate threat determinations.

Indeed, the role of intelligence in determining threats in the post-9/11 world, and differentials in capabilities to do so, has significant implications for the UN's legitimisation processes. Firstly, despite the tarnished record of intelligence given the Iraq fiasco, just because threats are determined through the assessment of intelligence doesn't mean threats do not exist. As the authority uniquely responsible for determining and responding to threats to international peace and security, and given the UN's recognition of the imperative pro-act to prevent threats, the UNSC must be capable of determining threats prior to their materialisation. One of the reasons for the controversy over Iraq was the UN's lack of systematic procedure to deal with intelligence that indicated a perceivable threat to international peace and security. And,

⁹³⁷ (28 January 2004). (28 January 2004). "Testimony of David Kay before the US Senate Armed Services Committee."

⁹³⁸ Ibid.

secondly, cases similar to Iraq will likely arise again. It is tempting to think that Iraq was a one-off case fuelled by a neo-conservative agenda. However, the Ethiopian invasion of Somalia indicates that controlling security strategies that seek to mitigate risk is a feature of the post-9/11 world, rather than a neo-conservative programme. Indeed, the case of the suspected threat posed by Iran's WMD programmes closely mirrors the case of Iraq, and the UN must be capable of dealing with intelligence matters in order to be better placed to constrain unilateral pro-action, facilitate rational action in the face of ambiguous threats and reassert the control and authority of international law.

Collective Security: Collective Intelligence?

The imperative to prevent threats to international peace and security after 9/11 establishes a new dimension to collective security. No longer adequate as an exclusively reactive mechanism, collective security needs to be pro-active in order to achieve strategic aims and promote security goals in the face of perceivable unconstrained and incoercible threats. Collective security machinery that lacks the capacity to anticipate threats is incapable of pro-acting against threats that demand prevention in the post-9/11 world and, therefore, less able to assert control and authority over state practice that seeks to mitigate risk. In order for collective security to function in light of the imperative of prevention, collective security machinery needs to have an intelligence dimension. After 9/11, collective security means collective intelligence.

Arguments for a UN intelligence capability are not particularly new. In 1997, Walter Dorn, who has written prolifically on the subject, argued for an early warning system to support UN peacekeeping operations in his article 'An Ounce of Prevention: UN Early Warning System Needed'. Even in 1997, Walter Dorn remarked on the strategic dysfunction of the UN in light of its agenda of preventive diplomacy:

The UN currently functions as a reactive body and not a proactive one. Its limited capability is used to follow current events, not anticipate future ones. The UN practice has been to wait for conflicts to escalate before reacting. Instead, the world community, centred on and working through a strengthened UN, should get involved earlier.⁹³⁹

In the volume *Peacekeeping Intelligence: Emerging Concepts for the Future*, Pauline Neville-Jones, former chair of the JIC, provided a forward in which she led a charge of essays highlighting the requirement of operational intelligence in peacekeeping missions, claiming that '[t]he more ambitious the multinational operation and/or hostile the environment in which it takes place, the more the forces involved will need to be able to rely on effective intelligence co-operation'.⁹⁴⁰ Off the back of this, Neville Jones also identified the importance of intelligence co-operation in the post-9/11 era:

In the so-called war against terror, the level of active international co-operation among civilian authorities and intelligence agencies has been stepped up considerably, including between governments not traditionally thought of as natural partners in such matters. Such co-operation no doubt increases the risk of compromise of sources, but has to be accepted in the interests of effective action.⁹⁴¹

Requirements for tactical intelligence for multinational peacekeeping operations, like any other military operation, are obvious and have been well highlighted by advocates such as Walter Dorn, Robert David Steele, David Charters, Hugh Smith and Paul Johnston, as well as Michael Herman and others.⁹⁴² However, despite the relevance of these arguments, this thesis is primarily concerned with the UN's overall strategic, not simply operational, intelligence capabilities. Whilst there are intelligence requirements for UN peacekeeping operations that support *coercive* security strategies, the focus of this study is on the unfulfilled strategic requirements of the UN's *controlling* security strategy, and its impact on collective security machinery. What is new is the requirement of intelligence within collective security machinery that supports strategic,

⁹³⁹ Dorn, W. A. (1997). "An Ounce of Prevention: UN Early Warning System Needed." *SGI Quarterly* April(8): 25

⁹⁴⁰ De Jong, B., W. Platje, et al., Eds. (2003). *Peacekeeping Intelligence: Emerging Concepts for the Future*. Oakton, OSS International Press: vi

⁹⁴¹ Ibid.: vi

⁹⁴² See Ibid.

rather than tactical, decision-making in light of the imperative of prevention and the emergence of controlling security strategies that aim to prevent anticipated threats, potentially through the pro-active use of force.

Indeed, the potential power of intelligence to facilitate and legitimise prevention has already internationalised intelligence in a number of ways. Firstly, as this study has argued, threats to international peace and security, the management of which is the business of the UNSC, have become intelligence targets. Considering the imperative of prevention, information on international security threats is required in order to manage threats to international peace and security. Secondly, the roles of intelligence power have internationalised intelligence knowledge, activity and organisation. Controlling security strategies operating at the international level require intelligence knowledge of threats to international peace and security that is produced by analysis and assessment achieved by intelligence organisations that are international in scope. As Pauline Neville-Jones commented, international intelligence co-operation has reached unprecedented levels after 9/11, in view of the realisation that no single state is capable of ensuring its security alone.⁹⁴³ In the post-9/11 strategic reality, intelligence requirements, as well as intelligence targets, have internationalised.

What hasn't internationalised is intelligence power, as demonstrated by the existence of intelligence power differentials between states like the UK and US, and the UN. The UN has collective security machinery, but it has no collective intelligence machinery that has the capacity to facilitate and legitimise controlling security strategies. There is, therefore, a disjunction between the strategic aims of the UN and the strategic capabilities of the UN, which has undermined the credibility and efficacy of collective security machinery and encouraged unilateralism. This is despite increases in international intelligence co-operation in the face of the internationalisation of intelligence targets and intelligence requirements. What is needed in the post-9/11 world is the institutionalisation of existing international intelligence co-operation, so that rational action that serves strategic aims and the legitimisation processes of international society can be effectively joined. An international intelligence capability

⁹⁴³ De Jong, B., W. Platje, et al., Eds. (2003). Peacekeeping Intelligence: Emerging Concepts for the Future.

that is institutionalised at the UN level is required to empower collective security machinery to facilitate and legitimise controlling security strategies that seek to pro-act against threats in line with the imperative of prevention.

The first essential development that needs to take place, however, is not organisational, it is cultural. The UN has been forced by the post-9/11 security reality to take intelligence seriously, and view intelligence positively in terms of decision-making support. Intelligence has changed remarkably since the days of the Cold War, and the attitudes of the UN must reflect this change. Robert David Steele, an erstwhile CIA official and currently an energetic campaigner for intelligence reform, provides a useful framework to understand the 'new intelligence paradigm' that involves an active UN role.⁹⁴⁴ Whilst the old intelligence paradigm of the Cold War emphasised unilateral, mostly secret and mostly technical intelligence collection driven by policy, the new intelligence paradigm of the 21st century emphasises multilateral, mostly public and mostly human intelligence analysis that drives policy.⁹⁴⁵ According to Steele, the UN's approach to 'toe-tip forward 'information' functions in a vain attempt to achieve intelligence, while refusing to take seriously the value of intelligence as a craft, as a process, and as an emerging profession' is 'one of classic denial'.⁹⁴⁶ In light of the aims of its controlling security strategy, the UN depends on embracing the power of intelligence to facilitate the effective management of international security and shedding the skin of its past relationship with intelligence practice.

Organisational changes are, however, vital. In order for the legitimisation of controlling security strategies and the maintenance of international order in the post-9/11 strategic reality, intelligence needs to be organised at the international level and integrated into collective security machinery. As the report of the UN High Level Panel for Threats, Challenges and Change concluded, the security institutions of international order do not require substantial tweaking: Chapter VII of the UN Charter

⁹⁴⁴ Steele, R. D. (2003). *Information Peacekeeping and the Future of Intelligence*. Peacekeeping Intelligence: Emerging Concepts for the Future. B. De Jong, W. Platje and R. D. Stelle. Oakton, OSS International Press.

⁹⁴⁵ Ibid.

⁹⁴⁶ Ibid.: 212

allows for action taken in anticipation of attacks, providing the UNSC is capable of determining threats through the assessment of evidence.⁹⁴⁷ The problem currently is the incapacity of the UNSC to determine threats through the assessment of information. The injection of intelligence into the arm of the UNSC will strengthen collective security machinery, in line with the aims of its controlling security strategy, and increase the chance of resolving the rational action/legitimate action astigmatism in the face of threats that demand prevention.

A number of suggestions have been made about how to organise intelligence at the international level. Saudi Arabia has called for an International Counter-Terrorism Centre to facilitate international exchanges of intelligence in support of responses to terrorism that adhere to the principles of the UN Charter. At the Riyadh Conference on Terrorism in February 2005, the case for UN action in the face of the global terrorism threat was discussed, and a document released in August 2005 outlined a proposal for an International Counter-Terrorism Centre established 'independently under the principles of the UN and its relevant resolutions and committees'.⁹⁴⁸ The opening paragraph of the document reveals the purpose of such a centre:

Combating terrorism is a collective responsibility that requires the highest levels of co-operation and co-ordination among states and complete readiness to exchange real time intelligence and security data as fast as possible among relevant agencies through secure means.⁹⁴⁹

Other proposals of international intelligence machinery envisage internal UN centres. Robert David Steele, for one, supports the establishment of a United Nations Open Decision Information Network (UNODIN), which would underpin a World Intelligence Centre that would provide 'actionable intelligence decision-support to the United Nations leadership'.⁹⁵⁰ Like the Saudi-proposed International Counter-Terrorism Centre, not much detail is offered about how the UNODIN would fit into existing UN collective security machinery.

⁹⁴⁷ (December 2004). A More Secure World.

⁹⁴⁸ (28 August 2005). Creating an International Counter-Terrorism Center: The Case for UN Action, Ministry of Foreign Affairs, Kingdom of Saudi Arabia: 2

⁹⁴⁹ Ibid.: 3

⁹⁵⁰ Steele, R. D. (2003). Information Peacekeeping and the Future of Intelligence: 217

In the opinion of this author, a UN intelligence capability should follow existing models of successful multilateral intelligence co-operation that seek to inform international decision-making processes. The EU Joint Situation Centre is the best example of intelligence co-operation in support of a collective security apparatus in the face of common security threats, including the terrorism-WMD threat nexus. As described in Chapter 3, the SitCen was created to fill intelligence gaps produced by the construction of the EU's Common Foreign and Security Policy. The 2004 Madrid train bombings called for urgent action to provide a strategic intelligence capability within the EU's collective security machinery that seeks to prevent the occurrence of attacks. The task of the SitCen to collate information it receives from intelligence organisations across the EU and issue joint EU assessments in support of a common EU security policy is an example of state practice that reflects the power of intelligence in the post-9/11 strategic reality. The primary customer of the SitCen intelligence product is not a nation-state, but the EU High Representative for the CFSP and the supporting secretariat. There is no reason why this model of intelligence co-operation in support of multilateral decision-making cannot be applied at the UN level. The international community faces a common threat, including a terrorism-WMD threat nexus. The UN's controlling security strategy, considering the imperative of prevention, provides the rationale of the UN's collective security strategy after 9/11 that seeks to prevent the occurrence of attacks. The task of a UN intelligence organisation should be to collate information from member states and issue UN assessments in support of a common UN strategy to pro-act against post-9/11 threats. The customer of the UN intelligence product should be the UNSC and the UN Secretary-General, as well as national leaders and the public at large.

Of course, the UN is on a far larger scale than the EU, and whilst the potential benefits would be greater so would the potential problems. UN member states might be unwilling to disseminate high-grade and useful intelligence to a UN intelligence outfit, thereby preventing a UN 'SitCen' from becoming a high-grade and useful intelligence organisation. Additionally, in light of intelligence power differentials, some UN member states will possibly be refused from joining a UN intelligence organisation on the grounds that their national intelligence organisations are either penetrated or

incapable of bringing anything significant to the intelligence table. This would probably engender resentment amongst some UN member states, and create a situation that challenges the very idea of an open, transparent and inclusive UN. There is also still the risk that states would use a UN intelligence capability to gain national advantage and exploit it unilaterally, which is suspected to have been the case with the Information and Research Unit of the UN's own Situation Centre in the 1990s. Moreover, differentials in intelligence power between states could create perceptions of disproportionate levels of influence over UN decision-making processes. Whichever state provides the most intelligence is able to exert the greatest influence on UNSC deliberations on intelligence-determinable threats. This again could encourage perceptions of a challenge to the principles of fairness and inclusiveness of the UN, although it is arguable that the structure of the UNSC, with its veto-wielding Permanent 5, demonstrates existing power differentials that already challenge such principles. Even so, strong intelligence states could seek to use UNSC processes to legitimise their own intelligence-driven security agendas, and weaker intelligence states could attempt to exert influence by acting to disrupt the work of the UNSC through political obstruction.

The situation is indeed complex. However, the potential benefits of a UN intelligence capability far out-weigh the potential problems. The maintenance of international order in the face of threats to international peace and security that demand prevention requires the facilitation and legitimisation of pro-active controlling security strategies. The security strategies have vital intelligence requirements, and they must be fulfilled at the international level in order for collective security to work in the post-9/11 world.

SECTION 2: IMPLICATIONS FOR INTELLIGENCE AFFAIRS

The potential power of intelligence to facilitate and legitimise controlling security strategies that seek to prevent threats to international peace and security has implications for intelligence practice. Intelligence knowledge, activities and organisation, like the legitimising processes that underpin international order, need to

adapt to changing strategic realities. In the post-9/11 world, intelligence organisations face pressure to perform new international roles that have transformed the way in which intelligence knowledge is collected, processed and used.

Facilitating Prevention

In order to facilitate the prevention of threats to international security, intelligence knowledge needs to be international in scope. International dots require the drawing of international lines if they are to be joined and responded against effectively.

'Dare to Share'

The international role of intelligence in facilitating the prevention of common threats challenges some long-standing assumptions and conventions that lie at the heart of intelligence practice. In the face of a post-9/11 strategic reality in which no single state, however strong in intelligence power, can ensure its security alone, the imperative to prevent perceivably incoercible, unconstrained and transnational threats has led to the imperative for states to share information in order to determine and respond to threats effectively. In this strategic environment, the intelligence maxim 'need to know' has changed to 'dare to share'. The assumptions underpinning the operational imperative to jealously guard information, which served its purpose to protect information and national securities in the days of intrusive Cold War rivalry, need to be revised so that the intelligence partnerships required for ensuring national and international security after 9/11 are constructed and exploited to achieve shared security goals.

Zalmai Azmi, the FBI's chief information officer, has written of the need to share information within the US intelligence community, in light of imperative to prevent terrorist attacks against US targets. Azmi claims that the 'old philosophy of clinging to information no longer applies. The need for flexibility and agility far outweighs that of need-to-know hoarding when our enemies already outpace us in the ability to operate

without restraint'.⁹⁵¹ Azmi concluded that US intelligence agencies 'must dare to share, and we must effect the cultural changes that will allow that to happen'.⁹⁵² Indeed, like the challenge of developing an international intelligence capability under UN auspices, national intelligence reform means cultural reform – and this can occur in a number of ways. Unlike the American endeavour to drive cultural change through the creation of new intelligence structures, the British approach is geared to improving processes within existing structures, with a view to growing new organisations from a freshly cultivated soil, if required. Either way, both the US and UK recognise the need to address the issue of cultural change based on the post-9/11 assumption that it is better to share information than not.

The 'dare to share' maxim operates at the international, as well as the national, level. Not only do organisations within states need to share information with each other in order to effectively manage post-9/11 threats, states need to share information with other states. In the post-9/11 security reality, knowledge of what is happening within the borders of one state directly affects the ability of another state to promote security goals. Equally, in the face of serious transnational threats, one state's security depends on the security of another. Intelligence work that is carried-out in State A directly affects the security of State B. Sharing intelligence to facilitate security overseas is in the interests of a state seeking to protect security domestically, considering the transnational nature of post-9/11 security challenges. The rationality of international intelligence co-operation means that useful and reliable intelligence knowledge is increasingly an international product. Indeed, the imperative of international intelligence sharing has given rise to intelligence independence between states that goes beyond the previous confines of intelligence co-operation. The international 'dare to share' principle underlines the mutual dependency states have on each other's information in the face of common threats and shared security aims. Intelligence practice will need to evolve in line with the post-9/11 strategic reality and operate in closer accordance with the 'dare to share' maxim at the international level, in order to

⁹⁵¹ Azmi, Z. (2 October 1006). Dare to Share Information. The Federal Times.

⁹⁵² Ibid.

facilitate the pro-active controlling security strategies that are required to manage threats to international peace and security effectively.

'Share and Compare'

Another maxim that affects intelligence practice after 9/11 is 'share and compare'. As David Handley, Director of Group Strategic Analysis at BAE Systems and former Foreign and Commonwealth Office official, argues, intelligence organisations need to disseminate and compare analyses of common issues.⁹⁵³ Acknowledging and managing intelligence interdependency effectively must be the first priority of all states, considering the imperative to prevent the transnational terrorist threats.⁹⁵⁴ Knowledge produced through the joining of international dots has the potential to lead to the early identification of threats, but the production of such knowledge depends on the exploitation of the full range of data available to the international community.⁹⁵⁵ Indeed, intelligence can be created from data, and dots can be joined through a process of improved data handling made possible through increased co-operation.⁹⁵⁶

The role of intelligence in facilitating prevention has implications on the way in which intelligence organisations work with and relate to each other. Intelligence power, an instrument traditionally uniquely associated with national power, needs to internationalise in line with the internationalisation of intelligence targets and intelligence requirements. Whilst there are perceived costs that limit the extent to which states co-operate in intelligence matters (see Chapter 3), these have become overshadowed by the perceived benefits of co-operation after 9/11, in light of intelligence interdependence. As a result, states are constructing new institutions that are facilitating greater rates of information exchange that impact on intelligence activities. Mechanisms for intelligence sharing between governments at international level, which have previously been anathema to normal intelligence practice, are now essential instruments for making the most out of intelligence collection and analysis. Pauline Neville Jones' elucidations on the construction of bilateral intelligence

⁹⁵³ Handley, D. (2006). Internationalising Intelligence Sharing.

⁹⁵⁴ Ibid.

⁹⁵⁵ Ibid.

⁹⁵⁶ Ibid.

processes in response to common security concerns can be extended to the international level:

It is not the case, in my view, that intelligence is so uniquely a one nation activity that it cannot be shared with any other. Were this the case, the British-American intelligence community, which includes the shared generation and use of intelligence, would never have come into existence... Such a situation did not, of course, come into being fully fledged. It sprang out of particular circumstances in the mid twentieth century and has developed over time.⁹⁵⁷

Likewise, in accordance with Constructivist Realist theory, international intelligence co-operation has sprung out of the particular circumstances in the 21st century, and will no doubt develop over time. Closer integration of intelligence organisations is required to enhance states' abilities to deal with ambiguity and promote action in the face of complex threats and the complex intelligence issues that arise from their management. Rather than compromising the effectiveness of intelligence, sharing and comparing intelligence, in David Handley's view, serves as a force multiplier for intelligence organisations acting in the post-9/11 environment.⁹⁵⁸

Another reason to share and compare intelligence on an international scale is to promote accurate and objective intelligence assessments, and mitigate the risk of 'group-think'. Rational responses to anticipated threats require rational intelligence assessments that are empirically-rooted and available for verification by other assessments. The intelligence debacle surrounding the 2003 Iraq invasion was in part created by wide acceptance of conventional wisdom that Iraq was running WMD programmes. Sharing and comparing intelligence could encourage competitive analysis of common issues and challenge any conventional wisdom that stifles the achievement of informed, objective and accurate conclusions.⁹⁵⁹ Horizontal and vertical dissemination of intelligence could also have the effect of improving the tasking and collection activities of states, as well as analysis activities, in light of the identification

⁹⁵⁷ De Jong, B., W. Platje, et al., Eds. (2003). Peacekeeping Intelligence: Emerging Concepts for the Future: v

⁹⁵⁸ Handley, D. (2006). Internationalising Intelligence Sharing.

⁹⁵⁹ Mackmurdo, C. (2004). "Getting Facts: Intelligence and the UN."

of intelligence gaps that require filling. Moreover, as well as promoting the best possible intelligence product for decision-makers at the national and international levels, the processes involved in sharing and comparing intelligence could inform and spread best practice in the intelligence profession on a global scale, which is in the interests of every state considering the importance of intelligence power in facilitating effective responses against terrorism threats wherever they are detectable.⁹⁶⁰

Legitimising Prevention

A significant implication of any increased role of intelligence in legitimising prevention is the legitimisation of intelligence. Intelligence, traditionally considered as a pariah state activity and ignored by international law, has grown in status since the construction of post-9/11 controlling security strategies. New international roles performed by intelligence have brought it further into the international fold. The emergence of threats that demand prevention after 9/11 has meant more states take intelligence more seriously, and the UN itself has signalled its own strategic intelligence requirements in meeting the challenge of prevention.

In 2002, Michael Herman wrote an article entitled '11 September: Legitimising Intelligence?' in which he suggested that the 9/11 attacks accentuated the post-Cold War trend to a new intelligence paradigm, which is 'targeting 'non-state', 'partial state' or 'rogue state' entities rather than 'decent' states; serving 'good causes' rather than competitive state advantage; supporting multinational action in actions with international endorsement. As such it has gained increased legitimacy'.⁹⁶¹ The establishment of intelligence as an activity undertaken in accordance with patterns of state behaviour that aim to achieve good in international society is, indeed, a product of the construction of controlling security strategies that seek to prevent threats to international peace and security. The recognition of intelligence as positive state practice that advances international goals marks the arrival of new attitudes towards intelligence that veer away from conceptions of illegitimate acts of espionage and

⁹⁶⁰ Mackmurdo, C. (2004). "Getting Facts: Intelligence and the UN."

⁹⁶¹ Herman, M. (2002). "11 September: Legitimising Intelligence?": 227

embrace the idea of intelligence as decision-making support. The emergence of the post-9/11 imperative of prevention rationalised controlling security strategies and went far to legitimise intelligence activities that have the potential power to facilitate them.

The potential power of intelligence to legitimise controlling security strategies has significant implications for intelligence knowledge and activity that complicate the work of intelligence organisations. In order to justify pro-action against anticipated threats to international peace and security determined through the assessment of information, intelligence knowledge needs to be credible in the eyes of those who are tasked to make policy decisions and the public at large, especially if intelligence-driven decisions lead to the use of force.⁹⁶² In line with the *Caroline* formula's requirement to demonstrate necessity and proportionality, intelligence power after 9/11 needs to be perceivable as capable of providing evidence of threats that can be brought before the UNSC, in line with the UN's legitimisation processes. As explained in Chapter 3, the use of intelligence as evidence raises some difficult issues, and these issues affect the degree to which intelligence can satisfy the requirement to demonstrate the necessity of pro-action and meet the demands of the security institutions that underpin international order.

The role of intelligence in providing evidence of anticipated threats in support of controlling security strategies is a dramatic departure from previous conceptions of intelligence power. The purpose of intelligence is not to provide information that demonstrates truth beyond reasonable doubt; it is to provide reasonable speculation in view of the available information, which could turn out to be wrong.⁹⁶³ The implications for intelligence of the requirement to evidence the necessity of pro-action are fundamental and far-reaching. Firstly, in order to satisfy that requirement, intelligence knowledge will need to achieve levels of certainty that surpass that which is usually contained in conventional intelligence assessments, which are normally heavily caveated. Secondly, intelligence assessments that purport to provide knowledge at a satisfactory level of certainty need to be credible in the eyes of decision-makers and

⁹⁶² Herman, M. (2005). Problems for Western Intelligence in the New Century.

⁹⁶³ Herman, M. (2003). "Threat assessments and the legitimization of policy?": 178.

populations. Not only does this mean that intelligence knowledge must achieve a level of certainty, it means that intelligence assessments need to be products of international processes of analysis and agreed upon by a number of different intelligent experts. It also demands the dissemination of intelligence beyond the usual customers. Decision-makers at the international level, including the UN Secretary-General and the president of the UNSC, will need to consume intelligence in order to legitimise any action that is intelligence-driven. Moreover, in cases such as Iraq where the option of armed force is involved, members of the general public will need to be considered intelligence customers, a consideration that entails significant operational security problems for intelligence services. Thirdly, the requirement to demonstrate the necessity of pro-action risks blurring the line between intelligence assessment and political advocacy. The use of 'cherry-picked' intelligence to justify pro-action that aims to prevent anticipated threats, as exemplified in the run-up to the 2003 Iraq invasion, invites accusations of international politicking and intelligence abuse.⁹⁶⁴

Nevertheless, the potential power of intelligence to legitimise controlling security strategies after 9/11 means that intelligence must be integrated into legitimising processes, so that the institutions of international order can be upheld in the face of threats that demand prevention. As such, intelligence credibility issues that arise from the requirement to evidence threats need to be addressed. International intelligence co-operation could help increase the degree of certainty contained in intelligence assessments by encouraging competitive analysis and promoting the achievement of informed, objective and accurate conclusions. Not only does the international sharing and comparing of intelligence ensure the best possible intelligence product, a systematic multilateral analysis procedure, ideally under UN auspices, has the potential function of serving as a legitimising process for assessments that claim to represent the views of the international community. Social-agreement at an international level of intelligence assessments is crucial to bestowing credibility on material that purports to provide evidence that is 'beyond reasonable doubt' of threats to international peace and security.

⁹⁶⁴ Herman, M. (2003). "Threat assessments and the legitimization of policy?": 177.

In terms of dissemination issues, the cultural changes at national level, driven by the imperative to 'dare to share', should extend to the international level. Decision-makers in the UN will need to become intelligence customers if controlling security strategies are to become legitimised, in line with the institutions of international order. In order for this to happen, national governments will need to take seriously the prospect of disseminating intelligence to the UN when required, and UN leaders will need to be educated about the uses and limits of intelligence to ensure proper handling of intelligence at the international level. The creation of international intelligence machinery could expedite the development of a UN culture that embraces intelligence and facilitates these changes. Moreover, a collective analytical and assessment capability at the UN could alleviate pressure on national intelligence services to stray into the realm of policy advocacy and mitigate the risk of compromising the operational security of national collection agencies by releasing to the public sanitised collective assessments through UN, not national, channels.

The requirement to demonstrate credibility is a post-9/11 addition to the *Caroline* Formula. The ability to demonstrate the necessity of controlling security strategies that seek to prevent threats through pro-action requires the ability to demonstrate the credibility of information that purports to evidence threats prior to their materialisation. The power of intelligence to legitimise prevention depends on social processes that can lead to agreement on intelligence assessments of threats that are perceivable, but not necessarily directly and immediately perceived.

CONCLUSIONS

The potential power of intelligence to facilitate and legitimise prevention, as well as differentials in levels of intelligence power within the international system, has implications for international order and intelligence affairs. Controlling security strategies that aim to prevent attacks by apparently incoercible threats depend on information to determine threats prior to their materialisation. The framework provided for by the *Caroline* formula, which defines the logical structure of the self-defence and collective security institutions, fails to furnish states with the mechanisms

required to act rationally against perceivable security threats. The UN's collective security machinery lacks the capacity to anticipate threats and is, therefore, incapable of pro-acting against threats that demand prevention. In order for collective security to function after 9/11, collective security machinery needs an intelligence assessment capacity. The imperative of prevention has transformed the way in which intelligence knowledge is collected, processed and used. In order to facilitate the prevention of threats to international security, intelligence knowledge needs to be international in scope. And, in order to justify pro-action against anticipated threats to international peace and security, intelligence knowledge needs to be credible in the eyes of those who are tasked to make policy decisions and the public at large, especially if intelligence-driven decisions could lead to the use of force.

This study has sought to increase understanding of the nature and role of intelligence in international security affairs after 9/11. Four issues have been important in this endeavour. Firstly, the development of a new and robust theory of Constructivist Realism successfully bridges the gap between Realism and Constructivism, and provides a framework in which socially constructed phenomena can be made available to empirical verification with logical contradiction, and rational action can be understood in line with Positivist standards of reasoning. To act rationally is to understand reality; to understand reality is to describe facts; and, to describe facts is to be capable of verifying statements by observing phenomena that exist independent of perception.

Secondly, the development of a new and robust theory of intelligence power, based on the logical structure of Constructivist Realism, succeeds in explaining Michael Herman's concept of 'intelligence power'. The Constructivist Realist conception of rational action explains the function of intelligence in facilitating rational government in the face of threats that are perceivable, but not necessarily perceived. The ability to act rationally within a material world depends on the capability to verify phenomena that exist independently of perception. Intelligence power represents the capability of states to act rationally by understanding threats through the empirical investigation of material phenomena. This theory of intelligence power is able to explain Michael

Herman's original concept, as well as changes to it in the post-9/11 strategic reality where controlling security strategies require intelligence to determine anticipated threats to international security, rather than threats that have already occurred.

Thirdly, the examination of the transition from pre-9/11 coercive security strategies that sought to react to coercible threats to post-9/11 controlling security strategies that seek to pro-act against incoercible threats demonstrates shifts in thinking towards prevention as a strategic imperative. The emergence of the strategic imperative of prevention after 9/11 prompted the construction of controlling security strategies, at national and international levels, which have vital intelligence requirements in the face of threats that are perceivable, but not necessarily perceived.

Fourthly, the description of the terrorism-WMD threat in terms of both 'threats' and 'risk' explains the 'fuzzy and complex' nature of post-9/11 security challenges. 'New' terrorism, and its potentially catastrophic WMD dimension, represents a looming threat to international security, as well as a 'situation involving exposure to danger' and 'the possibility that something unpleasant will happen'. The risk of inaction against apparently incoercible and unconstrained threats underscores the rationale of controlling security strategies that seek to prevent attacks, and the utility of intelligence power to empirically investigate the existence of phenomena that are perceivable, but not necessarily perceived.

Finally, the identification of a rational action/legitimate action astigmatism provides a framework in which to understand the implications of intelligence power differentials amongst actors, specifically the UK, US and UN, considering varying capabilities to fulfil the intelligence requirements of controlling security strategies. The motivation for this study is provide a level of theoretical rigour to 'intelligence studies' and a focus on the issue of intelligence and international peace and security after 9/11. Further research needs to be done to support practical steps to ensure that the UN's legitimising processes can facilitate controlling security strategies that aim to prevent anticipated threats to international peace and security through the assessment of intelligence material.

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