



AN OPPORTUNITY FOR RENEWAL:
Revitalizing the United Nations
counterterrorism program

AN INDEPENDENT STRATEGIC ASSESSMENT

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EXECUTIVE SUMMARY

On 8 September 2010, the United Nations General Assembly will review the UN Global Counter-Terrorism Strategy (hereafter the ‘Strategy’). By the end of 2010 the UN Security Council will, as required by Resolution 1805 (2008), conduct a “comprehensive consideration of [the Counter-Terrorism Committee Executive Directorate’s (CTED)] work prior to the expiration of its mandate.” These processes provide an occasion for critical reflection on the state and direction of the United Nations’ counterterrorism program as a whole. They provide an important opportunity to secure and enhance the positive momentum that many commentators perceive in UN counterterrorism work over the last two years.

To assist such reflection, in mid-2010 the Center on Global Counterterrorism Cooperation (the ‘Center’) initiated an independent strategic assessment of UN work in this area in the two years since the Strategy and CTED were last reviewed. The Center is an independent, nonpartisan think tank based in Washington D.C., New York, and Brussels, with more than half a decade’s experience working closely with the United Nations, member states, and civil society to promote cooperative efforts to prevent and combat terrorism worldwide. We are grateful for support in the preparation and publication of this independent strategic assessment from the foreign ministries of Switzerland and Denmark, the Connect U.S. Fund, and the Greentree Foundation.

To prepare this assessment, we consulted with dozens of member state officials, UN officials, civil society representatives, and academic experts, and we held a two-day retreat for key stakeholders to consider some of the messages we received during these consultations.

As we consulted with stakeholders, we heard two different – though not necessarily contradictory – characterizations of UN progress in this area:

- 1) “It ain’t broke – so don’t fix it.”
- 2) The UN’s counterterrorism work remains “unfinished business.” *

According to one school of thought the United Nations has made clear progress over the last two years in demonstrating added value for international counterterrorism efforts. According to this assessment, member states and civil society increasingly recognize that the United Nations has various comparative advantages in counterterrorism – in 1) convening stakeholders, 2) sharing knowledge, 3) developing norms, 4) monitoring their implementation, and 5) assisting states with long-term implementation of these norms.

Frequently, however – even from those who viewed the United Nations as having made positive progress in the last two years – we heard a somewhat varying assessment: that the positive contribution of the

* Unless otherwise noted, all quotes in this paper are from not-for-attribution interviews conducted by James Cockayne and other staff of the Center on Global Counterterrorism Cooperation with permanent mission, member state, or senior UN officials, civil society representatives, and academic experts, between April and August 2010.

United Nations to global counterterrorism efforts is poorly appreciated outside New York and Vienna. Many people we interviewed told us that there remains a need for the United Nations to articulate to communities around the world a clearer vision of counterterrorism, differentiating its work from more militaristic, coercive approaches to counterterrorism. Absent such an articulation, we were told, the United Nations will continue to face resentment and litigation – or worse. In particular, we were told time and again, there is a need for a clear articulation of the UN’s commitment to human rights and the rule of law while countering terrorism – which unfortunately remains much doubted in some corners of the globe.

Fortunately, we heard strong support among member states for the view that rule of law concerns must be mainstreamed in the UN’s counterterrorism work. And equally fortunately, such a view – and a holistic vision of prevention-focused counterterrorism – is already understood by those same states as reflected in the Strategy adopted by the General Assembly in 2006. Unfortunately, though, those we consulted told us that the Strategy remains poorly known and weakly implemented outside New York, especially by the member state practitioners and civil society actors on the ground whose everyday work is the stuff of counterterrorism.

We were told that the UN Security Council, its counterterrorism-related committees, their expert bodies, and other parts of the UN system have made significant advances in strengthening their coordination, integrated assistance delivery, and consideration of human rights issues in the last two years. But we were also told that there is unfinished business in each of these areas.

With the 2010 reviews of the Strategy and CTED, and the upcoming 2011 anniversaries of not only 9/11 but also the adoptions of both Resolution 1373 (2001) and of the Strategy, the United Nations now enjoys in the year ahead a unique opportunity to renew its counterterrorism program. In this independent strategic assessment, reflecting on the views we heard about the strengths of – and risks to – the UN’s counterterrorism program, we suggest that the UN system should use the year ahead to:

- visibly push the UN’s counterterrorism program out beyond UN headquarters in New York and Vienna, into the field;
- emphasize the preventive and holistic aspects of the UN’s vision of counterterrorism;
- provide a fresh start on human rights; and
- deepen the UN’s partnerships with other stakeholders.

All of this will require closer collaboration between the UN Security Council and the UN General Assembly, particularly within the framework of the Strategy. It will require more active engagement by the UN leadership on counterterrorism and countering violent extremism. It will require working even more closely with outside partners, such as regional, subregional, and functional organizations, and civil society. It will also require a deliberate effort by the Security Council to affirm its commitment to the rule of law as the basis of effective counterterrorism.

In the final pages of this assessment, we offer 25 specific recommendations for achieving these objectives and revitalizing the UN counterterrorism program over the year ahead.

INTRODUCTION

“Countering terrorism requires a comprehensive and multifaceted approach, as well as enduring engagement on the part of the international community. That is why the United Nations is so important in leading and coordinating the efforts to combat terrorism.”¹

“The United Nations has brought the world a long way in advancing multilateral counter-terrorism cooperation, but we are far from reaching safer shores.”²

In coming months, two of the key components of the United Nations’ counterterrorism program will be reviewed, likely renewed, and possibly adjusted. On 5 September 2008, at its first review of the UN Global Counter-Terrorism Strategy (hereafter the ‘Strategy’), the UN General Assembly decided to hold a similar review in two years’ time.³ That review will be held on 8 September 2010. Similarly, in Resolution 1805 (2008), the UN Security Council renewed the mandate of its Counter-Terrorism Committee Executive Directorate (CTED) until 31 December 2010 and called for a “comprehensive consideration of CTED’s work prior to the expiration of its mandate.”⁴ That consideration, and the renewal of CTED’s mandate, is expected to occur before the end of 2010.

These processes provide an occasion for critical reflection on the state and direction of the UN’s counterterrorism program as a whole. Both review processes – of the Strategy and of CTED – seem unlikely to lead to wholesale institutional reform. Yet both review processes provide an important opportunity to secure and enhance the positive momentum that many commentators perceive in the UN’s counterterrorism work over the last two years.

As we consulted with stakeholders in the United Nations’ counterterrorism work while preparing this independent strategic assessment, we heard two starkly different – though not necessarily contradictory – characterizations of the UN’s progress in this area: 1) “It ain’t broke – so don’t fix it,” and 2) the UN’s counterterrorism work remains “unfinished business.”

A common view in New York: “It ain’t broke – so don’t fix it.”

According to one school of thought articulated, we believe, particularly by New York ‘insiders,’ the UN has made clear progress in demonstrating added value for international counterterrorism efforts in the last two years. According to this assessment, member states and civil society increasingly recognize that the UN has various comparative advantages in counterterrorism: in 1) convening stakeholders, 2) sharing knowledge, 3) developing norms, 4) monitoring their implementation, and 5) assisting states with long-term implementation of these norms. The United Nations Security Council remains, as one interlocutor told us, the “preeminent forum for addressing specific terrorist incidents.” Resolution 1373 (2001) continues to provide the basis for a global enforcement architecture, and the Strategy provides the most holistic and only universally agreed-upon counterterrorism policy agenda. UN counterterrorism legal instruments also provide a framework for a common, cooperative effort to implement that policy agenda. Those we spoke to frequently indicated that the UN has unique global reach and multisectoral expertise that gives it

a unique role as a long-term assistance partner for states and societies confronting threats from terrorism and violent extremism.

We heard particularly strong support for the view that the UN was in some ways the ‘natural home’ for sharing experiences and practice, and for efforts to facilitate international cooperation to build counterterrorism capacity. That view suggests that the UN has unique legitimacy to work with states and other stakeholders, because: 1) it can address not only security and justice sector capabilities that are needed to combat terrorism, but also conditions conducive to the spread of terrorism; 2) it has a universal membership and an impartial role; and 3) if appropriately resourced, it can sustain long-term collaboration better than many bilateral partners.

Shifts in the broader strategic environment in which the UN’s counterterrorism work occurs also suggest that its stock may be rising. The Obama administration in the U.S. has presented an American position apparently more open to working through multilateral bodies to build and implement counterterrorism norms. This, in turn, has smoothed the way to other states engaging even more with the UN’s counterterrorism program. At the same time, many states perceive terrorist threats as increasingly emerging from diffuse, decentralized, transnational networks, often closely linked to criminal activity – rather than centralized, hierarchical terrorist organizations, as in the past. Several states have also experienced a growth in radicalization and recruitment among their own residents, some of whom have committed or attempted to commit terrorist acts. The resulting perception of an increasingly pervasive threat from terrorism has led an increasing number of states to develop strategies that focus more squarely on prevention. All these factors seem to have combined to generate an increasing desire to complement military and law-enforcement based efforts to combat terrorism – which often occur outside UN channels – with joined-up, preventive measures, addressing conditions conducive to the spread of terrorism in the first place, by creating states and societies that are resilient to the allure of violent extremism. Many people we spoke to see the UN as having particular comparative advantages in developing and implementing policies and programming in these areas.

We heard many people say that the UN is making real – and not merely rhetorical – progress towards exploiting these comparative advantages. Reforms within the Security Council’s counterterrorism bodies, and within the coordination mechanisms of the UN system as a whole, are largely welcomed by member states and civil society alike. CTED is perceived as having developed an effective, collegial working style. Its increasing emphasis on facilitating counterterrorism innovation at the regional level is viewed by many as particularly promising, particularly in those parts of the world where the UN’s impartiality marks it out from other potential ‘conveners.’ The Counter-Terrorism Implementation Task Force (‘Task Force’) is seen as having offered a number of useful outputs through some of its working groups, and as having new promise as a result of a recently established secretariat (the ‘Task Force Office’). Increased attention to human rights and enhanced transparency in the work of the Security Council’s committees and their expert groups, and in the Task Force itself, were also frequently welcomed.

This school of thought tends to argue that the UN’s counterterrorism program is “doing just fine,” as declared by one mission official. “It ain’t broke,” said another, “so don’t fix it.” Many of our interlocutors told us that

the current absence of the political divisiveness of yesteryear around counterterrorism discussions in New York was to be welcomed and not to be “messed with.” In 2008, we were told, when the last reviews of the UN’s counterterrorism work were undertaken, there were three central problems that member states felt needed to be addressed: 1) the perceived dysfunction, at that time, of CTED; 2) a lack of coordination and integration in the broader UN system’s counterterrorism efforts; and 3) apparent incompatibility between the Security Council’s approach to counterterrorism and respect for human rights. Now, those of this view argued, such problems have largely been addressed – by reforms within CTED, the creation of the Task Force Office, and the adoption of Resolution 1904 (2009)⁵ and other measures by the Security Council to strengthen fair treatment and improve transparency. As a result, these interlocutors suggested, none of these problems remain, which is why there is not much “heat or light” in the current discussion of counterterrorism in New York.

At most, these interviewees argued, the current review of the Strategy and the upcoming discussion of rolling over the mandate of CTED should contemplate minor adjustments to the working methods of the existing counterterrorism bodies. “There is no appetite for wholesale change,” we were told. The boat is steady, these voices argued: so why rock it?

An alternative view: “unfinished business”

We also heard quite a different assessment. This assessment suggested that of the three issues that were raised two years ago – CTED reform, improved coordination and integration, and human rights reform – only the first was effectively addressed, with much “unfinished business” remaining on questions of human rights and integrated delivery by the UN.

Frequently – even from those who viewed the UN as having made positive progress in the last two years – we heard the assessment that the positive contribution of the UN to global counterterrorism efforts is poorly appreciated outside New York. As one interlocutor told us, “beyond Second Avenue in New York, the presumption is that the UN does *not* have a role in counterterrorism,” although another pointed out, frequently, “beyond Second Avenue the presumption is that the UN has no role in anything important.” As some interlocutors pointed out, there is no need for the UN to “beat its chest,” simply to draw attention to the work it is doing on counterterrorism; indeed, in many cases “keeping a low profile may be the smartest approach.”

Some interlocutors argued forcefully however that although there are certainly benefits from quiet diplomacy, there is also a need for the UN to articulate a clear vision of counterterrorism that differentiates its work from more militaristic, coercive approaches to counterterrorism. Some individuals we spoke with suggested that the UN’s counterterrorism efforts are in fact dangerously misunderstood in some quarters. One interlocutor went so far as to say that “[o]utside New York, the man on the street thinks that the UN is either listing terrorists – or doing nothing.” Some people we interviewed argued that – whatever the *reality* – in many communities, the UN’s role in counterterrorism continues to be *perceived* primarily as promoting ‘hard’ security-oriented measures, having little concern for human rights and human security,

and being excessively controlled by a few powerful states. Few of those we interviewed, in fact, claimed that the UN had effectively communicated to communities around the world a clearly articulated vision of counterterrorism that goes beyond hard law enforcement and military-based measures.

This may in part be a failure of presentation and outreach. But ongoing litigation of the human rights compatibility of measures adopted pursuant to Security Council Resolutions 1267 (1999) and 1373 feeds this negative public perception of the UN's counterterrorism program. It suggests to some that the UN's failure may indeed be one of substance, and not merely presentation. Many civil society groups continue to express concern that at the national level the UN's counterterrorism efforts have stoked a discourse and policies that have curtailed their room to maneuver, their ability to participate in civil and political discourse, or even legitimized repression.⁶

In some quarters, as a result, the UN is seen as having acquiesced in a normalization of exceptional, emergency measures intended to counter terrorism but which in fact counter human rights. The central role ascribed to human rights by the UN General Assembly's Strategy is rarely appreciated beyond UN headquarters. This is so, we were assured, even of government officials in capitals – especially outside foreign ministries – and extends to include those practitioners whose everyday business is counterterrorism operations. The opportunity the Strategy and existing UN mechanisms provide for collaborative, holistic counterterrorism efforts is either unknown or largely overlooked beyond New York, Geneva, and Vienna, we were told.

Any suggestion that 'UN counterterrorism' is "here to stay" therefore seems premature. On the contrary, there appears to be a creeping danger that the 'routinization' of the UN's counterterrorism work within the processes of UN diplomacy risks rendering it increasingly irrelevant to the policy-making circles of capitals and the ground-level activities of counterterrorism practitioners in the field.

Indeed, there are now numerous multilateral bodies working in this space. The Group of Eight and its Counter-Terrorism Action Group, the European Union, Organization for Security and Co-operation in Europe (OSCE), Organization of American States, and other multilateral mechanisms outside the UN are all working to bring increased value to international counterterrorism capacity-building efforts. Such mechanisms need not be incompatible with the UN's counterterrorism efforts, and in some cases strive to complement them. But in an era of fiscal austerity, the array of alternative channels for capacity-building and cooperation efforts is already causing some hard questions to be asked in donor capitals: why should the UN, with its complex politics and sometimes ponderous bureaucracy, receive scarce funds that could be directed to a more streamlined, tailored counterterrorism body? Tough questions are being asked by national-level decision-makers about whether the UN is focused on the most pressing counterterrorism topics of the day – such as deradicalization, border control, nuclear trafficking, financing in conflict zones, use of the internet, criminal justice sector capacity building – and whether it delivers value-for-money integrated assistance.⁷

As we detail in this independent strategic assessment, and as reflected in the catalogue provided by the recent report of the UN Secretary-General on the implementation of the Strategy,⁸ there is ample evidence

that the UN's counterterrorism bodies are finding new and innovative ways to work on these issues – alone, together, with civil society, with member states, with the private sector, and with regional, sectoral, and other international organizations. Yet those efforts are often little known beyond New York, Geneva, and Vienna – or worse, are known, but seen as duplicative, inefficient and poorly coordinated. Increasingly, we were told, donors and recipients of counterterrorism capacity building seek integration and unity in the work of the UN and other organizations in this field.

Ten years since 9/11: an opportunity for renewal

The UN now enjoys a coincidence of events that provides a unique opportunity for adjusting and renewing its counterterrorism program. These events include the 2010 review of the Strategy, the discussion of the renewal of CTED's mandate in late 2010, the 10-year anniversaries of 9/11 and the adoption of Resolution 1373 in September 2011, as well as the five-year anniversary of the adoption of the Strategy that same month.

The next year thus provides a unique opportunity for reflecting on what organizational adjustments may be needed effectively to harness the positive momentum developed in the UN's counterterrorism program over the last two years. With a discernible global shift away from the 'hard security' focus of the "Global War on Terror" towards a more prevention-oriented approach to counterterrorism, now may be the time to renew the UN's counterterrorism program.

Central questions for reflection include:

- How can the UN's efforts to assist states over the long term to address terrorism, violent extremism, and related transnational threats, be made most effective, given limited resources?
- How can cooperation between and integration of the efforts of the Security Council's counterterrorism bodies, other UN entities, the General Assembly, member states, and other actors including regional bodies and civil society, be optimized?
- Are preventive measures receiving adequate attention?
- Is the protection of human rights sufficiently central to the UN's counterterrorism work?

These questions receive the active, focused attention of many member states, UN officials, and civil society actors every day in New York, Geneva, Vienna, and beyond. But by their nature, a large portion of these discussions necessarily focus on short-term institutional concerns and practical problems. There is often little scope for unhurried reflection on the long-term trajectory of the UN's counterterrorism program.

One possibility for more careful reflection – as we canvas in Recommendation 1 at the end of this paper – may be for the UN Secretary-General to appoint a blue-ribbon commission to consider these questions over the course of the next year, identifying ways to ensure that, 10 years after 9/11, the holistic, cooperative, and preventive counterterrorism approach envisioned in the Strategy is entrenched, and that

the arrangements necessary for its effective implementation are in place. In the meantime, however, with the General Assembly's Strategy review scheduled for 8 September 2010, and the forthcoming "comprehensive consideration" by the Security Council of the work of CTED, more immediate reflection by member states is called for.

About this independent strategic assessment

To assist such reflection and the development of practical policy options to strengthen the UN's counterterrorism program, the Center on Global Counterterrorism Cooperation (the 'Center') initiated an independent strategic assessment of the UN's work in this area. The Center is an independent, nonpartisan think tank based in Washington D.C., New York, and Brussels, with more than half a decade's experience working closely with the UN, member states, and civil society to promote cooperative efforts to prevent and combat terrorism worldwide. In 2008, prior to the previous review of the Strategy, the Center conducted a process of consultation which, like the one reflected in these pages, led to independent recommendations for improving implementation of the Strategy – many of which have, subsequently, been acted on. Since then the Center has been engaged in numerous implementation and policy-development activities in Africa, Asia, Europe, and the Middle East, giving us wide and deep exposure to those whose job it is to develop cooperative solutions to countering terrorism.

In preparing this independent strategic assessment, we have built on those consultations – many of which are reflected in our reports, available at www.globalct.org – through more than three months' intensive consultations between April and July 2010. We spoke with almost 100 officials and civil society representatives, drawn from the United Nations Secretariat, programs, funds, and agencies, both in headquarters and in the field; from member state missions to the United Nations and in national capitals; to officials from regional, subregional, and functional organizations; and to numerous members of civil society and the media. All of these interviews, conducted primarily by James Cockayne, Senior Fellow and Director of the New York Office of the Center, were conducted on a not-for-attribution basis. We additionally reviewed extensive public documentation from the last two years, produced by: the UN Security Council, its counterterrorism committees and their expert groups; the UN General Assembly; the UN Human Rights Council and its Special Rapporteurs, as well as other UN human rights bodies; the UN Counter-Terrorism Implementation Task Force, its working groups and its new Office; the UN Secretariat, funds, programs, and agencies; regional and subregional organizations; and civil society. Finally, we presented some initial findings and elements of possible recommendations to a group of 30 senior stakeholders, convened at the Greentree Estate in Manhasset, New York, on 29-30 July 2010. These stakeholders included senior UN counterterrorism officials, representatives of numerous permanent missions to the United Nations, and independent experts.

This report presents the conclusions we have drawn from these consultations, our resulting analysis of the direction of the UN's counterterrorism program, and 25 recommendations for practical options to strengthen that work. It does not purport to be a comprehensive, forensic accounting of the UN's achievements in this field, or even in the narrower area of implementation of the Strategy since 2008. With over two dozen UN bodies actively engaged, daily, in Strategy-related activities, that is simply not possible, although a detailed

catalogue of relevant programming by UN bodies, member states, and regional organizations is provided in the recent UN Secretary-General's report.⁹

Instead, this independent strategic assessment aims to provide an impartial overview of the direction, effectiveness, strengths, and gaps in that work. It aims to provide some practical recommendations for strengthening that work going forward. In Part I we look at the work of the UN Security Council's counterterrorism bodies, making a series of practical recommendations for strengthening the legitimacy and effectiveness of their work. In Part II we focus on the work of the broader UN system, including the UN's coordinating body in this area, the Counter-Terrorism Implementation Task Force. Part III explores the central question of the place of human rights in the UN's counterterrorism program. In the final pages, after some concluding thoughts, we offer 25 recommendations for strengthening the UN's counterterrorism program over the year ahead.

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I. COUNTERTERRORISM IN THE UN SECURITY COUNCIL

“We need to move away from implementation on paper to implementation in action.”¹⁰

“More attention needs to be given to finding ways for the UN’s engagement to address a broader range of counterterrorism issues, in particular those related to the longer-term aspects of the threat.”¹¹

Introduction

As indicated in the introduction to this independent strategic assessment, during our consultations in preparing this report we heard two quite different assessments of the state of play in the United Nations Security Council’s approach to counterterrorism.

One assessment, reflecting on progress made since 2008, identified examples of very positive “evolution” and “adaptation” in the work of the UN’s counterterrorism bodies. Many of those we spoke to noted increasing collaboration and streamlining in the work of the Security Council’s three counterterrorism-related committees (the Al-Qaida/Taliban Sanctions Committee established by Resolution 1267, the Counter-Terrorism Committee [CTC] established by Resolution 1373, and the committee established by Resolution 1540 [2004] which deals with WMD non-proliferation). Similar signs of collaboration between their expert bodies (the Al-Qaida/Taliban Analytical Support and Sanctions Monitoring Team [Monitoring Team], CTED, and the 1540 Committee expert group) are also recognized.

Likewise, some of those we interviewed pointed to evidence of an increasingly inclusive and transparent approach to decision-making within the Council on counterterrorism issues – for example the highly inclusive approach recently taken by the 1540 Committee to consultations prior to the renewal of its mandate. Questioned by us as to what drove this trend, many of those we spoke to pointed to the arrival of a spirit of constructive collaboration among many UN member states aiming to actively support multilateral and prevention-focused approaches to counterterrorism. Others also emphasized the importance of constructive leadership within the committees themselves, and especially within the expert bodies.

A second assessment of counterterrorism in the Security Council in the last two years focused on a number of areas of “unfinished business.” This assessment suggested that the move away from the notion of the “Global War on Terror” provided an important opportunity for renewal of the UN’s counterterrorism program – which has not yet been fully exploited. Proponents of this assessment pointed out that regardless of whether recent improvements in the Council’s work are assigned to improved leadership or broader changes in the political atmosphere, they are consequently vulnerable to shifts in the political winds or simply to inevitable personnel changes. Some of those we spoke to highlighted evidence, for example reflected in the 2009 *Global Implementation Survey* prepared by CTED, that suggests that Resolution 1373 remains only partially implemented in many large parts of the world, including those arguably most vulnerable to exploitation by extremists and terrorists.¹² Others highlighted the need to remove the remaining uncertainty

around the compatibility between the Council's listing and delisting procedures and the Council's broader commitment to a holistic, prevention-based approach to counterterrorism with respect for the rule of law and human rights at its heart. We address these human rights concerns in Part III of this report. In this section, we look more closely at the work in the last two years of the UN Security Council, its counterterrorism-related committees, and their expert bodies.

Increased transparency and inclusiveness

Few of those we interviewed offered an entirely negative assessment of developments in the past two years in the Security Council committees dealing with counterterrorism-related issues, and their expert bodies. On the contrary, the consensus appears to be that these committees have made significant progress in developing a more transparent, inclusive, and collegial decision-making style. Yet many also suggested that a level of complacency and "ceremonialism" has crept into the work of the committees. We heard frequent calls for adjustments to the work of these committees, to breathe new vitality and relevance into their deliberations, particularly by ensuring they play an active role in developing political strategies for dealing over the longer term with terrorist threats present in specific situations. At the same time we were also warned that any move to give the committees such a political role would also require that they develop improved lines of communication with the broader UN membership, outside the Security Council, to ensure the legitimacy and sustainability of such preventive efforts.

The Security Council has already noticeably increased its interaction and dialogue with non-Council members on counterterrorism issues, including through informal discussions and regular thematic briefings. For example in recent months the CTC has discussed with non-Council members issues including border control and security, the implementation and assessment of Resolution 1624 (2005), maritime security/terrorist acts committed at sea, and the implementation of extradition requirements and law enforcement. As Ambassador Apakan, the current Chair of the CTC, has noted, "[t]hose discussions have proved to be highly useful in helping [the Committee] to understand such issues in greater depth and to consider any possible concrete steps that the Committee could take."¹³

There are similarly encouraging signs of increased transparency and inclusiveness elsewhere in the Council bodies' counterterrorism work. Through its CTED, the CTC has also published a technical guide to the implementation of Resolution 1373, which is available on its website and is being translated into all UN languages.¹⁴ The preliminary assessments of member states' implementation of their obligations under Resolution 1373 have also helped to foster a constructive relationship between the CTC and CTED and countries being assessed, serving, in the words of the representative of the Russian Federation, "as basic documents for regular dialogue with States and as an objective, non-discriminatory and systemic foundation for monitoring the counter-terrorism efforts of States."¹⁵

Similar assessments were offered of the increased transparency and collegial approach demonstrated in the work of the 1540 and 1267 Committees and their expert bodies. Pursuant to Resolution 1810 (2008), the Security Council hosted an open debate last autumn on the implementation of Resolution 1540 (2004), providing an open and transparent three-day event for all UN member states, relevant non-governmental

organizations, and civil society to present their views on 1540 implementation. The event was well attended and included a side event for civil society organized by the Stanley Foundation. This transparent and inclusive approach was seen as a very positive step and a model for other committees to consider in the future, including the CTC.¹⁶ Those discussions highlighted a number of areas where it was felt greater attention was needed, including: 1) the means available to the Committee for facilitating assistance to member states to implement their obligations; 2) cooperation with international, regional, subregional, and multilateral institutions; and 3) outreach. The discussions also suggested that member states would welcome thoughts on how to facilitate the contribution of experts from capitals in the Committee's work, and in strengthening the participation of other potential partners – including non-permanent members of the Council who are no longer members of the Committee, and other intergovernmental organizations.

Similarly, those we approached in preparing this report suggested that there was a clear, positive trend toward greater transparency, openness, and objectivity in the work of the Al-Qaida/Taliban Sanctions Committee. Pursuant to Resolution 1822 (2008), the committee has recently completed a comprehensive review of the sanctions list, which has led to the delisting of 45 individuals (including eight deceased) – a reduction of the list by almost 10 percent. Letters of review were sent to respective designating states and states of citizenship and/or residence of listed individuals, or states of incorporation or location of listed entities. Each name was placed on the agenda of a committee meeting, introduced by the Monitoring Team and discussed among committee members. The review also led to adjustment to the committee's Guidelines for listing and delisting. While this process was conducted confidentially to protect sensitive information, the process itself was clearly announced, and member states were given adequate notice to provide input.

Such steps, together with the appointment of an ombudsperson under Resolution 1904, are creating increased confidence among the membership in the reliability of the listing and delisting mechanism. Among other steps, Resolution 1904 provides for: a biannual review of the list to address the inclusion of deceased persons, an annual review of entries that lack identifiers, and an annual review of names on the consolidated list that have not been reviewed in three or more years. These steps are much needed: prior to the review, more than half of the names on the list had not been reviewed once since 2001. And even now, some 30 of the names on the list are thought to be those of deceased persons.¹⁷ Still, these careful steps forward do suggest that notwithstanding the inevitable limits on the sharing of sensitive information in the multilateral context, the Al-Qaida/Taliban Sanctions Committee, like the CTC and the 1540 Committee, is increasingly committed to manifest fairness and transparency in its deliberations.

From 'implementation on paper' to 'implementation in action'

These developments are seen in many quarters, however, merely as positive initial steps – and by no means sufficient on their own. As we explore further in Part III of this report, some voices – both in civil society, in various judicial offices, in the UN itself, and in some member states – continue to call for further strengthening of the Council's delisting procedure.¹⁸ These are not the only critical voices. We heard two other clear notes of concern about the “unfinished business” of renewing and strengthening the Council's counterterrorism bodies.

First, we heard from some observers – and even some current and former members of the Council’s counterterrorism-related committees – that the committees’ work remains excessively focused on “implementation on paper,” rather than “implementation in action.” One person described this, tongue-in-cheek, as the “thrill of the paper-chase.” The critique here is that the committees’ assessments of state implementation of Security Council obligations are overly focused on whether states have formally adopted legislation and administrative rules and norms to discharge their international counterterrorism obligations rather than measuring how those norms are reflected in actual practice. As some people pointed out to us, measurement of the actual *impact* of those measures is even more conspicuous by its absence. Proponents of this view called for the Security Council’s expert bodies to become even more actively and continuously engaged with counterterrorism practitioners from relevant national agencies beyond ministries of foreign affairs – such as police, intelligence officials, customs officers, human rights officials, and the judiciary. Some suggested a need to find ways to more accurately assess the impact of counterterrorism efforts at the national level, including by seeking increased input from civil society actors.

Second, a minority of those we spoke to suggested that the committees have become so focused on technical implementation assessments that they have actually begun to “stagnate” even as the expert bodies have innovated (as we discuss further below). These critics suggested that the assessment processes within the committees (rather than within the expert bodies) have in some cases become rote exercises. One person we spoke to, who sits within one of these committees, described their deliberations as mere “diplomatic performance art.” The committees, this argument suggests, no longer carry out any discernable medium- or long-term strategy-development function, and rarely provide political guidance to the expert bodies or to the Council as a whole on how to pursue a strategy for implementation of international norms in specific cases – even in those cases where the state in question has weak implementing capacity. This critique suggested that the committees’ political leverage is not being optimally utilized: that more could be done by these committees to focus the attention of the Council and the broader membership on specific threats, regions, or even countries that would benefit from capacity-building assistance, political support, or other forms of engagement. As one mission official pointed out, one of the unintended consequences of the creation of the three committees and their expert groups has been that counterterrorism issues have been rendered technocratic. Presidential statements and resolutions continue to be adopted following major terrorist attacks, but the Council is otherwise largely passive – as far as much of the international community is concerned – on one of the most significant threats to international peace and security.

We must stress that not all of those to whom we spoke shared this view. There is a strong case to be made that the success of the committees in recent years has derived precisely from the *de-politicization* of the assessment and assistance processes they oversee, through the work of their expert bodies and especially CTED. The empowerment of the technical expert bodies has emerged together with a marked shift away from the controversy that surrounded the Security Council’s engagement with these topics in the first years after 9/11. Member states have shown increased willingness in recent years to engage with these expert groups and to avail themselves of the assistance they can help to broker. Giving the committees too large a role in directing these processes may, many told us, unravel the support for this work that has emerged over the last few years.

This positive shift in state engagement with the expert bodies is particularly evident in the work of CTED. Over the last two years under the leadership of Ambassador Mike Smith, CTED has clearly undergone a

cultural shift, moving from a group of individual consultant experts serving the Council to an integrated “team” with a more transparent, articulated gameplan. This is in part the result of organizational changes proposed by Ambassador Smith in January 2008, and endorsed by the Security Council in Resolution 1805, when CTED was last reviewed. The changes saw the creation of thematic groups that work across the three geographical clusters within CTED, and five technical groups dealing with: technical assistance; terrorist financing; border security, arms trafficking, and law enforcement; general legal issues; and issues relevant to Resolution 1624, as well as the human rights aspects relevant to Resolution 1373. Each technical group includes at least one representative from each geographical cluster. In addition, the reorganization created two units to deal respectively with quality control and public communications and outreach. The organizational changes have clearly led to better cross-cluster discussion, the development of common standards and a tangible *esprit de corps*. And as the CTC itself has recognized, this “has served [CTED] well, enhancing its capacity to conduct its core business of engaging with Member States on their implementation of resolutions 1373 (2001) and 1624 (2005).”¹⁹

According to the 2010 *Report of the Secretary-General on activities of the United Nations system in implementing the Strategy*, “[s]ince July 2008, 123 States have submitted information to the Executive Directorate containing updates on their implementation of resolution 1373 (2001). The Executive Directorate has conducted 27 visits to Member States, bringing the total number of States visited to 55.”²⁰ The internal changes within CTED have enabled a more flexible approach to country visits, which numerous interlocutors described to us as “shrewd,” “liberating,” and “crucial.” CTED now frequently undertakes not only ‘full’ country visits to engage in comprehensive discussion of a state’s counterterrorism arrangements pursuant to Resolution 1373, but also shorter visits focused on one or two particular aspects of the counterterrorism regime of the member state concerned. Where a full visit is followed later by a targeted follow-up visit, this gives countries opportunities to demonstrate progress through engagement. This practice has also opened the way for CTED to undertake regional visits and missions that focus on examples of good practice, as well as vulnerabilities.

As the CTC recognized in its Interim Review of CTED in 2009,

[t]he annual rate of visits has thus more than doubled, which means that the Executive Directorate and the Committee are engaging in depth with a much wider range of countries than hitherto. More importantly, the fact that the Executive Directorate is carrying out visits to countries from all regions means that it and the Committee have a more comprehensive sense of what is happening across the globe.²¹

This careful diplomatic language obscures a significant political development: prior to Ambassador Smith taking the reins, CTED had not visited any developed country, perhaps stoking perceptions that the CTC was not a neutral broker, but a tool of the developed countries. Now, however, CTED visits developed countries often for short, targeted visits, such as those undertaken to Australia, New Zealand, the Republic of Korea, Singapore, and the UK. CTED also recently undertook its first comprehensive country visit to a developed country, Greece. As a result, CTED now appears to quietly enjoy broader political support. As one person we interviewed described it, the impact has been that CTED is increasingly seen as “maximizing

the functionality and minimizing the politics,” bringing enhanced legitimacy to the Security Council’s engagement with member states.

CTED is consequently able to work more closely with a wide range of countries to develop more carefully tailored assistance-facilitation strategies, with a view to engaging with specific institutional cultures, improving communication and coordination between different agencies at the national level, and even moving toward training specific sectors of governmental officials such as judges, police, and prosecutors. Its efforts in this regard to foster law enforcement cooperation in South Asia, to build border control cooperation in East Africa, to stimulate subregional counterterrorism cooperation in West Africa and South East Europe, have been well received by donors and recipient states alike. CTED’s role is increasingly to identify subregional and regional capacity-building opportunities and broker the political and financial capital required to act on them.

The question for the Security Council is whether additional steps may be needed to formalize this approach, strengthen it through minor organizational adjustments, clarify CTED’s relationship to the other expert bodies, and generally make better use of the broader General Assembly Strategy.

Toward long-term engagement?

Notwithstanding this progress, as the 2009 *Global Implementation Survey* makes clear, there is a long way to go before Resolutions 1373 and 1624 – those within CTED’s current mandate – are fully implemented. Regions including East Africa, the Middle East, Central Asia, the Sahel, and South Asia all require significant further assistance to achieve effective implementation of the obligations flowing from these resolutions. This suggests the need for a long-term commitment by the Security Council to engage with states on capacity building – something formally beyond the mandate of CTED and the other Security Council counterterrorism bodies.

CTED’s movement toward using the UN’s convening power to “broker” or “facilitate” technical assistance and regional capacity-building efforts has been largely informal. The UN system might well benefit from that role being formalized by the CTC, when it comes time for it to consider renewing the mandate of CTED later this year. But the need for long-term engagement also raises serious questions: Is CTED best equipped to play this brokering role, given its limited reach on Pillars I and IV of the UN Strategy, dealing with conditions conducive to the spread of terrorism and with human rights and the rule of law? Is there a danger of duplication and inefficiency as a number of different UN entities – CTED, the Task Force Office, the UN Office on Drugs and Crime (UNODC), the UN Department of Peacekeeping Operations’ (DPKO) Office for the Rule of Law and Security Institutions, the UN Development Programme (UNDP), and even the Department of Political Affairs (DPA) – converge around a business model that involves the UN partnering with states to strengthen border control, criminal justice institutions, and security sector institutions? How can the UN ensure that it speaks “as one” in dealing with states on counterterrorism issues, given this institutional diversity? And who will provide the political strategy around which all these assistance efforts will be marshaled?

The need for political direction is perhaps most clearly evident in the current discussion of the possible wholesale delisting of Taliban members from the consolidated sanctions list.²² The policy question in play here is easy to identify but difficult to address: how to balance the objective of encouraging reconciliation and reintegration of current and former Taliban members with the objective of enforcing international counterterrorism norms, including norms relating to fair treatment and due process. The challenges involved in balancing these objectives are generating a political debate that is remarkable precisely because, by way of contrast, it highlights how de-politicized the Security Council's broader counterterrorism assistance efforts have become. This de-politicization has been achieved despite the fact that counterterrorism assistance frequently involves working with states to adjust some of the central aspects of governmental power – such as border control, policing and security institutions, justice, financial regulation, community relations, and dealings with neighbors. That de-politicization is, at one level, a sign of real success. But as the question of Taliban delisting suggests, it may also indicate uncertainty on real, difficult policy questions over the medium to long term. Effective engagement with states to implement their counterterrorism-related obligations may require the development of clear policy and political guidance on such difficult questions, or it risks leaving states uncertain how to balance a variety of potentially contending policy objectives – for example promoting law enforcement, reconciliation, humanitarian access, and development.

Answering these questions may require the Security Council's counterterrorism-related committees to find ways to exercise the political leverage and conflict resolution mandate the Council enjoys, without interfering in the short-term technical work of their expert bodies. It may require a degree of outreach by these committees to states and bodies outside the Security Council, to ensure the legitimacy and sustainability of policies and strategies the Council develops. Efforts to develop longer-term prevention and engagement strategies may also need to be organized under a clear Chapter VI, rather than Chapter VII, mandate – to underscore the consensual nature of such long-term prevention efforts.

There is also one other clear source of legitimacy upon which the Security Council might draw in developing forward-looking counterterrorism guidance: the UN Global Counter-Terrorism Strategy. Time and again, those we consulted with said that the Security Council should be “making more of the Strategy.” The Strategy continues to enjoy broad support, having been adopted by consensus in the General Assembly, and because it lays out a uniquely holistic counterterrorism agenda that deals not only with hard security approaches to counterterrorism, but also softer measures; not only responsive efforts to combat terrorism, but preventive measures to preclude it.

Among those we spoke to, we heard five specific sets of practical ideas about how the Security Council might make more of the Strategy in the short term.

1. Applying the Strategy to specific situations

Making more of the Strategy in the work of the Security Council will clearly require a number of distinct steps. First, it would require the Council to deliberately and explicitly draw on the Strategy in developing its own implementation and assistance efforts.

Since the Strategy was approved unanimously, all members of the Council, permanent and elected, are technically supporters of it. The Council would enhance awareness of the Strategy and could also generate greater buy-in to its own counterterrorism efforts by looking to the Strategy as a source of policy guidance in developing its own counterterrorism work, making specific reference to the Strategy and affirming the coherence between its own efforts and the objectives laid out in the Strategy. The Council might consider how its own efforts could buttress conflict prevention, mediation, and resolution activities, for example by pressing the Secretary-General to act on the Council's requests in presidential statements S/PRST/32 (2009) and S/PRST/4 (2010)²³ to brief them on transnational threats in his conflict reporting and by considering what forms of inter-agency collaboration or resources may be needed to adequately equip the Secretariat to provide such analysis.

Additionally, the Security Council or its counterterrorism committees could conduct informal consultations with the membership of the General Assembly to consider how the Strategy might inform the Council's approach to cases already on its agenda where counterterrorism is a relevant consideration. This would assist the Security Council to develop political strategies for engagement on counterterrorism issues in specific countries and regions, allowing it to provide guidance to all three counterterrorism-relevant Security Council committees and their expert bodies.

2. Clarifying CTED's role in supporting prevention

Second, once the Security Council has developed such political guidance, it may need to ensure its counterterrorism bodies – or other relevant UN bodies in the field – have a clear mandate to assist states in undertaking the preventive aspects of that guidance. This will require a clarification by the Security Council that it endorses efforts by CTED and its other expert bodies to undertake preventive work in support of member states' implementation of the Strategy. Such a role is arguably already contemplated in CTED's most recent work programme endorsed by the Security Council.²⁴ And CTED has a specific mandate to undertake some work, in compliance with Resolution 1624, which seems closer to Pillar I of the Strategy than Pillars II or III. For example operative paragraph 3 of Resolution 1624 provides the Committee and CTED with a mandate to engage with states on issues such as social and educational policies and the promotion of community dialogue. Resolution 1624 may thus provide a useful 'link' to granting CTED a limited but clear role in supporting prevention activities. Yet Resolution 1624 is not, in and of itself, an adequate basis for CTED to fully engage with these issues, not least because of some uncertainties about how certain aspects of Resolution 1624 – such as its preambular repudiation of glorification of terrorism – sit in relation to existing international law.

Accordingly, a specific clarification by the Security Council that it tasks CTED with supporting states' efforts to address conditions conducive to the spread of terrorism, as and where appropriate, in the discharge of the Council's responsibility to maintain international peace and security, would likely help bolster CTED's work in this area. If necessary, since this is preventive work, it might be useful to couch such a mandate within the terms of Chapter VI of the UN Charter, even as CTED retains its broader Chapter VII mandate and status as a special political mission.

3. Consolidating assistance-facilitation functions

Third, making more of the Strategy in the work of the Security Council may require furthering the emerging integration of the assistance-facilitation work carried out by the three expert bodies. There is – we were told repeatedly – increasingly fruitful cooperation and collaboration between the expert bodies. For example on 7 April 2010 they held a joint meeting of their staff, together with the staff of the fledgling Task Force Office, to discuss common issues and possible collaboration.²⁵ They have also jointly conducted regional workshops training regional and national officials on reporting to the different bodies – for example in Southern Africa, Qatar, and the Caribbean. Their parent committees have developed joint strategies for dealing with non- or late-reporting states through exchanges of information and joint visits, and focusing on the enhancement of cooperation with selected intergovernmental, international, regional, and subregional organizations.

Yet as things stand, we were told, there are natural limits to such cooperation – especially in brokering and facilitating capacity-building efforts. These limits are defined by the different mandates of the various committees and their expert bodies, as well as their different reporting lines and locations. For example it was pointed out to us that while CTED deals with broad border control issues, the 1540 expert group necessarily focuses more narrowly on the export control questions relevant to its counter-proliferation mandate. This places limits on their cooperation on such issues. Many people we consulted with suggested that the institutional diversity this reflects in fact brings significant benefits, for example opening up different communication channels that allow the UN to tailor engagement strategies to different audiences, even within the same country. One interlocutor said simply, “If you lump everything together there is a danger that you lose the benefits of institutional diversity.” Additionally, many we consulted warned against a rush to consolidate the UN’s capacity-building and facilitation functions either within the Security Council – which would meet understandable resistance from the broader UN membership – or outside the Council, where the benefits of engagement under the umbrella of Chapter VII of the UN Charter might be lost.

Still, many people we consulted suggested that there would be much to gain from some level of increased integration – or even consolidation – in the assistance-facilitation work of the expert bodies, even if that does not extend to a formal consolidation of their work with bodies outside the Council, such as UNODC’s Terrorism Prevention Branch. In particular they suggested there might be benefits from streamlining engagement by Council expert bodies with member states specifically on assistance functions, clarifying communication channels and messaging. Some argued that such streamlining could lead to administrative efficiencies, and would certainly assist donor coordination.

What this may suggest is a need to think about the Security Council giving the three expert bodies a clearer mandate and the means to collaborate strategically on capacity building and brokering assistance.²⁶ At a minimum, this should involve the co-location of the three expert groups – as the Council has, in fact, already requested of the Secretariat in Resolution 1904.²⁷ But the Council should also consider going further.

The Security Council should consider consolidating the capacity building-oriented functions of its counterterrorism-related expert groups – even as it leaves them with distinct monitoring and assessment roles, reporting on those issues to distinct committees. The overall relationship between the mandates of the committees themselves need not change significantly, if at all. Nor should the expert bodies be entirely consolidated. On the contrary, CTED might retain its function as a monitoring body for the CTC and the 1267 Monitoring Team its analogous function for the Al-Qaida/Taliban Sanctions Committee, while the 1540 expert group would maintain its reporting-lines to the 1540 Committee. But these groups could, at the same time, share a pooled staff group that focuses on capacity-building and brokering assistance strategies, addressing the issues common to the mandates of all three committees, ranging from long-term legislative reform to border control, policing, and intelligence cooperation. This pooled staff group would be managed by the Executive Director of CTED, and CTED would be the sole expert body reporting on assistance and capacity-building efforts to the Security Council (through the CTC). To ensure this pooled staff group maintained and renewed the networks of in-country contacts and relationships that underpin effective capacity-building efforts, members of the pooled staff group would also participate in the monitoring and assessment visits to countries undertaken by the three expert bodies, as agreed by the CTED Executive Director and the leadership of those other bodies.

This approach would likely not require new resources, since it would involve a partial consolidation of staff resources. It may, however, be worth considering supporting the work of such a pooled staff group through a voluntary trust fund. This is not the first time that such an idea has been raised. In January 2002 the first Chair of the CTC, Sir Jeremy Greenstock, suggested that a trust fund could be established to finance the CTC's work.²⁸ Some states expressed support,²⁹ but the idea was decisively rejected by some of the permanent members of the Security Council. The idea was again flagged by the High-level Panel on Threats, Challenges and Change.³⁰ Yet during our consultations, some P-5 members indicated to us that they would be willing to at least revisit this idea, because the level and manner of the expert bodies' involvement in assistance activities has shifted dramatically since this issue was last raised. The upside of such a funding arrangement would be that it would help to alleviate technical difficulties some expert bodies have faced in receiving funds from some donors. There would also be a number of potential downsides, including potential competition with other UN bodies such as UNODC's Terrorism Prevention Branch and perhaps also the Task Force Office (as we explore further in Part II below), and concerns that the Security Council's assistance strategies might be excessively impacted by donor-state interests and concerns.

4. Encouraging broader participation in CTED work

Numerous people we interviewed told us that during country visits, the Council's expert bodies are increasingly met with requests for forms of assistance that lie largely outside their remit – and more in the realm of Pillar I of the Strategy, dealing with prevention and measures to address conditions conducive to the spread of terrorism. What that seems to indicate is not only a need to clarify the mandate of those bodies, especially CTED, to support such work, but also a need to more closely integrate the prevention-oriented capacity-building and assistance work of a variety of other UN entities outside the Security Council with the work of the Council's expert bodies. Without access to this broader expertise, one UN member state official told us, the expert bodies are increasingly “left naked” during these country visits.

Accordingly, the Security Council may wish to encourage broad participation by entities within the UN system, and where relevant other entities such as regional and subregional organizations and functional organizations, in country visits led by CTED. Broad participation in these visits will help to ensure the legitimacy, sustainability, and effectiveness of the international community's partnership with member states to develop their capacity to counter terrorism, across all four pillars of the Strategy. One potential downside to this approach pointed out to us, however, was the potential for "overcrowding" site visits, making them less focused and more difficult to execute. One alternative to broad participation on the ground during site visits could be, therefore, simply to encourage broader consultation before and after the visits.

Likewise, the Security Council may wish to consider fostering a broader range of inputs into the preliminary assessments prepared by CTED – whether drawn from UN bodies not currently closely engaged in those preparations, or, possibly, from civil society. The UN Human Rights Council's Universal Periodic Review process, for example, includes a process of solicitation of civil society submissions for consideration during consultations with the country being reviewed. A similar system might be considered by the Council to ensure that CTED has access to a wide range of views about the strengths and vulnerabilities of a country's efforts to implement its international counterterrorism obligations.

5. Creating a limited field presence

Many of those we spoke to suggested that making more of the Strategy would require the Council to create a limited field presence for its counterterrorism work – if only on a temporary basis – to oversee specific assistance projects and facilitate interaction with a host state. The Security Council could mandate CTED to send its staff, where necessary, to sit in existing UN offices and/or regional or functional organization offices in the field, to oversee specific projects for a limited period. Such field placements would facilitate assistance-brokering projects such as those under way in South Asia, East Africa, and mooted for West Africa, by easing communication, deepening trust with local partners, and creating greater visibility in the region. These placements should be temporary and supported by extra-budgetary resources.

II. COUNTERTERRORISM WITHIN THE BROADER UN SYSTEM

“Pillar I is starting to be the star.”³¹

“The UN has built a complex and potentially effective counterterrorism architecture in the last five years. But it’s all in New York and Vienna. If you want the Strategy to be effective in the field, it has to be in the field.”³²

Introduction

Countering terrorism and violent extremism is a long-term project. In fact, as an exercise in prevention, it is, alas, probably a permanent project. During our consultations we heard many suggestions that the United Nations’ existing counterterrorism arrangements – most of them built in response to specific terrorist attacks – need renovation if the UN is to exploit its convening power, multifunctional expertise, universal membership, and global reach to better prevent terrorism and violent extremism. In particular we heard there is a need for a new approach to jump-start effective cooperation at the field level between the diverse UN entities working on counterterrorism-relevant issues, and to increase the use of the Strategy by member states, civil society, and other bodies, as a framework for action.

In this section we briefly examine recent developments in the work of the UN bodies outside the Security Council and the cooperation and coordination among these entities. Because this report will be published in the context of the upcoming review of the Strategy, we focus primarily on the Task Force, which is responsible for coordinating UN implementation of that Strategy. We conclude that the new approach needed to jump-start effective integration in UN field activities may not be forthcoming until the UN leadership and UN member states provide clearer political guidance on Strategy implementation to the Task Force. This may require some small organizational adjustments in the upcoming Strategy review, or in the year ahead.

Increasing in-depth knowledge of the Strategy

As many recognize, the Strategy is more of a policy agenda or framework than a ‘strategy’ *per se*; it contains a set of policy objectives, rather than a linear roadmap for prioritizing the allocation of scarce resources or assisting the development of a sequenced plan for their deployment. In the highly fragmented institutional environment of the UN, effective implementation of the Strategy will therefore require the development of effective systems of coordination to allow UN entities to make those choices and develop those plans in a coherent manner.

Many interlocutors told us that they do indeed see some signs of increasingly effective coordination and collaboration, and a generally positive move towards more effective implementation of the Strategy, among the more than 30 UN entities involved as full participants or observers in the Task Force. Many interlocutors we consulted suggested that the Task Force and some of the working groups have “scored a number of wins” in the last few years by producing practical, focused reports and tools. Others, however, argue that most of those products – and indeed the Strategy itself – remain extremely poorly appreciated by member

states, particularly among those government practitioners whose everyday business is counterterrorism, but who are not located within foreign ministries.

The opportunity the Strategy and existing UN mechanisms provide for collaborative, holistic counterterrorism efforts, promoting human rights and human security through preventive action in schools, mosques, churches, temples, and synagogues, and in development programming and in chatrooms is either unknown or largely overlooked beyond New York, Geneva, and Vienna, we were told. As one UN official put it, “The UN’s convening power is very powerful. But it is worthless if it is not used.”³³

Knowledge of the Strategy is, of course, not an end in itself but rather a means to mobilize support for effective partnerships to build counterterrorism efforts and resilience to violent extremism. A first step in further development of Strategy implementation may, therefore, be the promotion of in-depth knowledge of the Strategy – and the opportunities that engagement within UN bodies offers for effective Strategy implementation, as suggested in a recent report by the UN Secretary-General.³⁴

Accordingly, the General Assembly may wish to consider mandating the Task Force Office, in the context of and following the upcoming review, to work with the UN Department of Public Information, Task Force member entities, and civil society to engage in a comprehensive and sustained process of global outreach to promote and raise in-depth knowledge of the Strategy. This could involve a number of discrete projects, including:

- the creation of a booklet and web site detailing real-life examples of programming to implement the various aspects of the Strategy, to help explain the Strategy to policymakers, donors, and recipient governments;
- the promotion of in-depth knowledge of the Strategy through strategic, region-specific meetings with key stakeholders, including relevant civil society actors;
- a new-media based campaign, conducted in collaboration with global civil society to promote social resistance to violent extremism; and
- the creation of a low-cost monthly Task Force electronic newsletter, highlighting activities by Task Force member entities and upcoming dates of importance.

Encouraging member state interaction with the Task Force

Member states’ interaction with the Task Force on Strategy-related issues should not, we were frequently advised, be seen as a one-way street. The Strategy is not something “owned” by the UN, to be promoted by it “out into the world;” instead, we were told by one person we interviewed, “it is a Strategy by, for and of the states,” which in turn should guide UN assistance activities.

1. Fostering member state input

Translating the Strategy from a policy agenda into a strategic plan raises serious policy questions. Which aspects of the Strategy should be prioritized in any given situation? Who should make that decision? These questions will become an increasingly pressing concern as the UN continues to embrace programming around Pillar I of the Strategy, with its focus on long-term prevention of terrorism and violent extremism.

There are positive signs of increased activity on Pillar I. For example, the Task Force working group on preventing and resolving conflicts, led by the Department of Political Affairs, has worked with member states to develop an initiative to help implement the Strategy in Central Asia. The initiative is coordinated by the working group and the United Nations Regional Centre for Preventive Diplomacy for Central Asia (UNRCCA). The initiative will focus on assisting the governments of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan in addressing conditions conducive to the spread of terrorism, enhancing capacity building, and preparing a regional action plan on the implementation of the Strategy.³⁵ Efforts by individual Task Force members to build member state and regional capacity to combat terrorism can also be seen as preventive in nature.

As UN counterterrorism moves increasingly into territory that requires it to address numerous policy objectives at once – promotion of development, good governance, human rights and the rule of law, conflict prevention and resolution – these objectives may not always seem entirely reconcilable in the short term. So who should choose which objectives are to be prioritized in the short term? Clearly, the role of political actors at the national and regional level will, and should, come to the fore.

Many people we spoke to argued that the UN membership should play a stronger role in providing policy guidance to the Task Force on Strategy Implementation. They point to the resolution adopted at the last review of the Strategy, which states that the Task Force “shall carry out its activities within the framework of its mandate, with policy guidance offered by Member States through interaction with the General Assembly on a regular basis.”³⁶ The General Assembly also decided to “interact with the Task Force on a regular basis in order to receive briefings and reports on its current and future work, assess the work being undertaken on the Strategy implementation efforts, including the work of the Task Force, and to offer policy guidance.”³⁷ Yet two years later, that promise has delivered little by way of concrete policy guidance. One briefing was provided by the Task Force to member states in March 2009, and the next not until July 2010. (Though this relative scarcity of briefings may be due in part to the process of institutionalization of the Task Force Office, which occurred during the intervening period.)

Regular open briefings by the Task Force chair and/or Task Force working groups to the General Assembly membership might help to address some of these concerns. But there may also be a need for a more continuous, interactive dialogue – and not just one-way information briefings. Member states have, in fact, long called for “a forum within the UN to allow Member States to fulfill their leading role in overseeing UN Strategy implementation efforts and allow them a regular opportunity to review and determine the policy direction of Strategy implementation efforts, including the work of the Task Force.”³⁸ Such a body would help to ensure that the Task Force does not simply respond to the concerns of powerful, wealthy states, and instead responds to the broader membership. Yet some interlocutors told us that it was unrealistic

to expect extensive engagement by the membership in the development of counterterrorism strategy for specific situations. One simply said that the key is the relationship between the head of the Task Force Office and member states and UN entities. Others suggested that the Security Council is likely to play a central role in developing any such strategy.

Given these various considerations, the General Assembly may wish in its upcoming Strategy review to consider mandating increased dialogue between the General Assembly membership and UN organs in implementation of the Strategy. Specific measures might include:

- requiring periodic reporting (such as three times per year) by the chair of the Task Force to the UN membership;
- encouraging informal briefings by Task Force working groups to the membership to present key findings and best practices and to identify challenges;
- encouraging the Task Force chair to institutionalize periodic, transparent consultations with the Group of Friends of the Strategy;
- encouraging the President of the General Assembly to explore with the Security Council the possibility of informal consultations between member states and the Security Council on how the Strategy might inform the Security Council's efforts to deal with situations already on its agenda, where counterterrorism considerations are relevant;
- expanding opportunities for member state interaction with working groups, including possibly the formation of *ad hoc* working groups encompassing members of the General Assembly and the Task Force to develop more detailed policy guidance on implementation of specific aspects of the Strategy; and
- creating opportunities for periodic interaction between member states' counterterrorism officials, and other relevant stakeholders, to share best practices in Strategy implementation.

2. Encouraging interaction on the ground

Such interaction in New York may, we were repeatedly told, help to stimulate interaction between UN entities and member states on the ground – which must be the main goal of discussions in New York. On the other hand, UN officials repeatedly pointed out to us that there are limits to such interaction, including in the fact that the Task Force essentially has no formal 'right of visitation' to member states. This has, in specific cases of which we were informed, complicated Task Force Office participation in country visits by CTED and other Security Council counterterrorism-related bodies, placing additional obstacles in the path towards the UN 'delivering as one' in the field of counterterrorism assistance. Increasingly, this also leaves CTED and others in an awkward position, as states do not agree to Task Force entities participating in such a visit, leaving the staff of Security Council bodies to deal with Pillar I and Pillar IV issues that are formally beyond their remit. In Part I above we explored whether it may be useful for the Security Council to consider strengthening the hand of CTED to assist states on such Pillar I and Pillar IV issues. It may

also be useful, however, for the General Assembly to think about ways to overcome these obstacles to Task Force participation in such CTED country visits.

The General Assembly could, for example, encourage member states to agree to Task Force participation in CTED country visits by stressing the benefits to be gained from member states' voluntary partnership with the Task Force. Alternatively, the General Assembly might suggest that a Task Force entity be dual-hatted as a representative of the Task Force as a whole during country visits, reporting back to the Task Force after the visit. This might help to overcome the reticence of some states to engage with the Task Force during country visits and would help coordination among the UN's counterterrorism assessment and assistance efforts.

More than the sum of its parts? The challenge of coordination

Effective implementation of the Strategy rests not only with member states, but also in large part with the newly established Task Force Office within the Department of Political Affairs, agreed to by member states in December 2009.³⁹ Member states approved the institutionalization of the Task Force Office to: 1) promote coordination within the UN system and with key external organizations; 2) provide policy advice and good practice from within the UN system to member states to assist Strategy implementation; and 3) coordinate the delivery of requested assistance to member states from the UN on Strategy implementation. As the 2010 *Report of the Secretary-General on activities of the United Nations system in implementing the Strategy* notes, "the institutionalization of the Task Force reinforces the Strategy by providing a core and dedicated body within the Secretariat."⁴⁰

As we heard often, this Office "remains in its infancy." Mr. Jean-Paul Laborde was confirmed as its head and as chair of the Task Force only in late July 2010. Of its handful of staff, more than half are not yet in permanent contractual positions. It remains unclear, as a result, how strong a coordinating role the Task Force can play in the near future. In fact state and UN officials alike told us that many of the 30 member entities of the Task Force seem keen on coordination – but not so keen on being coordinated.

Some have very good reason to be cautious. There can be no doubt that in many parts of the world, many of the preventive activities encompassed by Pillar I of the Strategy may be more difficult to undertake – and especially more difficult to undertake *successfully* – if they are brashly emblazoned with the label of 'counterterrorism.' It is understandable that many within the UN system feel that if counterterrorism does have to be married with development activities, inter-faith dialogue, educational reform, promotion of good governance and the rule of law, or even humanitarian activities, it is a marriage best kept quiet. One UN official put this bluntly: "It's the terrorism label that kills us."

There can be no doubt that a more robust and nuanced dialogue is needed to consider the unintended impacts that over-narrow approaches to counterterrorism might have on the UN's pursuit of its objectives, purposes, and principles. There is, in particular, a need to consider the chilling effect that overly-broad counterterrorism policies may have on humanitarian access and political engagement by civil society.

There are, however, two strategic dangers involved in allowing such concerns to stifle efforts to ensure that the full range of UN counterterrorism actors – both traditional and ‘nontraditional’ – are actively engaged in the work of the Task Force and the UN’s effort to realize the holistic vision of counterterrorism set out by member states in the Strategy. We address these dangers and propose some remedies below.

1. Increasing engagement by the UN leadership

First, staying quiet about the opportunities created for violent extremists by under-development, poor governance, and conflict does little to demonstrate to the broader international community that the UN is dedicated to a holistic vision of counterterrorism and countering violent extremism. While the UN leadership refuses to utilize the bully pulpit they enjoy to articulate such a vision, some will continue to see the United Nations as having failed to demonstrate its independence from a more militant conception of counterterrorism. This can only harm its credibility and the organization’s legitimacy and authority over the long term.

Accordingly, we believe the time is ripe for a much more significant engagement by the UN leadership on counterterrorism issues. While such steps are needed, it will not be sufficient for the Task Force Office to carry out regional outreach meetings, or even for the Department of Public Information to carry out a broad-based media campaign to generate in-depth knowledge of the Strategy. Additional signals are needed from the UN leadership – not only the Secretary-General but also, and perhaps more crucially, the governing bodies and administrative leaders of the UN’s non-traditional counterterrorism entities – that they are ready to engage with and provide leadership on this agenda. We suggest that Task Force member entities increase the engagement of their own leadership with the work of the Task Force – if necessary through consideration of such engagement by their governing bodies. This would likely provide a significant boost to the mainstreaming of counterterrorism in the work of the organization and would help to ensure consistent messaging by the UN leadership on the shared vision of holistic, preventive counterterrorism articulated in the Strategy. The Secretary-General should consider convening a meeting of the heads of all the Task Force constituent entities to elicit commitments from all of them to strengthen their engagement with and cooperation through the Task Force.

To signal his own commitment to such a vision, the Secretary-General could also appoint a blue-ribbon commission, including members with expertise across all four pillars of the Strategy and from around the world, to conduct extensive consultations during the next year and develop recommendations for renovating the UN counterterrorism program in September 2011. September 2011 marks the 10-year anniversary of both 9/11 and the adoption of Resolution 1373, as well as the five-year anniversary of the adoption of the Strategy. The United Nations system as a whole should treat this as an opportunity to take stock of the impacts – intended and unintended – of the UN’s counterterrorism work over the last 10 years, and to consider improvements to the system to better enable it to promote the UN’s holistic vision of counterterrorism.

2. Jump-starting integrated assistance delivery

There is a second danger, too, in overstating concerns about counterterrorism overtaking other organizational objectives: that this rationale for quiet distance serves instead as an excuse for ineffective coordination within the UN system. Indeed many states asked us what the concept of ‘coordination’ really meant in the Task

Force context. “Is there any real evidence,” one of our interview subjects asked rhetorically, “that Task Force members actually do things differently as a result of coordination?” Or does ‘coordination’ simply mean an exchange of information between agencies about activities and programs that those agencies intended to undertake anyhow? Indeed, one key UN official involved in the Task Force suggested to us that although the Task Force is “often described as a ‘coordination group,’ it is much better to think of it as a ‘support group.’” “The Task Force,” this senior official continued, “should be seen as a mechanism that ensures that each of the participating bodies will receive appropriate support from the others when they engage in counterterrorism-related activities.”

The problem with this *laissez faire* approach, however, is that it does little to ensure that the UN offers an integrated approach to the delivery of counterterrorism assistance, especially in the field. Task Force coordination has to date largely focused on coordination at the headquarters level. We were assured by many UN officials that coordinated action in the field – where it is perhaps most needed – remains extremely difficult. One member state official put it succinctly: “The UN has built a complex and potentially effective CT architecture in the last five years. But it’s all in New York and Vienna. If you want the Strategy to be effective in the field, it has to be in the field.”

Some UN officials suggested in interviews that integrated service delivery is being significantly advanced by the Integrated Assistance for Countering Terrorism (I-ACT) working group and initiative. The recent Secretary-General’s report cataloguing efforts by the UN system, member states and others to implement the Strategy describes the I-ACT initiative as

a methodology that enables partnering Member States to address their requests for Strategy-related assistance related to all four pillars to the members of the Task Force in a user-friendly way, via one entry point. The initiative, through which Task Force entities act as “one United Nations”, helps to avoid duplication of work, makes use of increased consultation and maximizes the impact of assistance delivery.⁴¹

Under the initiative, the Task Force works with partnering member states through an electronic database, housed in UNODC, to map requested, completed, ongoing, and planned technical assistance activities by Task Force entities in each partnering member state. This aims to facilitate the identification of gaps in assistance delivery and the elaboration of action plans for assistance delivery.

I-ACT thus aims to complement the work already under way within Task Force entities; yet it is unclear how effective it is in integrating their existing or future programming. To date, I-ACT has been used only in Madagascar, Nigeria, and Burkina Faso. Many we spoke with who have been involved in those efforts seem to remain skeptical about I-ACT’s added value in those cases. As one member state official put it: “We have heard the exact same presentation about I-ACT for the last three or four years . . . and we still don’t see a difference on the ground.” UN officials can cite very few examples of how I-ACT has generated effective integration of counterterrorism assistance service-delivery at the field level, with integrated comments on a draft legislative bill in one country providing the most oft-cited example.

On the contrary, the UN needs to do more, we were told forcefully by a number of member state officials, to overcome its existing “silo mentality.” It should move toward the development of a more horizontally-integrated approach to building member state and regional capacity to deal with a slew of inter-related transnational security issues such as terrorism, transitional organized crime, WMD proliferation, and drugs, human, and small arms and light weapons trafficking. Many of the tools needed to improve national counterterrorism capacities are the same as those needed to address these other concerns. Capacity building to address these concerns will frequently, we were advised, have positive impacts on state and regional ability to manage development, migration, border and taxation revenue, and trade. Whether assistance is needed to develop secure borders and export controls; effective legislation, administration and regulatory capacity; properly trained police, prosecutors, judges, and other law enforcement and criminal justice officials; or a coordinated interagency response at the national level, the UN and its partners often have a presence on the ground that can facilitate access to the requisite expertise. The challenge, we were told, is in coordinating these entities and bilateral relations to ensure that such assistance is delivered in a timely, efficient, consensual, and locally-owned package.

Those we consulted suggested such integrated packaging remains exceptional in this field. Currently, issues such as sanctions, transnational organized crime, terrorism, nonproliferation, and small arms and light weapons are addressed by different parts of the UN Secretariat, each trapped largely within its own institutional silo.⁴² Each issue generates its own institutional interests and donor-backed capacity-building programming, sometimes duplicated across different parts of the UN system. For example UNODC, UNDP, DPKO, DPA, and even the Office of Legal Affairs – not to mention CTED and the Task Force Office – are all engaged in various ways in criminal justice sector capacity-building efforts, sometimes in the same country. Integrated capacity-building efforts are limited. Yet many states in the global South in fact seem more likely to welcome capacity building if it is integrated and linked to addressing fundamental state-capacity shortcomings (such as border control, fiscal management, judicial effectiveness, or policing) relevant to a range of issues – rather than being explicitly linked to what is often seen as a Western-imposed counterterrorism agenda. The current UN approach lacks the flexibility to engage with individual countries in such a nuanced and integrated manner.

Nonetheless, the recent Secretary-General’s report suggests that integrated assistance is a key objective of the Task Force going forward. It names as one of three objectives that “requesting countries receive coordinated assistance from the United Nations system, delivered as ‘one United Nations,’ for the integrated implementation of the Strategy.”⁴³ But it offers few specific ideas on how this might be achieved. In our recommendations at the end of this independent strategic assessment, we offer ideas gleaned from our extensive consultations, which might help to fill this gap. Specifically, we advocate adjustments in five areas:

i. Designating field representatives

First, we suggest that the Task Force should designate a field-based representative from appropriate Task Force entities to serve as its focal point in each region or subregion. In some cases these could be local UN resident coordinators or other appropriate representatives from a Task Force entity in the field,

such as UNODC. Such field representation would help to jump-start the integration of efforts to deliver counterterrorism-related capacity-building assistance.

ii. Clarifying Pillar I programming opportunities

As one UN official told us, “Pillar I is starting to be the star.” Yet many people we interviewed told us that the UN system has not yet clearly articulated “what it means to ‘do’ Pillar I.” Our second suggestion, therefore, is that the General Assembly could mandate the Task Force to work with an outside consultant to identify opportunities for mainstreaming into the existing work of the UN system programming that addresses conditions conducive to the spread of terrorism. This study should be specifically required to focus on identifying programming opportunities that do not disrupt, but rather complement, existing programming priorities within Task Force entities. It should also consider the potential impact of such Pillar I programming on the safety and security of any affected international or national staff, the public perception of the organization, and the space in which civil society, development, and humanitarian actors operate.

The study could address, *inter alia*:

- how the UN Educational, Scientific and Cultural Organization might tackle the misuse of educational institutions for incitement of terrorism and the promotion of violent extremism;
- how UNDP might tackle connections between youth marginalization and exploitation by violent extremists;
- what role the Alliance of Civilizations process might play in strengthening the UN’s Pillar I activities; and
- how relevant UN entities might undertake counterterrorism sensitive peacebuilding and conflict resolution. This last issue should be a particular priority, given the UN Security Council has also similarly requested that the UN Secretariat consider ways to mainstream analysis of transnational threats, including terrorism, into its conflict prevention and resolution activities.⁴⁴

iii. Seconding staff to the Task Force Office

Third, Task Force entities could consider short-term secondments of staff with appropriate knowledge and experience to the Task Force Office. Both Task Force Office capacity and Task Force integration would be boosted by such arrangements. These secondments could be undertaken for a limited period to perform specific tasks and could be financed by voluntary contributions. For example, a development expert might temporarily join the office to sensitize the staff to development considerations in execution of the Strategy and to work with the Task Force Office to generate development-oriented coordination proposals for consideration by the broader Task Force membership. Likewise, temporary secondments might be developed to strengthen the office’s engagement on humanitarian, education, human rights, civil society engagement, and conflict resolution issues, among others.

iv. Overhauling the working groups

Fourth, the Task Force itself should clarify the criteria governing the formation, measurement of success, and closure of working groups. Using these criteria, it should overhaul its existing working groups to ensure they address tomorrow's counterterrorism concerns, rather than yesterday's. Clarification of these criteria would help bring transparency and stability to the initiatives of the working groups, would reassure donors of the criteria used to spend the funds they invest, and would help to ensure that working groups are developing and delivering cross-cutting products that directly inform integrated capacity-building assistance. A rationalization of the existing Task Force working groups should consider reviving the working group addressing radicalization and extremism that lead to terrorism and establishing new working groups where appropriate.

v. Improving donor coordination

Fifth, the Task Force should significantly strengthen efforts to streamline interaction between its member entities and donors. Many donors with whom we spoke expressed concern that they are seeing duplicative proposals presented from multiple Task Force entities, at times risking competition for limited resources. While a number of people we spoke with pointed out that competition can, under the right conditions, be a positive force for innovation and efficiency, many others also suggested that this pattern is undermining confidence among the donors in the ability of Task Force entities to focus on their own specializations and comparative advantages, and to coordinate their efforts to provide holistic assistance packages to member states.

Accordingly, the Task Force Office should take a stronger role in encouraging Task Force entities to coordinate and streamline their engagement with donors, to better coordinate proposals and programming, reduce duplication and the possibility of competition, and build on the synergies that exist between UN bodies. At the same time, member states could also improve coordination among themselves, and with relevant UN agencies, in supporting Strategy implementation projects. Increased exchange of information among donors and between donors and the UN system about programming needs and preferences will help to ensure priority-needs areas are appropriately addressed, and that the UN system can effectively coordinate to deliver an integrated response. Such coordination might be carried out informally, or through a mechanism such as the Group of Friends of the Strategy, which might convene, with the chair of the Task Force, an annual donor planning conference to consider likely counterterrorism programming opportunities and needs in the year ahead. Such an approach would help to ensure that the Strategy is fully and not patchily implemented, and that all parts of the UN system, including the Task Force Office, are adequately resourced.

Emphasizing partnership

Although the Strategy's provisions are largely directed toward UN member states and, in some cases, to entities within the UN system, a few explicitly involve regional and subregional bodies. For example, the Strategy encourages those bodies to create or strengthen existing counterterrorism mechanisms and centers and calls for deeper cooperation between regional and subregional bodies and the CTC and CTED. In addition, it encourages greater sharing of counterterrorism capacity-building information among states, the UN, and relevant multilateral bodies.

The Strategy also specifically encourages “non-governmental organizations and civil society to engage, as appropriate, on how to enhance efforts to implement the Strategy.”⁴⁵ A September 2008 General Assembly resolution on the occasion of the first formal review of Strategy implementation efforts was for a time expected to go slightly further and specifically encourage civil society to “engage, as appropriate, on how to enhance efforts to implement the Strategy, *including through interaction with Member States and the UN System*”⁴⁶ (emphasis added). Notwithstanding the removal of the final draft clause, the inclusion of the clause “as appropriate” in the final resolution actually adopted in September 2008 leaves it open to states to foster such direct interaction between civil society and the UN system. While there is a diversity of opinion on how to calibrate that interaction, UN Secretary-General Ban Ki-moon was clear in addressing the General Assembly during the last formal Strategy review when he noted that one of the three main principles guiding multilateral action in this area was that it must be undertaken “in partnership with regional and subregional organizations and with civil society.”⁴⁷

Building on the Secretary-General’s statement, a number of those we interviewed for this independent strategic assessment took the view that sustained engagement with partners is essential for Strategy implementation. Several of the people with whom we consulted argued that the Strategy describes a holistic approach to counterterrorism that seeks to create resilience to violent extremism “not only at the national level, but also at the social level below the state, and the regional level above it” (as one person put it). The UN’s success in Strategy implementation may therefore depend on its outreach to – and partnership with – a host of stakeholders that it has not traditionally focused on courting: regional organizations, parliamentarians, religious leaders, business leaders, victims, educators, bloggers, and even prison wardens. These are, as one member state official put it, “the new enablers” in the global fight against terrorism. One official simply said: “The UN has a limited role in fighting terrorism. But it also has a long reach. If it used that reach more effectively, we might find that counterterrorism becomes a global social movement tomorrow as fast as terrorism is becoming one today.” Another, pursuing a similar vein of thought, argued that “the global Strategy simply provides an agenda. What we have to do now is use that agenda to build cooperative solutions at the national and regional level.”

Yet many UN actors continue to “treat these partners as something of an afterthought.” The UN’s work, especially in New York, is, as one UN official recognized, “too much driven by UN processes and structures, rather than by the views and needs and interests of member states and other partners.” Another UN official put it this way: “We need to engage a range of voices, in the regions, on what terrorism means to them.”

In recent years there has been increasing awareness among many counterterrorism-relevant actors at the UN of the critical roles that regional and subregional organizations as well as civil society can play in ensuring that the Strategy receives the necessary political support from local actors to develop and sustain concrete initiatives on the ground. As is noted below, there has been some significant progress in this area by CTED, particularly on Pillar II and III related activities. The Task Force has also engaged with regional, subregional, and civil society organizations, but it has yet to formalize that engagement and tap the full potential that such partners have to offer for Strategy implementation and counterterrorism more broadly.

1. With CTED

The CTC's, and later CTED's, efforts to engage regional, subregional, and functional organizations have had mixed results over the last nine years. Initially, a series of "special meetings" were convened bringing together a growing number of these organizations – ranging from around 60 to nearly 80 – with the aim of sharing best practices and other information relevant to implementation of Resolution 1373. However, as one of our interlocutors noted, these special meetings did not add the hoped-for value mainly because participating organizations usually just read formal statements. This produced a "talk shop atmosphere" rather than stimulating dialogue and productive exchange of actionable ideas. This observation led one person to query whether simply repeating such an exercise – either under CTED or Task Force auspices – would add any further value? On the contrary, given the Strategy has a scope even broader than Resolution 1373, the danger might be that an even larger number of organizations would be convened – further diminishing the possibility of frank and productive dialogue.

Our consultations suggested the possibility of an alternative to the "special meeting approach" to engagement with partners: tailored engagement with regional groupings. Since the last formal review, CTED has had considerable interaction with a variety of regional organizations, which has added value to CTED's efforts on the ground. Over the past eighteen months CTED has worked closely with the Organization of American States' Inter-American Committee against Terrorism (CICTE) to facilitate assistance from CICTE in the form of training to national-level officials on strengthening Financial Intelligence Units in several member states in the region. CTED has also participated in activities organized under CICTE programs on issues related to legislative assistance, counterterrorism financing, and border controls. The CICTE Secretariat also participated in a CTED visit to Panama. CTED involvement at the regional level in other parts of the world, including with the African Union's Africa Centre for the Study and Research on Terrorism, is also reported to have been productive.

Engagement between CTED and relevant functional organizations on site visits has also been useful, enabling functional organizations to bring their sectoral expertise to bear when discussing relevant elements of Resolutions 1373 and 1624 with officials within the countries visited. For example we were told that while participating in CTED country visits the World Customs Organization has added value through engaging in productive peer-to-peer dialogue with the customs officials from the host country. Likewise, the participation of INTERPOL police officers, or International Civil Aviation Organization aviation specialists, helps to secure the engagement of host-country specialists in those areas during country visits.

Most of these partnerships have focused squarely on Pillar II and III issues, with the exception of some interaction – primarily with think tanks and academic centers – that has helped to enrich CTED's limited work on human rights related issues. This raises the question of how regional and subregional organizations and civil society can best engage with other parts of the UN system that may be more engaged on Pillars I and IV of the Strategy. Clearly, the Task Force has a central role to play in coordinating any such interaction.

CTED's engagement with civil society has also increased recently, for example with the involvement of think tanks such as the Bangladesh Enterprise Institute and the Sri Lanka-based Regional Centre for Strategic Studies, as part of CTED's effort to enhance police and judicial cooperation in South Asia.

2. With the Task Force

The Task Force has increasingly interacted with regional and subregional organizations as part of its outreach efforts over the past two years, mainly by addressing meetings convened by the European Union, the OSCE, CICTE, and others, using them as an opportunity to raise awareness of the Task Force's work, the Strategy, and related implementation efforts. The Task Force Office has also actively participated in meetings and workshops convened by civil society organizations, including the Center. The Office has been active in helping to promote public-private partnerships in the context of furthering Strategy implementation. It has cooperated with educational institutions to promote educational programs on countering terrorism.⁴⁸ The Task Force has demonstrated an active interest in supporting the work of victims, providing a forum and support for individual victims and activist groups, such as the Global Survivors Network, as they share the plight of survivors of terrorist attacks to highlight the destruction and personal suffering that acts of terrorism indiscriminately leave in their wake.

To date, however, all of this interaction between the Task Force and regional and subregional organizations and civil society groups has been *ad hoc*. There is no focal point or regular interface for such engagement and thus no opportunity to understand and efficiently harness the inputs that civil society and regional and subregional organizations might offer to Strategy implementation activities.

3. In a strategic manner

Since there is no clear across-the-board strategy for the UN's approach to this kind of outreach and partnership, a number of the member state officials we spoke to saw the UN as missing numerous opportunities. The UN has not yet, for example, created a forum for convening national and regional counterterrorism coordinators, despite recurring encouragement by some member states to do so.⁴⁹ Nor has it created a clear interface for civil society groups concerned with counterterrorism issues. The Task Force's engagement with regional groupings is at best described as 'opportunistic'. As a result, we were told, the UN increasingly risks finding itself confronted by competing forums, built by member states and other stakeholders to serve the catalytic role that the UN is not yet playing in the broader social effort needed to counter terrorism and violent extremism.

The UN's outreach seems particularly notable by its absence in relation to civil society. A vibrant civil society can play a strategic role in protecting local communities, countering extremist ideologies, and dealing with political violence. Civil society gives a voice to different social groups and causes, which provides a channel of expression for the marginalized and can promote a culture of tolerance and pluralism. On a more practical level, civil society groups can play a significant role in building local support for counterterrorism through education, lobbying government authorities to adopt a holistic response that respects human rights, monitoring implementation of counterterrorism measures, investigating and publicizing abuses committed in the name of fighting terrorism, giving assistance and support to victims, promoting the importance of peace and security, and providing capacity-building assistance. Further, civil society can play a critical role in helping states increase awareness of the threat and the impact of an attack on local communities, and in deepening public support for government action to address it, which is an essential component of any effective long-term strategy. Finally, victim groups

can make important contributions by condemning and putting a human face on terrorism and raising awareness of its human costs.

In our recommendations at the end of this assessment we outline a number of measures we believe could be taken to strengthen the UN's partnerships with civil society and regional and subregional organizations on counterterrorism-related issues.

First, we suggest that the Task Force Office could use its convening authority to promote implementation of the Strategy in different regions and subregions. The Task Force Office could convene Task Force members to meet with the relevant regional and subregional bodies and member states to develop regional Strategy implementation action plans and hold follow-up meetings to discuss accomplishments and identify future goals based on needs. Other possibilities for strengthening engagement with these bodies include Task Force-backed temporary staff placements – especially where Task Force entities have ongoing programming or projects in a region – and inviting specific regional and subregional bodies to participate in Task Force working groups or projects.

Second, we suggest that the General Assembly could mandate the Task Force Office to create a civil society advisory committee for the Task Force, with a mandate to provide informal research and policy inputs to the work of the Task Force. A civil society advisory committee could provide guidance to the Task Force and its working groups, akin to the guidance provided by analogous bodies elsewhere in the UN system, such as UNDP's Civil Society Advisory Committee,⁵⁰ and a similar body that has input on the UN's work on women and armed conflict.⁵¹ It should serve as a strategic advisory body and sounding board on key policy and programming issues, and its members should be invited to propose mechanisms for increased engagement of civil society in the Task Force's working groups and projects.

And third, we argue that the UN Secretary-General and the Task Force should do more to raise awareness of the threat of terrorism and support civil society-led efforts to highlight the plight of victims of terrorism. It is not enough to routinely condemn terrorist acts after they occur or to encourage 'dialogue' – instead the UN should leverage its convening authority to empower victims of terrorism to speak out against terrorism. This could include:

- holding a biennial symposium on supporting victims of terrorism to highlight work done within the UN system for example on access to remedy and work done by civil society groups and member states in this area;
- assisting victims' groups to access funding to help them bring a message of tolerance to a larger audience; and
- highlighting the plight of victims and their role as potential messengers of peace in dialogue with member states.

III. UN COUNTERTERRORISM AND HUMAN RIGHTS: TIME FOR A RESET?

“Our efforts to combat terrorism will succeed only if they are in full accordance with the principles of the rule of law and universal human rights.”⁵²

Introduction

One official from a P-5 mission told us bluntly, when consulting with us during our preparation of this independent strategic assessment, that on the place of human rights in the UN’s counterterrorism program, “there is not much left to say.” Many others with whom we consulted would beg to differ.

The Security Council has itself recently unanimously reaffirmed “its commitment to the Charter of the United Nations and international law, and to an international order based on the rule of law and international law...its strong opposition to impunity for serious violations of international humanitarian law and human rights law...[and] its commitment to ensure that all UN efforts to restore peace and security themselves respect and promote the rule of law.”⁵³ Yet the human rights compatibility of the Council’s delisting measures under Resolution 1267, and the human rights compatibility of national counterterrorism policies adopted in some countries pursuant to Council-backed norms, continue to be the object of controversy and litigation, including in UN human rights bodies such as the Human Rights Council and the Human Rights Committee. The 2009 *Global Implementation Survey* conducted by CTED found that “in virtually all regions there remain significant concerns that the counter-terrorism measures adopted by certain States, including measures adopted within the framework of resolution 1373 (2001), do not comply with those States’ obligations under international law.”⁵⁴ The mandate of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, Professor Martin Scheinin, will terminate in 2011, creating additional uncertainty about whether the UN system will include a role devoted to highlighting human rights concerns in the counterterrorism context, going forward.

Ensuring respect for human rights while countering terrorism – whether within the Security Council, or at the national level in the pursuit of policies and practices sometimes justified by reference to UN norms – seems to us to be perhaps the most clearly unfinished business in the entire process of renewing UN counterterrorism. In this section, we reflect on some of the progress made in this regard and consider some additional steps that might be taken to address such concerns over the year ahead.

Progress in the Security Council?

Without question, the concern we heard articulated most often and with most force during our consultations for this assessment related to human rights. Specifically, we heard a clear and oft-stated concern that in the broad public perception it is not indisputable that the United Nations Security Council promotes a vision of counterterrorism that is entirely compatible with the promotion and protection of human rights and the rule of law. That, we were told, continues to erode the authority and standing of the organization as a whole. And, some claimed, it will lead to ongoing resentment and litigation and undermine the effectiveness of UN counterterrorism efforts.

Many with whom we spoke believe that the Security Council's approach to counterterrorism – especially with its increasing emphasis on assisting states to develop effective and legitimate counterterrorism capacities – *is* entirely compatible with human rights and the rule of law. Yet they also recognize that this remains poorly understood. For others, the concern was, on the contrary, that some aspects of the Council's counterterrorism efforts, most notably the listing and delisting arrangements under Resolution 1267, may *not* be compatible with international human rights standards. Indeed, the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism has gone so far as to recommend a devolution of the Al-Qaida/Taliban listing regime to the national and regional levels, in part to allay concerns about the difficulty of respecting due process in the Council context.⁵⁵ For yet others, an additional concern appears to have been that the policies and practices adopted at the *national* level, in countries' attempts to discharge their obligations under Security Council resolutions, were leading to abuses of human rights and the rule of law. This, they suggested, requires increased attention from the Security Council in its oversight of implementation of Resolution 1373 and other counterterrorism-related provisions.

When it was adopted, Resolution 1373 required, among other things, that terrorist acts (including the financing, planning, preparation, or perpetration of terrorist acts) be established in the domestic law of all UN member states as serious criminal offenses, and that punishments for such offenses reflect the seriousness of such acts. Responding in part to the requirements of that resolution a number of states have reacted by introducing new or special counterterrorism legislation – often very quickly and with limited legislative or public debate. The Eminent Jurists Panel on Terrorism, Counter-Terrorism and Human Rights found in 2009 that “[s]ome of these laws have extended well beyond the original intention of targeting terrorists, and are now being used against ‘ordinary’ criminals, political opponents, dissenters, and members of minority communities.”⁵⁶ Many of these laws, the panel found, were adopted in response to international pressure rather than because of the inadequacy of existing laws in those states.⁵⁷ The Eminent Jurists Panel concluded that many of these laws and resulting practices have undermined both the international human rights regime and the effectiveness of the response to terrorism.

Moreover, although – as we describe below – there have been important advances in recent years at the programmatic level, the United Nations has encountered challenges in integrating the work being done by the various human rights actors within the UN system into the work of its various counterterrorism-related bodies, in particular the CTC and Al-Qaida/Taliban Sanctions Committee and their respective expert bodies. An assessment by Human Rights Watch in 2006 still rings true: “[e]ven where the commitment [to promoting human rights concerns] is strong, UN agencies and departments have yet to find ways of making real the integration of human rights into their policies, programs, and actions.”⁵⁸ Limited resources, narrow mandates, and the politically sensitive nature of counterterrorism issues have heightened these challenges.

These shortcomings are the result of long-standing tensions in the UN's counterterrorism program. Resolution 1373 does not mention the obligation of states to respect human rights in the design and implementation of their counterterrorism measures, except in the context of the granting of refugee status. As a result, the CTC did not at first pay much attention to human rights considerations in its efforts to monitor states' implementation efforts.⁵⁹ In his first report, the Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism documented a number

of instances where the CTC was insensitive to human rights concerns in its dialogue with states.⁶⁰ The predominant view, as expressed by the CTC's first chair, was that assessing compliance with human rights norms was "outside the scope" of the CTC's mandate. Rather it was argued that monitoring should be left to human rights bodies and institutions. Armed with its Chapter VII authorization, the CTC began to review states' counterterrorism efforts without measuring their impact on human rights. The then-UN independent expert on the protection of human rights and fundamental freedoms while countering terrorism, Professor Robert Goldman, commented that the omission of any real mention of human rights in Resolution 1373 and the CTC's early distancing of itself from human rights concerns "may have given currency to the notion that the price of winning the global struggle against terrorism might require sacrificing fundamental rights and freedoms."⁶¹

As a result of pressure from UN member states and human rights advocacy groups, the CTC slowly began to change its policy in this area. In January 2003 the Security Council, meeting at the ministerial level, passed Resolution 1456 (2003) which stressed that states "must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law."⁶² The CTC soon began to use this language in its dialogue with states. In March 2005 the CTC went further, agreeing to allow its newly expanded staff body, CTED, to hire the first human rights expert ever to advise the CTC – though it also limited his activities to liaising with UN human rights bodies and non-governmental organizations. By the end of May 2006 the CTC had adopted its first policy guidance regarding human rights in the work of the CTC. The policy guidance was still ambiguous, but it represented a broad consensus; and, by virtue of its adoption, the CTC finally conferred its stamp of approval on more sustained cooperation on human rights.

Communication between the CTC/CTED and the UN Office of the High Commissioner for Human Rights (OHCHR) in Geneva intensified. On a number of occasions the CTC has been briefed on practical issues by the Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism, as well as by the High Commissioner for Human Rights, and the Vice Chairman of the Human Rights Committee. In December 2009, Mexico – the President of the Security Council that month – hosted an Arria Formula meeting with the participation of Mary Robinson and Hina Jilani of the International Commission of Jurists' Eminent Jurists Panel on Terrorism, Counter-Terrorism, and Human Rights. Briefings by the Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism have become routine, and there are plans for other special procedure mandate holders to brief the CTC. CTED experts are now including human rights issues in their preliminary assessments of states' efforts to implement Resolution 1373, including by drawing on the findings of the UN human rights mechanisms, and are raising human rights concerns on visits to those states that have agreed to discuss them. For example, CTED has inquired into the definition of "terrorist acts" in domestic legislation, to ensure that it is not overly broad or vague, and inquired as to whether any exceptional criminal procedures are applied in prosecuting cases under such legislation and the impact, if any, on human rights. CTED has also inquired into whether proper procedural safeguards are in place to protect against *non-refoulement* in the context of extradition proceedings.⁶³ CTED also has incorporated

human rights considerations in its *Technical Guide to the Implementation of Security Council Resolution 1373 (2001)*⁶⁴ and has established an internal working group on human rights.

Despite CTC and CTED progress in integrating human rights considerations into their work, many we interviewed told us that more could be done. For example, human rights technical assistance providers such as OHCHR are still not included on CTED's directory of counterterrorism technical assistance providers, and most exchanges of information between CTED and the UN human rights mechanisms are still undertaken largely on an *ad hoc* basis. Further, CTED visits to states, which include representatives from various UN agencies and regional bodies, have only recently begun to include representatives with human rights expertise. Many individuals we consulted with suggested that this was due at least in part to the limited number of CTED staff with specific human rights expertise. A number of people we interviewed suggested that CTED should have access to additional human resources with human rights expertise during its assessment and country visit processes – whether through the creation of new human rights posts within CTED or simply through closer cooperation with OHCHR. Finally, as discussed earlier, there is no formal mechanism for either the CTC or its CTED to consult with civil society, including human rights defenders and other groups, when they review national efforts to implement the Council's counterterrorism regime – or for OHCHR to contribute to the preparation for CTED country visits. Some people we spoke to suggested that the CTC should explore options for soliciting input from civil society groups while preparing its country assessments and visits, for example by drawing on the modalities used in the Human Rights Council's Universal Periodic Review process.

There may also be room for CTC and CTED to further enhance their consideration of human rights issues within the context of Resolution 1624. Although dealing primarily with the issue of incitement to terrorism, that resolution also stresses that states are required to comply with their other obligations under international law, in particular international human rights law, refugee law, and humanitarian law.⁶⁵ It also calls on the CTC and CTED to “spread best legal practice” in areas related to the resolution.⁶⁶ Many of those with whom we consulted suggested that this might provide limited room for CTED to expand its assistance to states on human rights issues related to counterterrorism. For example, CTED could work with the Special Rapporteur and OHCHR in developing best practices in the field of national measures to address and prevent incitement consistent with the freedom of expression.

A similar incremental acceptance of the relevance of human rights considerations has also characterized the work of the Security Council's Al-Qaida/Taliban Sanctions Committee. As noted earlier, the Security Council has taken a number of steps to address human rights and due process concerns relating to the sanctions regime, perhaps most notably through the adoption of Resolution 1904. That resolution amended the regime to make the process of listing and delisting entities and individuals more transparent and to appoint an impartial ombudsperson to mediate requests from entities to be taken off the sanctions list. Judge Kimberley Prost of Canada was recently appointed to that position. Although significant human rights concerns remain, and challenges to the regime will likely continue, Resolution 1904 is the strongest indication to date that the Security Council is serious about better integrating human rights considerations into its counterterrorism efforts.

Many we consulted, however, simply do not believe the ombudsperson regime will pass muster in current and future judicial challenges at the national and regional level. There are increasingly numerous challenges to national and regional level implementation of the Al-Qaida/Taliban Sanctions regime, including litigation in the United Kingdom, Belgium, Canada, Pakistan, the European Union, and beyond.⁶⁷ Some with whom we discussed these cases suggested that the Council may relatively soon find itself forced to again consider more independent review of listing and delisting decisions. Others we consulted saw the appointment of an ombudsperson merely as a first step and indicated that they would be watching closely to see whether that appointment made a noticeable difference in the delisting process and, if so, how that first step could be further expanded upon.

In our consultations with key stakeholders, although many were positive about the progress made by the Security Council in integrating human rights concerns into the practical work of its counterterrorism committees and their expert bodies, many others remained concerned that the Security Council has yet to address the issue directly enough. Some argued that the policies and practices adopted at the *national* level, in countries' attempts to discharge their obligations under Security Council resolutions, are still providing cover for abuses of human rights and the rule of law. Others stated a clear concern that without an unambiguous signal from UN leadership and the UN system as a whole that distances the UN from a policy of coercive counterterrorism, the holistic, preventive vision of counterterrorism reflected in the Strategy will continue to be lost on the broader public. That, some argued, would risk leaving the UN saddled with a misperception that it favors coercive counterterrorism without due regard to human rights.

Time for a reset?

It is clear from our extensive consultations that an explicit affirmation by the Security Council – whether in the form of a presidential statement or a formal resolution – that it supports the upholding of the rule of law, including the protection of human rights, in counterterrorism efforts at the national, regional, and international levels, would be received as a very positive step forward. This affirmation could draw on related language in the UN Global Counter-Terrorism Strategy, Resolution 1822, and the Security Council's recent presidential statement on the rule of law. It might be included in the upcoming CTED renewal resolution, or addressed in a distinct resolution or presidential statement solely devoted to this issue and dealing not only with the Council's work pursuant to Resolutions 1373 and 1624, but its counterterrorism-related work more generally.

We were also told by numerous interlocutors, however, that such a general statement needs to be operationalized if it is to have real credibility. Accordingly, that presidential statement or resolution could call on CTED and other Task Force members to devise human rights guidelines for member states in implementing their counterterrorism obligations under UN Security Council resolutions. So long as they affirm existing international human rights standards, practical guidelines could help states in implementing their obligations to promote and protect human rights in counterterrorism practice on the ground. Special Rapporteurs, the human rights treaty bodies, and OHCHR have been active in seeking to clarify these standards, but the Security Council itself has been largely silent on how to bring them to life in the counterterrorism context, save for CTED's *Technical Guide to the Implementation of Security Council Resolution 1373*. The Security Council could form an *ad hoc* working group, drawing on expertise

from CTED, OHCHR, and other bodies, to devise analogous guidelines covering implementation of all counterterrorism-related obligations under Security Council resolutions, building on the technical guides that the Task Force working group on human rights will publish in autumn 2010. The real value of these guidelines will come from their endorsement by the Security Council itself.

Finally, we also heard numerous suggestions for practical ways in which the Security Council could place greater emphasis on human rights in monitoring the implementation of Security Council resolutions. Some of those that seem to warrant close consideration include:

- creating additional human rights staff positions within CTED or an expanded pooled staff group to enable CTED to more fully take into account human rights considerations in its dialogue with states and in carrying out its assistance-facilitation activities;
- clarifying the mechanism through which OHCHR can contribute to preparation for CTED country visits, including staff secondments if appropriate;
- including human rights guidelines in CTED's technical assistance and best practice directories;
- institutionalizing CTED's consideration of relevant reports by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the human rights treaty monitoring bodies, and the Human Rights Council in preparing preliminary implementation assessments; and
- mandating CTED to invite submissions by civil society organizations to inform its dialogue with states, including in the preparation of preliminary implementation assessments.

The broader UN system

One of the principal strengths of the General Assembly's Strategy is its inclusion of "[m]easures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism."⁶⁸ As many observers have noted, however, human rights should not be treated solely as a separate pillar producing disconnected programming and activities, but rather as an abiding consideration that cuts across all elements of the Strategy. Translating this concept into practical cooperation between traditional counterterrorism actors and those dealing with human rights and rule of law issues within the UN system has been a persistent challenge.

In our consultations, concern was expressed that the structure of the Task Force – which is charged with coordinating UN system-wide Strategy implementation efforts – may not be optimal for mainstreaming rule of law and human rights considerations. Indeed, there is a risk, some argued, that the creation of a distinct Task Force working group on these issues will serve not to provide an “engine” for their consideration across the UN's counterterrorism related work, but rather to “ghetto-ize” that work. Rather than being treated

as an integral part of all aspects of the Task Force's work, rule of law and human rights issues risk being addressed solely in the human rights working group. The human rights working group for the most part has focused its attention on producing a series of reference guides for practitioners on designing human rights-compliant counterterrorism measures, rather than integrating its own work into the activities of the other Task Force working groups.

There was a consensus among those with whom we consulted that the Task Force should mainstream rule of law considerations, including the protection of human rights, throughout its work. Each working group, we were told, should address relevant rule of law and human rights issues. But we were also told that this would most likely require OHCHR to deepen its engagement with the Task Force. Some cautioned, however, that the mainstreaming approach might lead to further marginalization of the human rights perspective, as it is easy to pay lip service to human rights issues absent the expertise needed to understand how to integrate them in practice into everyday counterterrorism work.⁶⁹ The practical reality is that OHCHR may lack the resources to ensure that the human rights perspective is reflected in the different working groups and all UN efforts to promote implementation of the Strategy.⁷⁰ This may simply require OHCHR to dedicate more resources to these issues, which are at the leading edge of human rights concerns in many regions and countries where it has ongoing field presences.

The continuing salience of these issues is evident in the ongoing attention paid by the UN Human Rights Council. The Human Rights Council, the main UN human rights intergovernmental policy and oversight body, has addressed the issue of human rights and counterterrorism primarily through the work of its various special procedure mandate-holders, as well as in its annual resolution on the protection and promotion of human rights and fundamental freedoms while countering terrorism and the Universal Periodic Review. The UN human rights treaty bodies have also taken up issues related to terrorism in their examinations of state-party reports and individual complaints. For example, the UN Human Rights Committee has provided guidance on national-level implementation of the UN's counterterrorism norms, the removal of names from the Consolidated List of the Al-Qaida/Taliban Sanctions Committee,⁷¹ and the use of diplomatic assurances in the removal of individuals where a real risk of torture exists.⁷² The Committee Against Torture has also examined the issue of the responsibility of states for counterterrorism conduct occurring outside their territory.⁷³ UN special procedure mandate holders, including the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, have addressed a broad range of issues related to the impact of terrorism on human rights within the context of their mandates by sending urgent appeal letters, issuing press releases, preparing thematic studies, and conducting country visits. For example, the Special Rapporteur on torture or other cruel or degrading treatment examined the issue of torture aimed at extracting confessions and gathering intelligence as part of a state's efforts to counter terrorism, as well as addressing "extraordinary renditions."⁷⁴ The Special Rapporteur on extrajudicial, summary or arbitrary executions has also addressed related issues, including the use of targeted killings, in particular drone strikes, against suspected terrorists.⁷⁵

During our consultations we heard considerable support for the work of the various special procedure mandate holders of the Human Rights Council, in particular the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. That mandate,

which ends in 2011, seeks to combine the functions of drawing attention to violations of human rights with highlighting best practices in the area of counterterrorism and human rights.⁷⁶ The mandate has helped to ‘normalize’ the consideration of human rights issues during the UN’s counterterrorism work, while also ensuring that the full range of human rights, including economic, social, and cultural rights – and not merely civil and political rights such as the right to life and freedom from torture – are addressed in this context. The Security Council counterterrorism committees, their expert bodies, and the Task Force working groups increasingly look to the Special Rapporteur for inputs on such issues.

Many of those we consulted argued that to ensure continued attention to these matters, the Human Rights Council should renew or create a new mandate for the Special Rapporteur on counterterrorism and human rights issues, when the current mandate ends. In the successor mandate, the Human Rights Council could consider recasting the role of the Special Rapporteur to focus even more on working with member states and other parts of the United Nations to highlight and develop best practices in counterterrorism and human rights. Building on the impact of the current mandate, the Council should ensure that the next rapporteur has a credible background in both human rights *and* counterterrorism (or a related field) to facilitate working with and influencing counterterrorism practitioners. In addition to providing for the continuation of a special procedure mandate on counterterrorism and human rights, the Human Rights Council could follow up more systematically on the recommendations produced by the Special Rapporteur and other special procedure mandate holders.

CONCLUSION: GRASPING THE OPPORTUNITY FOR RENEWAL

“The danger here is that talk about how to organize the UN effort will substitute for action.”⁷⁷

Counterterrorism is, in a sense, like effective action to protect public health or even human rights. All three require states to work constantly, collectively, and in partnership with community groups to prevent disruptions to the body politic and the physical and social fabric of the community. Given today’s global realities, effective counterterrorism – like effective action to protect public health or human rights – must have a central role for cross-border coordination. Effective counterterrorism must be not only reactive – providing solutions to threats once they have been realized – but also preventive, ensuring that those threats are not realized in the first place. In an age of nuclear proliferation, we cannot safely aim for anything else.

Yet the UN’s counterterrorism program – despite the significant advances it has made in the last two years, which are acknowledged by many – does not yet provide the indisputable home for such an international, prevention-focused, rule-of-law-based effort. Those we consulted saw progress; but they saw unfinished business, too. They see a Strategy with unrealized potential, but they also see a growing disconnect between the rhetoric in New York, Geneva, and Vienna, and the perception in the wider world of the UN’s added value on counterterrorism. They see a gap between the promise of the Strategy and the actual assistance and services being delivered on the ground.

Many are optimistic. But the pessimists argue that this gap risks, over time, eroding the relevance and credibility of UN counterterrorism, leading powerful member states to create competitor institutions which they can control more readily, but which do not enjoy the political legitimacy, global reach, or multisectoral expertise of the UN. Others suggest that the misperception of the UN’s role in counterterrorism risks generating ongoing resentment and litigation and undermining the institution’s effectiveness in this area and more broadly.

The antidote to such a trend may lie close at hand. In this assessment, we have argued that the UN system enjoys a rare opportunity over the next year, produced by a coincidence of anniversaries: of 9/11, of the adoption of Resolution 1373, and of the adoption of the Strategy in 2006. We propose that the UN use this opportunity to renew its counterterrorism program by visibly pushing the program out beyond UN headquarters in New York, Geneva, and Vienna into the field; by emphasizing the preventive and holistic aspects of the UN’s vision of counterterrorism, not least through increased engagement by the UN leadership; by providing a fresh start on human rights, including through a UN Security Council affirmation of its commitment to the rule of law while countering terrorism; and by deepening the UN’s partnerships with other stakeholders in effective counterterrorism, including regional and subregional organizations, and especially civil society. All of this will require closer collaboration between the Security Council and the General Assembly, particularly within the framework of the Strategy.

In the pages that follow, we set out 25 specific recommendations for achieving these objectives over the coming year.

RECOMMENDATIONS

To the United Nations Secretary-General:

1. APPOINT A BLUE-RIBBON COMMISSION TO HELP RENEW UN COUNTERTERRORISM BY SEPTEMBER 2011.

The UN Secretary-General should appoint a blue-ribbon commission, including members with expertise across all four pillars of the United Nations Global Counter-Terrorism Strategy (hereafter the ‘Strategy’) and from around the world, to conduct extensive consultations during the next year and develop recommendations for renovating the UN counterterrorism program in September 2011. September 2011 marks the 10-year anniversary of both 9/11 and the adoption of Resolution 1373 (2001), as well as the five-year anniversary of the adoption of the Strategy. The United Nations system as a whole should treat this as an opportunity to take stock of the impacts – intended and unintended – of the UN’s counterterrorism work over the last 10 years, and to consider reforms to enable it to better promote the UN’s holistic, preventive vision of counterterrorism.

To the United Nations Security Council:

2. USE THE UN GLOBAL COUNTER-TERRORISM STRATEGY.

In developing its own counterterrorism efforts, the Security Council should be guided by the General Assembly’s Strategy, adopted in 2006. Since the Strategy was approved unanimously, all members of the Council, permanent and elected, are technically supporters of it. The Council would enhance awareness of the Strategy and could also generate greater buy-in to its own counterterrorism efforts by looking to the Strategy as a source of policy guidance in developing its own counterterrorism work, making specific reference to the Strategy, and affirming the coherence between its own efforts and the objectives laid out in the Strategy. The Council might consider how its own counterterrorism efforts could buttress conflict prevention, mediation, and resolution activities, for example by pressing the Secretary-General to act on the Council’s requests in S/PRST/2009/32 and S/PRST/2010/4 to brief them on transnational threats in his conflict reporting, and by considering what forms of inter-agency collaboration or resources may be needed to adequately equip the Secretariat to provide such analysis. Additionally, the Security Council could conduct informal consultations with the membership of the General Assembly to consider how the Strategy might inform the Council’s approach to cases already on its agenda where counterterrorism is a relevant consideration. This would assist the Security Council to develop political strategies for engagement on counterterrorism issues in specific countries and regions, allowing it to provide guidance to all three counterterrorism-relevant Security Council committees and their expert bodies.

3. CONDUCT A TRANSPARENT REVIEW OF THE COUNTER-TERRORISM COMMITTEE EXECUTIVE DIRECTORATE.

The Security Council should conduct an open, transparent, and inclusive review of the Counter-Terrorism Committee Executive Directorate (CTED) in late 2010. Building on the initiative by the Security Council's Counter-Terrorism Committee (CTC) in its current work programme – where it noted that the chairman of the CTC will hold “periodic informal briefings for Member States, as appropriate, on the work of the Committee”⁷⁸ – the Security Council could conduct an open debate in the lead up to the expected renewal, later this year, of the mandate of CTED. This could be modeled on the process which underpinned the recent review of the 1540 Committee and its expert group. If, for logistical reasons, it proves difficult to have a formal open debate, then the briefing to the Council by the three counterterrorism-related committee chairs, scheduled for late November 2010, might provide an appropriate opportunity for the broader membership to provide input on the work and direction of CTED. The Security Council could also consider requesting that other actors within the UN system present their own views on that occasion. At a minimum, members of the Council ought to facilitate informal discussions with a wide-range of stakeholders on the future direction of CTED. These could be conducted off-site if that is necessary to ensure inclusive participation in the review process and a transparent discussion of any changes to CTED.

4. CLARIFY THE PREVENTION-RELATED MANDATE OF CTED.

The Security Council should use the upcoming review of CTED to clarify CTED's mandate relating to prevention. CTED currently has a limited mandate to facilitate the provision of assistance to member states to assist them with implementation of preventive measures addressed under Resolution 1624 (2005). However, its mandate in relation to facilitating assistance for other prevention-related measures – for example in relation to deradicalization, institutional strengthening, and conflict resolution – could be clarified. If necessary such a preventive mandate could be couched within the terms of Chapter VI of the UN Charter, rather than Chapter VII.

5. ENCOURAGE BROAD PARTICIPATION IN COUNTRY VISITS LED BY CTED.

The Security Council should encourage broad participation by entities within the UN system, and where relevant other entities such as regional, subregional, and functional organizations, in country visits led by CTED. Broad participation in these visits will help to ensure the legitimacy, sustainability, and effectiveness of the international community's partnership with member states to develop their capacity to counter terrorism, across all four pillars of the Strategy.

6. CONSOLIDATE THE ASSISTANCE-BROKERING STAFF FUNCTIONS OF THE THREE EXPERT GROUPS.

The UN Security Council should explore models for further consolidation and streamlining of the assistance-brokering functions of the three committee expert groups. The Council should ensure

that the Secretariat proceeds with ‘co-location’ of the expert groups as called for in Resolution 1904, and additionally task CTED as part of the renewal of its mandate to explore options for further consolidation including a partial consolidation of the staff of the expert groups. This might allow the three groups to draw on one pool of staff in their assistance-brokering work while maintaining separate staff groups to continue their assessment and monitoring work. Such an arrangement would not require new resources and in fact may save some resources. Nor would it require wholesale changes to the mandates of the three counterterrorism-related committees. It would, however, require that the Security Council clearly allocate management and reporting responsibilities for the pooled staff group, likely to the Executive Director of CTED. The work of such a pooled staff group could be supported in part by a voluntary trust fund.

7. MANDATE TEMPORARY CTED FIELD PLACEMENTS TO OVERSEE ASSISTANCE PROJECTS.

The UN Security Council should mandate CTED to send its staff, where necessary, to sit in existing UN offices and/or regional or functional organization offices in the field, to oversee specific projects. Such field placements could facilitate assistance-brokering projects such as those under way in South Asia, East Africa, and mooted for West Africa, by easing communication, deepening trust with local partners and creating greater visibility in the region. These placements should be temporary and supported by extra-budgetary resources.

8. AFFIRM SUPPORT FOR THE RULE OF LAW IN COUNTERTERRORISM.

The Security Council should explicitly affirm its support for upholding the rule of law, including the protection of human rights, in counterterrorism efforts at the national, regional, and international levels. This affirmation could draw on related language in the Strategy, Resolution 1822 (2008), and the recent presidential statement on the rule of law (S/PRST/2010/11). It might be included in the upcoming CTED renewal resolution, or addressed in a distinct resolution or presidential statement solely addressing this issue and dealing not only with the Council’s work pursuant to Resolutions 1373 and 1624, but its counterterrorism work more generally.

9. DEVISE GUIDELINES ON PROTECTING HUMAN RIGHTS WHILE IMPLEMENTING SECURITY COUNCIL COUNTERTERRORISM OBLIGATIONS.

The Security Council should develop and endorse clear guidelines for member states in implementing their counterterrorism obligations under UN Security Council resolutions. So long as they affirm existing international human rights standards, practical guidelines could help states in implementing their obligations to promote and protect human rights in counterterrorism practice on the ground. Special Rapporteurs, the human rights treaty bodies, and the Office of the High Commissioner for Human Rights (OHCHR) have been active in seeking to clarify these standards, but the Security Council itself has been largely silent on how to bring those standards to life in the counterterrorism context, save for CTED’s *Technical Guide to the Implementation of Security Council*

Resolution 1373. The Security Council could form an *ad hoc* working group, drawing on expertise from CTED, OHCHR, and other bodies, to devise analogous guidelines covering implementation of all counterterrorism-related obligations under Security Council resolutions, building on the technical guides that the Counter-Terrorism Implementation Task Force (“Task Force”) working group on human rights will publish in autumn 2010.

10. PLACE GREATER EMPHASIS ON HUMAN RIGHTS IN MONITORING THE IMPLEMENTATION OF SECURITY COUNCIL COUNTERTERRORISM RESOLUTIONS.

The Security Council could, among other things:

- create additional human rights staff positions within CTED or an expanded pooled staff group to enable CTED to more fully consider human rights in its dialogue with states and in carrying out its assistance-facilitation function;
- clarify the mechanism through which OHCHR can contribute to preparations for CTED country visits, including through staff secondments if appropriate;
- include human rights guidelines in CTED’s technical assistance and best practice directories;
- institutionalize CTED’s consideration of relevant reports by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the human rights treaty monitoring bodies, and the Human Rights Council, in preparing preliminary implementation assessments; and
- mandate CTED to invite submissions by civil society organizations to inform its dialogue with states, including in the preparation of preliminary implementation assessments.

To the United Nations General Assembly and member states:

11. INCREASE MEMBER STATE INPUT ON THE IMPLEMENTATION OF THE UN GLOBAL COUNTER-TERRORISM STRATEGY.

In the forthcoming review of the Strategy, the General Assembly should mandate increased dialogue between the General Assembly membership and UN organs on implementation of the Strategy. Specific measures might include:

- requiring periodic reporting (such as three times per year) by the chair of the Task Force to the General Assembly membership;
- encouraging informal briefings by Task Force working groups to the membership;
- encouraging the Task Force chair to institutionalize periodic, transparent consultations with the Group of Friends of the Strategy;

- encouraging the President of the General Assembly to explore with the Security Council the possibility of informal consultations between member states and the Security Council on how the Strategy might inform the Security Council's efforts to deal with situations already on its agenda, where counterterrorism considerations are relevant;
- expanding opportunities for member state interaction with working groups, including possibly the formation of *ad hoc* working groups encompassing members of the General Assembly and the Task Force to develop more detailed policy guidance on implementation of specific aspects of the Strategy; and
- creating opportunities for periodic interaction between counterterrorism officials and other relevant stakeholders to share best practice in Strategy implementation.

12. MANDATE A GLOBAL OUTREACH EFFORT BY THE TASK FORCE.

The General Assembly should mandate the Counter-Terrorism Implementation Task Force Office ('Task Force Office'), in the context of and following the upcoming review, to work with the UN Department of Public Information, Task Force member entities, and civil society to engage in a comprehensive and sustained process of global outreach to promote and raise in-depth knowledge of the Strategy. This should involve a number of discrete projects, including:

- the creation of a booklet and web site detailing real-life examples of programming to implement the various aspects of the Strategy, to help explain the Strategy to policymakers, donors, and recipient governments;
- the promotion of in-depth knowledge of the Strategy through strategic region specific meetings with key stakeholders;
- a new-media based campaign, conducted in collaboration with global civil society to promote social resistance to violent extremism; and
- the creation of a monthly Task Force newsletter, highlighting activities by Task Force member entities and upcoming dates of importance.

13. ENCOURAGE MEMBER STATES TO WORK WITH THE TASK FORCE, INCLUDING DURING CTED COUNTRY VISITS. .

The General Assembly should encourage member states to agree to Task Force participation in CTED country visits by stressing the benefits to be gained from member states' voluntary partnership with the Task Force. Alternatively, the General Assembly might suggest that a Task Force entity be dual-hatted as a representative of the Task Force as a whole during CTED country visits, reporting back to the Task Force after the visit. This might help to overcome the reticence of some states to engage with the Task Force during CTED country visits and would help coordination among the UN's counterterrorism assessment and assistance efforts.

14. MANDATE THE CREATION OF A TASK FORCE CIVIL SOCIETY ADVISORY COMMITTEE.

The General Assembly should mandate the Task Force Office to create a civil society advisory committee for the Task Force, with a mandate to provide informal research and policy inputs to the work of the Task Force. A civil society advisory committee could provide guidance to the Task Force and its working groups, akin to the guidance provided by analogous bodies elsewhere in the UN system, such as the UN Development Programme's (UNDP) Civil Society Advisory Committee⁷⁹ and a similar body that provides input on the UN's work on women and armed conflict.⁸⁰ It should serve as a strategic advisory body and sounding board on key policy and programming issues, and its members should be invited to propose mechanisms for increased engagement of civil society in the Task Force's working groups and projects.

15. ENCOURAGE THE UN SYSTEM TO CLARIFY PILLAR I PROGRAMMING OPPORTUNITIES.

The General Assembly could mandate the Task Force to work with an outside consultant to identify opportunities for mainstreaming into the existing work of the UN system programming which addresses conditions conducive to the spread of terrorism. This study should be specifically required to focus on identifying programming opportunities that do not disrupt but rather complement existing programming priorities within Task Force entities. It should also consider the potential impact of such Pillar I programming on the safety and security of any affected international or national staff, the public perception of the organization, and the space in which civil society, development, and humanitarian actors operate.

The study could address, *inter alia*:

- how the UN Educational, Scientific and Cultural Organization might tackle the misuse of educational institutions for incitement of terrorism and the promotion of violent extremism;
- how UNDP might tackle connections between youth marginalization and exploitation by violent extremists;
- what role the Alliance of Civilizations process might play in strengthening the UN's Pillar I activities; and
- how relevant UN entities might undertake counterterrorism sensitive peacebuilding and conflict resolution. These last issues should be a particular priority, given the UN Security Council has also similarly requested that the UN Secretariat consider ways to mainstream analysis of transnational threats, including terrorism, into its conflict prevention and resolution activities (see S/PRST/2010/4, 24 February 2010).

To the United Nations Counter-Terrorism Implementation Task Force and participating entities:

16. INCREASE HIGH-LEVEL UN ENGAGEMENT WITH TASK FORCE WORK.

Task Force member entities should increase the engagement of their own leadership with the work of the Task Force. This would likely provide a significant boost to the mainstreaming of counterterrorism in the work of the organization and would help to ensure consistent messaging by the UN leadership on the shared vision of holistic, preventive counterterrorism articulated in the Strategy. The Secretary-General should consider convening a meeting of the heads of all the Task Force constituent entities to elicit commitments from all of them to strengthen their engagement with and cooperation through the Task Force. Such a meeting might help to foster support for collaborative staffing arrangements, such as those proposed below in Recommendation 17.

17. CONSIDER SECONDING STAFF TO THE TASK FORCE OFFICE.

Task Force entities should consider short-term secondments of staff with appropriate knowledge and experience to the Task Force Office. Both Task Force Office capacity and Task Force integration would be boosted by the creation of a system of secondments from Task Force member entities to the Task Force Office. These secondments could be undertaken for a limited period to perform specific tasks and could be financed by voluntary contributions. For example, a development expert might temporarily join the office to sensitize the staff to development considerations in execution of the Strategy and to generate development-oriented coordination proposals for consideration by the broader Task Force membership. Likewise, temporary secondments might be developed to strengthen the Office's engagement on humanitarian, education, human rights, civil society engagement, and conflict resolution issues, among others.

18. OVERHAUL THE EXISTING WORKING GROUPS.

The Task Force should clarify the criteria governing the formation, measurement of success, and closure of working groups. Using these criteria, it should overhaul its existing working groups to ensure they address tomorrow's counterterrorism concerns rather than yesterday's. Clarification of these criteria would help bring transparency and stability to the initiatives of the working groups, and would reassure donors of the criteria used to spend the funds they invest. A rationalization of the existing Task Force working groups should consider reviving the working group on addressing radicalization and extremism that lead to terrorism, and establishing new working groups where appropriate.

19. STREAMLINE ENGAGEMENT WITH DONORS.

Task Force entities should continue to strengthen their dialogue with donors, including through the Group of Eight's Counter-Terrorism Action Group. At the same time, however, the Task Force Office should take a stronger role in encouraging Task Force entities to coordinate and streamline their engagement with donors, to better coordinate proposals and programming, reduce duplication and the possibility of competition and build on the synergies that exist between UN bodies. Member states could also facilitate such engagement by improving coordination among themselves. Increased exchange of information among donors and between donors and the UN system about programming needs and preferences will help to ensure priority-needs areas are appropriately addressed, and that the UN system can effectively coordinate to deliver an integrated response. Such coordination might be carried out informally, or through a mechanism such as the Group of Friends of the Strategy, which might convene, with the chair of the Task Force, an annual donor planning conference to consider likely counterterrorism programming opportunities and needs in the year ahead. Such an approach would help to ensure that the Strategy is fully – and not patchily – implemented, and that all parts of the UN system, including the Task Force Office, are adequately resourced.

20. STRENGTHEN ENGAGEMENT WITH REGIONAL AND SUBREGIONAL BODIES.

The Task Force should strengthen its engagement with regional and subregional bodies. The Task Force Office could use its convening authority to promote implementation of the Strategy in different regions and subregions. The Task Force could meet with the relevant regional and subregional bodies and member states to develop regional Strategy implementation action plans and hold follow-up meetings to discuss accomplishments and identify future goals based on needs. Other possibilities for strengthening engagement with these bodies include temporary staff placements – especially where Task Force entities have ongoing programming or projects in a region – and inviting specific regional and subregional bodies to participate in Task Force working groups or projects.

21. DESIGNATE TASK FORCE FIELD REPORTING OFFICERS.

The Task Force should designate a field-based representative from appropriate Task Force entities to serve as its focal point in each region/subregion. In some cases these could be local UN resident coordinators or other appropriate representatives from a Task Force entity in the field.

22. EMPOWER VICTIMS BY USING THE UN'S CONVENING AUTHORITY.

The Secretary-General and the Task Force should do more to raise awareness of the threat of terrorism and to support civil society-led efforts to highlight the plight of victims of terrorism. It is

not enough to routinely condemn terrorist acts after they occur or to encourage ‘dialogue’ – instead the UN should leverage its convening power to empower victims of terrorism to speak out against terrorism. This could include:

- holding a biennial symposium on supporting victims of terrorism, to highlight work done within the UN system for example on access to remedy and work done by civil society groups and member states in this area;
- assisting victims’ groups to access funding to help them bring a message of tolerance to a larger audience; and
- highlighting the plight of victims and their role as potential messengers of peace, in dialogue with member states.

23. MAINSTREAM THE RULE OF LAW IN ALL TASK FORCE ACTIVITIES.

The Task Force should mainstream the rule of law, including the protection of human rights, throughout the Task Force so that each working group includes a human rights component. OHCHR should deepen its engagement in the Task Force to facilitate this increased human rights engagement.

24. ENGAGE OHCHR MORE PROACTIVELY IN THE UN’S COUNTERTERRORISM WORK.

Effective mainstreaming and integration of human rights considerations into the United Nations’ counterterrorism program will be an ongoing challenge absent prioritization of the issue by OHCHR. OHCHR should use the elevation of its New York representative to the level of Assistant Secretary-General to engage more proactively in policy discussions on counterterrorism efforts, and help better translate the concept of mainstreaming human rights into practice, not only in New York and Geneva, but also in the field. If necessary, consideration may need to be given to ensuring OHCHR has adequate resources to achieve these goals.

To the United Nations Human Rights Council:

25. CREATE A SUCCESSOR MANDATE FOR A SPECIAL RAPPORTEUR FOCUSED ON BEST PRACTICE.

The Human Rights Council should create a renewed mandate for a Special Rapporteur on counterterrorism and human rights issues. In the successor mandate, the Human Rights Council could recast the role of the Special Rapporteur dealing with human rights and counterterrorism to

focus even more on working with member states and other parts of the United Nations to highlight and develop best practices in counterterrorism and human rights. Building on the impact of the current mandate, the Council should ensure that the next rapporteur has a credible background in both human rights and counterterrorism (or a related field) to facilitate working with and influencing counterterrorism practitioners. In addition to providing for the continuation of a special procedure mandate on counterterrorism and human rights, the Human Rights Council could follow up systematically on the recommendations produced by the Special Rapporteur and other special procedure mandate holders.

NOTES

¹ UN Security Council, S/PV.6310, 11 May 2010, Ambassador Okuda of Japan, p. 14.

² UN General Assembly, “United Nations Global Counter-Terrorism Strategy: activities of the United Nations system in implementing the Strategy. Report of the Secretary-General”, A/64/818, 17 June 2010, para. 140. (Hereafter ‘Report of the Secretary-General’.)

³ UN General Assembly, A/RES/62/272, 5 September 2008, para. 14.

⁴ UN Security Council, S/RES/1805, 20 March 2008, para. 2.

⁵ UN Security Council, S/RES/1904, 17 December 2009.

⁶ See for example Frank van Lierde, ed., *Countering the Politics of Fear* (The Hague: Cordaid, 2010).

⁷ Center interviews with government officials, June 2010. See also G-8 Leaders Statement on Countering Terrorism, Muskoka, Canada, 26 June 2010.

⁸ Report of the Secretary-General, above note 2.

⁹ Ibid.

¹⁰ Interview with UN official, April 2010.

¹¹ Interview with member state official, June 2010.

¹² See UN Security Council, “Survey of the Implementation of Security Council resolution 1373 (2001) by Member States,” compiled by the Counter-Terrorism Committee, S/2009/620, 3 December 2009, <http://www.un.org/en/sc/ctc/docs/GIS2009.pdf>. (Hereafter ‘2009 GIS Survey’.)

¹³ See UN Security Council, S/PV.6310, 11 May 2010, Ambassador Apakan of Turkey, p. 8.

¹⁴ UN Counter-Terrorism Committee Executive Directorate, “Technical Guide to the Implementation of Security Council Resolution 1373 (2001)” 2009, http://www.un.org/en/sc/ctc/docs/technical_guide_2009.pdf.

¹⁵ UN Security Council, S/PV.6310, 11 May 2010, Ambassador Churkin of Russia, p. 16.

¹⁶ We understand that logistical challenges, including the availability of conference facilities, may limit the possibility of such an open debate being held prior to the renewal of the CTC mandate later this year. If that proves to be the case, the forthcoming briefing to the Council by the chairs of the three counterterrorism-related committees, scheduled for late November, might provide an alternative forum for countries to present their views.

¹⁷ “UN panel removes 45 names from Taliban sanctions list after reviewing nearly 500,” UN News Centre, 2 August 2010.

¹⁸ See generally Yvonne Terlingen, “The United States and the UN’s Targeted Sanctions of Suspected Terrorists: What Role for Human Rights?,” *Ethics & International Affairs* 24, no. 2 (Summer 2010), pp. 131–142.

- ¹⁹ UN Security Council, “Report of the Counter-Terrorism Committee to the Security Council for its consideration as part of its interim review of the work of the Counter-Terrorism Committee Executive Directorate,” S/2009/289, 4 June 2009, Annex, para. 6. (Hereafter ‘CTED Interim Review report’.)
- ²⁰ Report of the Secretary-General, above note 2, para. 45.
- ²¹ CTED Interim Review report, above note 19, para. 16.
- ²² See for example Colum Lynch, “Holbrooke to lighten terror list of Taliban,” *Turtle Bay at Foreignpolicy.com*, 2 July 2010.
- ²³ UN Security Council, “Statement by the President of the Security Council,” S/PRST/2009/32, 8 December 2009; and S/PRST/2010/4, 24 February 2010.
- ²⁴ UN Security Council, “Work programme of the Counter-Terrorism Committee for the period from 1 July to 31 December 2010,” S/2010/366, 14 July 2010.
- ²⁵ UN Security Council, S/PV.6310, 11 May 2010, p. 3.
- ²⁶ The CTC has previously recommended that “the Security Council continue to pay special attention to the cooperation between the three Committees and their expert bodies, including by encouraging a more strategic approach to delivering on their respective mandates.” See CTED Interim Review report, above note 19, para. 24.
- ²⁷ Paragraph 43 of Resolution 1904 “*Reiterates* the need to enhance ongoing cooperation among the Committee, the Counter Terrorism Committee (CTC) and the Committee established pursuant to resolution 1540 (2004), as well as their respective groups of experts, including through, as appropriate, enhanced information-sharing, coordination on visits to countries within their respective mandates, on facilitating and monitoring technical assistance, on relations with international and regional organizations and agencies and on other issues of relevance to all three committees, *expresses its intention* to provide guidance to the committees on areas of common interest in order better to coordinate their efforts and facilitate such cooperation, and *requests* the Secretary-General to make the necessary arrangements for the groups to be colocated as soon as possible; . . .” UN Security Council, S/RES/1904, 17 December 2009.
- ²⁸ See “Security Council hears report by chair of UN counter-terrorism committee,” UN News Centre, 18 January 2002.
- ²⁹ See for example UN Security Council, S/PV.4453, 18 January 2002.
- ³⁰ See UN General Assembly, “A more secure world: our shared responsibility: Report of the High-level Panel on Threats, Challenges and Change,” A/59/565, 2 December 2004, para. 155.
- ³¹ UN official under the Chatham House rule, June 2010.
- ³² Interview with member state official, June 2010.
- ³³ UN official under the Chatham House rule, July 2010.
- ³⁴ Report of the Secretary-General, above note 2, para. 133.
- ³⁵ *Ibid.*, para. 13.

- ³⁶ UN General Assembly, A/RES/62/272, 5 September 2008.
- ³⁷ Ibid. para. 12.
- ³⁸ Center on Global Counterterrorism Cooperation, *International Process on Global Counter-Terrorism Cooperation: A Compilation of Key Documents*, New York, September 2008, p. 2, http://www.globalct.org/images/content/pdf/reports/international_process.pdf. The International Process was organized by Costa Rica, Japan, Slovakia, Switzerland, and Turkey, with the support of the CGCC.
- ³⁹ UN General Assembly, A/RES/64/235, 14 January 2010.
- ⁴⁰ Report of the Secretary-General, above note 2, para. 117.
- ⁴¹ Ibid., para. 110.
- ⁴² See further James Cockayne and Christoph Mikulaschek, *Transnational Security Challenges and the United Nations: Overcoming Sovereign Walls and Institutional Silos*, New York, International Peace Institute, February 2008.
- ⁴³ Report of the Secretary-General, above note 2, para. 134.
- ⁴⁴ See UN Security Council, “Statement by the President of the Security Council,” S/PRST/2010/4, 24 February 2010.
- ⁴⁵ UN General Assembly, A/RES/60/288, 8 September 2006, Preamble.
- ⁴⁶ UN General Assembly, “Draft resolution on the United Nations Global Counter-Terrorism Strategy,” 18 August 2008, <http://www.un.org/ga/president/62/letters/CTS180808.pdf>, para.6.,
- ⁴⁷ UN General Assembly, “Intensified effort to implement UN Counter-Terrorism Strategy ‘Fundamental Duty’, says Secretary-General, as General Assembly meets to assess progress,” GA/10735, 4 September 2008.
- ⁴⁸ According to the recent Secretary-General’s report, the Task Force Office cooperated with “the People’s Friendship University of the Russian Federation in the development of educational programmes on countering terrorism.” See Report of the Secretary-General, above note 2, para. 29.
- ⁴⁹ See note 38 above and accompanying text.
- ⁵⁰ See UN Development Programme, “Civil Society Advisory Committee to UNDP,” at http://www.undp.org/partners/civil_society/civil_society_advisory_committee.shtml, last visited 14 August 2010.
- ⁵¹ See “Civil society group to help advise UN on role of women in peace and security,” UN News Centre, 5 March 2010.
- ⁵² UN Security Council, S/PV.6310, 11 May 2010, Ambassador Wetland of Norway, speaking also on behalf of Denmark, Finland, Iceland and Sweden, p. 33.
- ⁵³ UN Security Council, “Statement by the President of the Security Council,” S/PRST/2010/11, 29 June 2010.

- ⁵⁴ 2009 GIS Survey, above note 12.
- ⁵⁵ “Press Conference by Special Rapporteur on Human Rights and Countering Terrorism,” UN Department of Public Information, 22 October 2008.
- ⁵⁶ Report of the Eminent Jurists Panel on Terrorism, Counter-Terrorism and Human Rights, *Assessing Damage, Urging Action, An initiative of the International Commission of Jurists*, Geneva, 2009, p. 124.
- ⁵⁷ Ibid.
- ⁵⁸ Kenneth Roth, “Letter to Secretary-General—designate Ban Ki-moon,” 11 December 2006, <http://hrw.org/english/docs/2006/12/12/global14832.htm>.
- ⁵⁹ See, for example, Jessica Almqvist, “Rethinking Security and Human Rights in the Struggle Against Terrorism” (paper presented at the European Society of International Law Forum in the workshop “Human Rights Under Threat,” May 27, 2005), <http://www.esil-sedi.eu/english/pdf/Almqvist09-05.PDF>; Human Rights Watch, “Hear No Evil, See No Evil: The UN Security Council’s Approach to Human Rights Violations in the Global Counter-Terrorism Effort,” *Human Rights Watch Briefing Paper*, 10 August 2004, <http://www.hrw.org/backgrounder/un/2004/un0804/un0804.pdf>.
- ⁶⁰ See, for example, UN Economic and Social Council, “Promotion and Protection of Human Rights,” E/CN.4/2006/98, 28 December 2005, para. 60.
- ⁶¹ UN Economic and Social Council, “Promotion and Protection of Human Rights: Protection of human rights and fundamental freedoms while countering terrorism,” E/CN.4/2005/103, 7 February 2005, para. 6.
- ⁶² UN Security Council, S/RES/1456, 20 January 2003, para. 6.
- ⁶³ Several CTED Preliminary Implementation Assessments include such questions. For further information, see copies on file with the CGCC.
- ⁶⁴ UN Counter-Terrorism Committee Executive Directorate, “Technical Guide to the Implementation of Security Council Resolution 1373 (2001),” 2009, http://www.un.org/en/sc/ctc/docs/technical_guide_2009.pdf.
- ⁶⁵ UN Security Council, S/RES/1624, 14 September 2005, para. 4.
- ⁶⁶ Ibid., para.6(b).
- ⁶⁷ See for example: Joined Cases C-402/05 P and C-415/05 P, Yassin Abdullah Kadi & Al Barakaat International Foundation v. Council of the European Union and Commission of the European Communities, 3 C.M.L.R. 41 (2008); *Nabil Sayadi and Patricia Vinck v. Belgium*, Communication [Comm.] No. 1472/2006, UN Human Rights Committee, CCPR/C/94/D/1472/2006, 29 December 2008, 48 I.L.M. 570 (2009); *Othman v. Council and Commission*, Case T-318/01, 2009/C180/66, Judgment of the Court of First Instance, 11 June 2009; *Abousfian Abdelrazik v. Minister of Foreign Affairs and the Attorney General of Canada*, Reasons for Judgment and Judgment, 2009 FC 580, Ontario, 4 June 2009.
- ⁶⁸ UN General Assembly, *The United Nations Global Counter-Terrorism Strategy*, A/RES/60/288, 20 September 2006, sec. IV.
- ⁶⁹ See further Center on Global Counterterrorism Cooperation, “Counterterrorism and Human Rights: Opportunities to Improve U.S. and UN Policy,” Meeting Summary, New York, 5 February 2010, p. 6, http://globalct.org/images/content/pdf/summaries/10Feb05_Summary_FINAL.pdf.
- ⁷⁰ The OHCHR not only chairs the Task Force working group on protecting human rights while countering terrorism but is also a member of a number of other working groups as well.

- ⁷¹ *Nabil Sayadi and Patricia Vinçk v. Belgium*, Communication [Comm.] No. 1472/2006, UN Human Rights Committee, CCPR/C/94/D/1472/2006, 29 December 2008, 48 I.L.M. 570 (2009).
- ⁷² UN Human Rights Committee, CCPR/C/88/D/1416/2005, 10 November 2006, (*Mohammed Alzery v. Sweden*).
- ⁷³ UN Committee Against Torture, CAT/C/38/D/281/2005, 29 May 2007, (*Pelit v. Azerbaijan*).
- ⁷⁴ UN Human Rights Council, *Implementation of General Assembly Resolution 60/251 of 15 March 2006 Entitled "Human Rights Council": Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak*, A/HRC/4/33, 15 January 2007.
- ⁷⁵ UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions., Philip Alston: Study on targeted killings*," A/HRC/14/24/Add.6, 28 May 2010.
- ⁷⁶ UN Human Rights Council, *Protection of human rights and fundamental freedoms while countering terrorism: mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, Resolution 6/28, 14 December 2007, http://ap.ohchr.org/Documents/E/HRC/resolutions/A_HRC_RES_6_28.pdf
- ⁷⁷ Peter Romaniuk, *Multilateral Counter-terrorism: The Global Politics of Cooperation and Contestation* (New York: Routledge, 2010), p. 108.
- ⁷⁸ UN Security Council, "Work programme of the Counter-Terrorism Committee for the period from 1 July to 31 December 2010," S/2010/366, 14 July 2010.
- ⁷⁹ See note 50 above.
- ⁸⁰ See note 51 above.

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