

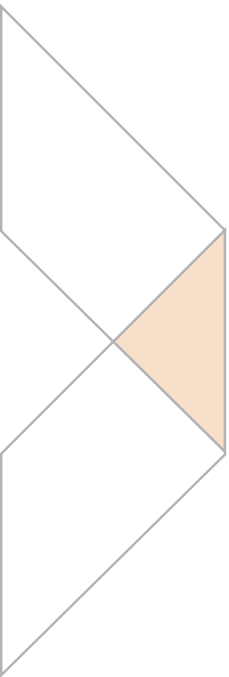


Friend not Foe

Opening Spaces for Civil Society Engagement
to Prevent Violent Extremism

A report to Cordaid from the Fourth Freedom Forum and
the Kroc Institute for International Peace Studies
at the University of Notre Dame

David Cortright, with Alistair Millar, Linda Gerber-Stellingwerf,
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Sanctions & Security Research Program

Enhancing sanctions as instruments of international peacemaking

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DAVID CORTRIGHT, WITH ALISTAIR MILLAR,
LINDA GERBER-STELLINGWERF, GEORGE A. LOPEZ,
ELIOT FACKLER, AND JOSHUA WEAVER

ON THE COVER

Afghan women attend a gathering to mark International Women's Day at Babur Gardens in Kabul on 10 March 2011.

SHAH MARAI/AFP/GETTY IMAGES



CONTENTS

Executive Summary	ix
FRIEND NOT FOE	1
The Role of Civil Society	2
Defining Terrorism and Counterterrorism	4
How (Not) to Counter Terrorism	5
Good CTMs	7
Bad and Ugly CTMs	8
Gender Impacts	9
Case Studies	10
Colombia: Conflict without End	11
Kenya: Battling Impunity	12
Manipur: Facing Repression	13
Mindanao: Struggling for Justice	14
Securitizing Aid	16
'Money as a Weapons System'	17
Civil-military Cooperation?	19
De-funding Civil Society	20
NGOs as partners?	22
Protecting Civil Society	23
A Voice for Change	24
Conclusion	25
RECOMMENDATIONS	27
United Nations	27
States	28
CSOs	28
Notes	30



Foreword

One of the less known effects of the tragic 9/11 events and the subsequent global war on terror is the chilling impact counterterrorism measures have had on civil society and citizens' agency. Ten years later the phrase 'war on terror' is no longer used officially, but measures that curtail the operational and political freedoms of civic organizations worldwide in the name of countering terrorism continue to be real, tangible, and strongly counterproductive. Through their efforts for development, human rights, peacebuilding, and conflict transformation civil society groups address political grievances, socio-economic injustices, and power imbalances that are among the root causes of violent armed conflict. Understandably these groups do not want to label their work as counterterrorism, but it is exactly what is needed to counter violent extremism.

The report by David Cortright et al, *Friend not Foe: Opening Spaces for Civil Society Engagement to Prevent Violent Extremism*, gives a comprehensive and vivid account of the challenges that civil society groups continue to face worldwide in protecting and expanding their political voice and operational space. The first edition of this report focused primarily on the effects of counterterrorism measures on civil society in the Global South. This updated version places the closing of civil society space in a wider global context of securitization of aid, de-funding of civil society, and civil military cooperation. It gives a crystal clear account of the persistent shift in international cooperation policy from sustainable development as an intrinsic public good to development as an instrument for national and geopolitical security and economic goals.

The authors recommend concerted civil society engagement on behalf of human security policies to prevent violent extremism. The UN *Global Counter-Terrorism Strategy* is considered to be a legitimate anchor for the international community and civil society alike to work on civil society engagement, particularly in the areas of development, conflict prevention, and human rights. The overriding conclusion of the report is that security policies in general and counterterrorism measures in particular are making the threat of violent extremism worse when they are developed and implemented without civil society participation and civic agency.

The report comes at an auspicious time. The fight for greater civic and political freedoms in the Magreb and Middle East has posed unprecedented challenges to repressive governments across the region. It has also laid bare the double standards of the international community's foreign policies and underlying motives. In the name of national and geopolitical stability international power-holders actively support repressive leaders and authorities to the detriment of fundamental rights of a great number of people. The cases presented in the report reveal similar repressive tendencies in other regions. In Kenya, Colombia, northeast India, and the Philippines unresponsive (local) governments have sought to restrict and close down civil society rather than provide solutions to the many historically rooted political, social, and economic grievances that affect the lives and livelihoods of millions. Stable and secure societies need an expansion of public and relational spaces where citizens and their organizations can express voice and choice and hold their governments accountable. The cases show that repressive responses often lead to more extreme violence. The cases also show that engagement mechanisms from a human security perspective offer alternative solutions. Hardworking and courageous civil society advocates are building relationships and pursuing dialogue across political and societal divides in communities around the world.

The *Friend not Foe* report is one of the outcomes of an initiative that the Dutch international development organization Cordaid started four years ago.* The aim has been to get a better understanding of the effects of the global war on terror on civil society worldwide and in a number of selected countries and to document and analyze these impacts in view of the worldwide trend toward the securization of development aid. Cordaid and civil society partners organized in 2008 and 2009 international working conferences in Maastricht, the Netherlands; Davao, the Philippines; Kampala, Uganda; and Bogotá, Colombia.† Over 400 participants from civil society, including grassroots organizations, intermediary organizations, global networks, universities, think tanks, government, the diplomatic corps and the security sector participated and shared experiences, views, and thoughts. The *Friend not Foe* report is based on the findings of these conferences and many additional interviews. The report is the product of collaboration between colleagues in the United States and the Netherlands, in cooperation with civil society activists on the ground in many countries.

A number of the persons, organizations, and networks engaged in this initiative are now working closely together in what may be called a "global community of change." This emerging community aims to increase civil society's participation and engagement in shaping security and counterterrorism policies, focusing on the UN *Strategy*. It is active at global, regional, national, and local levels. It connects local agendas with global policy and vice versa. It seeks common ground in relation to issues of security, development, and peacebuilding through the lens of

* Cordaid is the Catholic Organisation for Relief and Development, with head offices in the Hague the Netherlands. It works with and supports civil society organizations and networks in twenty-nine countries worldwide.

† The Maastricht conference was organized with ICCO (Interchurch Development Cooperation), the Davao session with IID (Institute for International Dialogue), the Kampala conference with DENIVA (Development Network of Indigenous Voluntary Associations), and the Bogota conference with CINEP (Centre for Investigation and Popular Education).

human security. It is driven by knowledge and agency rooted in on-the-ground realities of women, men, and children living in communities affected by violence. It aims to transcend the politics and culture of fear that have poisoned the global response to the events of and since 9/11.

Cordaid commends this report and views its publication as timely and important, a valuable and significant resource for the interconnected community of change seeking to build global human security.

LIA VAN BROEKHOVEN AND FULCO VAN DEVENTER

Corporate Strategy and Innovation

Civil Society Political Space initiative

Cordaid, the Hague



Executive Summary

In the name of fighting terrorism governments have curtailed political freedoms and imposed restrictive measures against human rights defenders and civil society activists in many countries. Repressive counterterrorism measures (CTMs) have undermined civil liberties and contributed to a climate of suspicion and hostility toward nongovernmental groups. Many of the organizations that work against violent extremism by promoting human rights and sustainable development are themselves being labeled extremist and are facing constraints on their ability to operate. The positive work of civil society to alleviate social and political marginalization helps to reduce grievances that can lead to political violence. Measures taken in the name of counterterrorism that limit the political space of such groups have the ironic result of inhibiting work on the ground to address conditions that fuel terrorism.

Counterterrorism measures include a wide range of policies with differing impacts, which can be loosely characterized as the good, the bad, and the ugly. Good measures are those that enhance international cooperation and encourage support for equitable development and human rights, as recommended in the UN *Global Counter-Terrorism Strategy* (the *Strategy*). In the bad and ugly categories are measures that are often overly militarized and have led to extrajudicial killings, intensified state repression, and human rights abuse. Also in this category are policies that curtail universally recognized human rights, including fundamental freedoms of expression, association, and assembly, and that restrict the funding and operational space of charities and civil society groups. Repression against civil society activists has intensified in dozens of countries, according to Freedom House. Political freedom has steadily eroded in recent years, as measured by the organization's annual ratings, making this the longest period of consecutive worldwide setbacks for freedom in nearly 40 years.*

The global trend toward using humanitarian aid and development funding for security-related purposes has accelerated. Aid programs are being integrated into

* Arch Puddington, *Freedom in the World 2011: The Authoritarian Challenge to Democracy*, Freedom House, 2011, 4, http://www.freedomhouse.org/images/File/fiw/FIW%202011%20Booklet_1_11_11.pdf (accessed 18 January 2011); Freedom House Press Release, "Freedom in the World 2010: Global Erosion of Freedom," 12 January 2010, <http://www.freedomhouse.org/template.cfm?page=70&release=1120> (accessed 13 January 2011).

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counterinsurgency operations. In the United States a quarter of USAID funds are channeled through the Pentagon.[†] In the United Kingdom and other donor states a growing portion of development assistance is being directed toward conflict zones such as Afghanistan and Pakistan. Aid policies increasingly serve selective security purposes rather than the universal goals of overcoming global poverty and empowering marginalized communities. Development advocates recognize the connections that exist between development and the prevention of armed conflict, but they oppose the diversion of aid funding to serve the security interests of governments in the global North rather than the human needs of people in the global South.

In December 2010 UN Secretary-General Ban Ki-moon dedicated the annual observance of International Human Rights Day to the many human rights defenders around the world who are attacked and threatened for their efforts to protect and promote political freedom. He reminded governments of their obligations under international law to protect human rights advocates and uphold fundamental freedoms of expression and assembly.[‡]

The following rights, derived from UN conventions by the International Center for Not-for-Profit Law, are the essential requirements for assuring political freedom and protecting the operational space of civil society:

- ▶ the right to associate and form organizations;
- ▶ the right to operate without unwanted state interference;
- ▶ the right to free expression;
- ▶ the right to communicate and cooperate freely internally and externally;
- ▶ the right to seek and secure resources; and
- ▶ the right to have these freedoms protected by the state.

Through their efforts for development, conflict transformation, and human rights, civil society groups are working to dry up the wells of extremism from which violence springs. Civic organizations address political grievances, socio-economic injustices, and power imbalances that are among the roots causes of armed conflict. This work is not labeled counterterrorism, nor should it be, but it is exactly what is needed to counter violent extremism. International policymakers must recognize and protect this vital civil society mission and take action to eliminate counterproductive CTMs. In the global struggle against terrorism civil society groups should be welcomed as friends, not hounded as foes.

[†] Center for Global Development, “Defense and Development,” http://www.cgdev.org/section/topics/aid_effectiveness/defense_and_development (accessed 1 March 2011).

[‡] Ban Ki-moon, “Secretary-General’s Message,” United Nations Human Rights Day 2010, <http://www.un.org/en/events/humanrightsday/2010/sg.shtml> (accessed 14 January 2011).



Friend not Foe

Opening Spaces for Civil Society Engagement
to Prevent Violent Extremism

Many of the policies carried out in the name of counterterrorism are making the terrorist danger worse. An overemphasis on security measures has eroded civil liberties and human rights in many countries and diverted attention from the policies needed to counter the complex challenge of transnational terrorism. Preventing terror attacks requires not only improved security but better efforts to address the underlying conditions that give rise to violent extremism. Resolving conflicts, ending foreign occupations, overcoming oppression, eradicating poverty, supporting sustainable development, empowering the marginalized, defending human rights, promoting good governance—all are vital to the struggle against terrorism, yet addressing these challenges is made more difficult by repressive counterterrorism policies.

The repercussions have been felt most keenly by civil society actors in the developing world. Over the decades nongovernmental organizations (NGOs) in the global South have multiplied in number and assumed growing importance in defending human rights, promoting development, and mediating conflicts. Transnational civil society networks have emerged to bring new voices onto the stage of global policymaking and diplomacy.¹ When civil society actors attempt to reform policies or hold government leaders accountable to human rights standards, they may face criticism and repression. In some countries governments have imposed regulations and conditions that are disproportional to the threat and restrict the operational space of independent citizen groups. Repressive counterterrorism policies have added to these restrictions and created a climate of suspicion, especially toward groups that challenge social exclusion and unequal power relations. Many who work against extremism by promoting human rights and development are themselves being labeled extremist and are facing constraints on their ability to operate.

This report examines the contradiction of counterterrorism measures (CTMs) that hinder the work of countering terror. It is based on a series of workshops and consultations sponsored by the Dutch development agency Cordaid, in cooperation with the U.S.-based research team of the Fourth Freedom Forum and the Kroc Institute for International Peace Studies at the University of Notre Dame. It draws from the work of dozens of civil society partner groups in Europe, Asia,



Gwaltabi, Manipur. On 7 September 2009 security troops ambushed a pickup truck and executed five passengers. “Rebels” according to the army, “civilians” according to the demonstrators. Out of protest these women blockade the road the army frequently uses.

Latin America, and Africa and is based on interviews and meetings with hundreds of representatives of civil society organizations (CSOs), donor agencies, research centers, and governments. It benefits especially from the work of CIVICUS, the International Center for Not-for-Profit Law, and the Charity and Security Network. The purpose of the report is to examine the impact of CTMs on local development and human rights activities and to identify appropriate government, intergovernmental, and nongovernmental responses.

The report begins with a look at the role of civil society in addressing the root causes of violent extremism and the debate over the meanings of “terrorism” and “counterterrorism.” It offers a critical analysis of the so-called war on terror and examines the consequences of repressive counterterrorism policies, including their gender impacts—

illustrated with a review of four cases: Colombia, Kenya, Manipur, and Mindanao. It questions the subordination of development to the logic of security objectives, and the wisdom of counterterrorism financial measures that impede the funding of development and humanitarian NGOs. The paper proposes strategies for the United Nations, national governments, and civil society to protect the ability of citizen networks to advance human security.

The Role of Civil Society

The growth and development of civil society is “one of the greatest accomplishments of our age,” according to a recent World Bank study. The worldwide nonprofit sector is huge, with annual expenditures of more than \$1.3 trillion.² The UN Secretary-General’s Panel of Eminent Persons on United Nations-Civil Society Relations defines the term ‘civil society’ as encompassing associations of citizens (outside of families, friends, government, and businesses) entered into voluntarily to advance interests and ideas. The definition encompasses professional associations, social movements, indigenous people’s organizations, religious and spiritual bodies, women’s organizations, academic centers, and NGOs that operate in individual countries or transnationally.³

The Centre for Civil Society at the London School of Economics describes civil society as “the arena of uncoerced collective action characterised by shared interests, purposes, and values.”⁴ NGOs are a distinct part of civil society as formally registered organizations, some membership-based, which engage in development, humanitarian relief, policy advocacy, poverty reduction, and other forms of nonprofit activity. Some organizations adopt an empowerment-based approach to development and human rights. They work in partnership with marginalized

communities to shift power relations so that the previously excluded have a voice in political decision making and can gain access to resources and assets needed for autonomous development.

From a state perspective some government officials view civil society organizations merely as assistance providers and implementing agencies for service delivery, capacity building, and technical assistance. This instrumentalist approach does not reflect the diversity of civil society in which many groups prefer to operate independently through bottom-up rather than top-down programs.

Citizen movements and NGOs have become major players in public advocacy on a range of social and economic issues and have articulated moral and political standards that in some cases have crystallized into policy. Civil society groups have been prime movers of some of the most innovative initiatives for dealing with emerging global challenges.⁵ Examples of significant civil society movements include the Nobel Prize-winning campaign to ban land mines and efforts to advance the role of women in international peacemaking through the implementation of UN Security Council Resolution 1325. At times civil society may rise up in mass resistance to tyranny, as in the historic 2011 overthrow of the Mubarak regime in Egypt in early 2011.

Mohamed ElBaradei and other observers have suggested that a successful outcome of the unarmed revolution in Egypt may help to undermine the appeal of al-Qaida and “could be the best medicine to get rid of radicalism.”⁶ The demonstrated power of nonviolent resistance in the heart of the Arab world helps to undermine the central narrative of al-Qaida, which claims that terrorist violence is necessary to bring down autocratic governments. In Egypt and Tunisia people ended tyranny through nonviolent means, not bombings and assassinations. They showed a different and more successful path toward ending oppression, in contrast to the utter failure of al-Qaida to achieve anything while killing countless fellow Muslims. The opening of democratic political space may be the best antidote to terrorism. It provides alternatives for those who might be tempted by the lure of militancy. It gives aggrieved people civic outlets for addressing political demands, making it less likely that they will turn toward violent extremism.

CSOs can play a significant role in helping to resolve armed conflict and address conditions conducive to violent extremism. They provide early warning of potential conflict and in many settings have served as election observers and human rights monitors. Civil society groups often have a wealth of knowledge concerning the human rights and development situations in specific countries and may be better informed than governments and intelligence agencies about the causes of armed conflict. Too often, however, civil society actors are limited in their ability to serve as mediators or interlocutors because of legal prohibitions against contact with groups designated as terrorist.⁷

Some political leaders, especially in authoritarian regimes and “managed democracies,” are hostile toward independent civil society groups. They distrust CSOs that work among marginalized populations, suspecting them of supporting political opponents. Governments sometimes create ersatz nongovernmental organizations, dubbed “GONGOs,” which serve to reinforce official positions and often obfuscate the authentic voice of civil society.⁸ Organizations and movements that

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challenge the abusive policies of unaccountable governments inevitably arouse the ire of those in power, but in the past decade pressures against such groups have mounted as policymakers have appropriated the language of counterterrorism to intensify their attacks against civil society-based critics.

Defining Terrorism and Counterterrorism

No universally accepted definition exists for the meaning of the word “terrorism.” Analysts examining the question have counted more than one hundred different definitions.⁹ The lack of an agreed definition allows those in power to interpret the term for their own purposes. Political leaders often take advantage of the term’s ambiguity to label their opponents terrorists.

While there is no universal definition, terrorism is generally understood as politically motivated violence perpetrated against civilians.¹⁰ The 2004 report of the UN Secretary-General’s High-level Panel on Threats, Challenges and Change defined terrorism as “any action . . . that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such an act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.”¹¹ The definition can be broadened to include not only physical attacks but acts designed to coerce people and sow fear, including incitement and glorification of terrorist acts via the internet.

Counterterrorism is also a contested concept. The term embodies a wide range of measures with differing impacts, which can be loosely characterized as the good, the bad, and the ugly. In the bad and ugly categories are CTMs that overemphasize security and distort development and aid priorities, and that lead to extrajudicial killings, greater state repression, and increased human rights abuse. Overly restrictive counterterrorism measures constrain the social, political, and operational capacity of civil society actors and impede the work of groups promoting improvements in governance, human rights, and development. These are all important elements for reducing conditions, such as political marginalization, repression, and despair that can fuel grievances and lead to expressions of political violence. On the positive side are cooperative nonmilitary measures that enhance the capacity of governments to thwart terrorist attacks while promoting and protecting human rights. Also in the good category are policies that encourage support for sustainable development and good governance, as recommended in the UN *Global Counter-Terrorism Strategy*.

The proposed categorization is figurative and not meant to suggest absolute judgments about particular policies. The range of counterterrorism measures is extremely wide, and specific policies can have differing impacts in varying conditions and settings. Strengthened law enforcement efforts are good when they prevent attacks and bring perpetrators to justice, but these same measures can be bad if they lead to abuses and increased repression. Efforts to prevent the financing of terrorism are positive, yet programs intended to interdict such funding often have negative implications for nongovernmental groups and charities seeking to overcome oppression. The evaluation of particular counterterrorism measures depends greatly on context and the way in which specific actors implement policies. Judgments about

particular policies should be based on the degree to which they contribute to genuine security and democratic governance, while also upholding the rule of law and protecting the work of peacebuilders and human rights defenders.

Counterterrorism measures are usually weighted toward the executive branch of government, with little attention to enhancing judicial independence, legislative oversight, and citizen involvement. Emergency measures passed in the name of fighting terrorism have had the effect of undermining civil liberties, restricting the ability of civil society groups to operate, and impeding development and relief activities in marginalized communities. Repressive CTMs have reversed progress achieved in recent years toward the integration of human rights and accountable governance into development policy. Individual rights and political freedoms have eroded as states have accumulated greater security powers.

The nongovernmental monitoring organization Freedom House has reported an alarming erosion of global political freedom in recent years. In its 2010 annual survey the organization noted “intensified repression against human rights defenders and civic activists” and reported declines for political freedom in 40 countries representing 20 percent of the world’s total polities. The last few years have witnessed the longest continuous period of decline for global freedom in the organization’s nearly 40-year history of publishing annual ratings.¹² In 2011 Freedom House noted a further decline in political freedom and a reduction in the number of countries defined as politically free. The report highlighted the continued poor performance of countries of the Middle East and North Africa, although this trend may be partially reversed if the democratic revolutions in Egypt, Tunisia, and other countries produce freer societies and more representative governments.

How (Not) to Counter Terrorism

President Obama declared in his Cairo address “America is not—and never will be—at war with Islam.”¹³ His administration ended the use of the phrase ‘war on terror’ and began rolling back some of its excesses, pledging to ban torture and close Guantanamo Bay and secret CIA prisons. The administration’s new tone has not been matched by substantive changes on the ground, however. The wars in Afghanistan and Iraq have been relabeled ‘overseas contingency operations,’ but U.S. policies remain heavily militarized, and have become more so with recent troop increases in Afghanistan and increasing use of drone strikes and cross border special forces operations in Pakistan. In the global fight against terrorism the United States continues to rely on policies of targeted killing, lawless apprehension, rendition, warrantless surveillance, and indefinite detention. The language is changed but the means are the same. A war on terror by another name.

Waging war to counter terrorism and insurgency is inappropriate and ineffective. Overcoming political violence requires a combination of diplomatic, economic, and social responses that go beyond and in many cases are incompatible with the use of armed force. Security specialists have long recognized that counterinsurgency is primarily a civilian task. Success depends on diminishing sociopolitical sources of support that enable militant groups to operate. The classic study by David Galula calls for a struggle that is 80 percent nonmilitary.¹⁴ The U.S. Army 2006

counterinsurgency field manual, co-authored by General David Petraeus, echoes the need to prioritize civilian efforts. The international mission in Afghanistan is exactly the opposite. A May 2009 Congressional Research Service study reports that some 94 percent of all U.S. funds for the wars in Afghanistan and Iraq have been spent by the Pentagon, with only 6 percent devoted to foreign aid and diplomatic operations.¹⁵ Empirical evidence confirms that war is not an effective means of countering terrorist organizations. A 2008 RAND Corporation study, *How Terrorist Groups End*, shows that terrorist groups usually end through political processes and effective law enforcement, not the use of military force. An examination of 268 terrorist organizations that ended during a period of nearly forty years found that the primary factors accounting for their demise were participation in political processes (43 percent) and effective policing (40 percent). Military force accounted for the end of terrorist groups in only 7 percent of the cases examined. Terrorist groups end most often when they trade bombs for ballots and join a political process, or when they are suppressed by local law enforcement agencies. Policing works best when law enforcement officials are rooted in local communities, and have the confidence and trust of local residents that enables them to penetrate criminal networks.¹⁶

War policies are not only inappropriate, they are counterproductive. When Western nations invade and occupy Muslim countries, this has the unintended effect of validating the ideology of extremists who claim to be saving Islam from foreign infidels. A widely accepted narrative now pervades much of the world. It is a story of invasion and military occupation; abuses at Abu Ghraib and other prisons; torture, water boarding, and extrajudicial killings; drones raining terror from the sky; the inevitable killing of civilians—all broadcast by Arab and Muslim media. Polls in Muslim countries have shown 80 percent agreement with the view that Western military interventions are directed against Islamic society, that they are a war against Islam itself.¹⁷ As long as these attitudes prevail there will be no end of recruits willing to blow themselves up to kill foreign troops and their supporters.

Most governments and international officials have emphasized the necessity of cooperative law enforcement to counter transnational terrorism. Especially effective are programs that emphasize community policing and respect for the rule of law and the rights of citizens. International police cooperation and intelligence sharing have been successful in thwarting attacks, perhaps most dramatically in foiling an alleged plot to bomb flights from London to the United States in August 2006. The head of the Crown Prosecution Service in the United Kingdom said, “The fight against terrorism on the streets of Britain is not a war. It is the prevention of crime, the enforcement of our laws, and the winning of justice for those damaged by their infringement.”¹⁸

An emphasis on preventing violent extremism is more accurate and less politically loaded than the rhetoric of war. It encompasses economic and social responses in addition to needed security protections. It emphasizes the removal of political grievances and support for sustainable development and responsive governance.¹⁹ This approach also elevates the importance of development and human rights NGOs. Through their efforts to dry up the wells of extremism, CSOs are addressing the root causes of terrorism and armed conflict. They are unequivocal in

condemning all forms of terrorism. In the global struggle against violent extremism civil society groups should be welcomed as friends, not hounded as foes.

Good CTMs

Security protections are necessary but not sufficient to overcome global terrorist dangers. A comprehensive approach is needed that balances security concerns with the rule of law and the defense of human rights. In his March 2005 report, *In Larger Freedom*, UN Secretary-General Kofi Annan emphasized the need for a holistic strategy: “development, security, and human rights go hand in hand.... we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights. Unless all these causes are advanced, none will succeed.”²⁰

In 2006 the UN General Assembly unanimously adopted a *Global Counter-Terrorism Strategy* that embodies Annan’s call for a more comprehensive and integrated approach. The *Strategy* transcends the narrow security-oriented focus of earlier Security Council resolutions and links the struggle against terrorism to a broader set of principles for avoiding violent conflict through development, democracy, and diplomacy. The *Strategy* identifies four pillars of international policy:

- I. Measures to address the conditions conducive to the spread of terrorism;
- II. Measures to prevent and combat terrorism;
- III. Measures to build States’ capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in this regard; and
- IV. Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism.

It is significant that the first of the pillars focuses on conditions conducive to the spread of terrorism. This places the primary emphasis on efforts to advance development and good governance, not on security measures. The *Strategy* defines ‘conditions conducive’ as “prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socio-economic marginalization, and lack of good governance.” The way to fight terrorism, according to the *Strategy*, is not only to enhance security, through such measures as improving border controls, but to adopt preventive measures such as resolving conflict, ending foreign occupation, overcoming oppression, eradicating poverty, and promoting sustainable economic development and good governance. The *Strategy* notes that success in realizing development objectives and improving human rights and governance could “reduce marginalization and the subsequent sense of victimization that propels extremism and the recruitment of terrorists.”²¹

While the *Strategy* is an improvement over approaches that are focused narrowly on security, it can be interpreted as subordinating development and human rights imperatives to the logic of security. Civil society groups have expressed concern about linking development policies to security agendas and military strategies.²²

Development and human rights are critically important in their own right, they argue, and should be supported fully without reference to other priorities.

The UN *Strategy* is nonetheless important because it helps to shift the focus of international policy away from a narrow focus on security toward a more holistic approach that prioritizes development, human rights, and democratic governance. Because it is approved by all UN member states, the *Strategy* has enormous political legitimacy. It gives prominence to conflict prevention rather than security protection. Pillar I pays specific attention to the advancement of development, while Pillar IV emphasizes the promotion of human rights and the rule of law. The protection of human rights cuts across all four pillars of the *Strategy* with the instruction “that States must ensure that any measures taken to combat terrorism comply with their obligations under international law, in particular human rights law, refugee law and international humanitarian law.”²³ The *Strategy* provides opportunities for promoting these goals through the cooperation of states and the support of multiple stakeholders, including specific mention of civil society as having an important role to play when implementing the *Strategy*.

Civil society groups play an indispensable role in advancing human rights. Repressive governments by their very nature lack effective mechanisms for considering these issues. They are loath to consider policy changes that can lead to more representative governance and greater economic and political equity. These are precisely the areas where CSOs can be most helpful. Development and human rights groups can prevent violent extremism by pursuing their core mission of rights-based development. The nonprofit sector of a country is a force for good, according to the World Bank study; it should be “protected, rather than unnecessarily curtailed.”²⁴

Bad and Ugly CTMs

Counterterrorism measures and governmental distrust of CSOs have had adverse impacts on civil society groups. In December 2009 the UN Special Rapporteur on the situation of human rights defenders reported “worrying trends” globally in the “stigmatisation of human rights defenders and their growing categorisation as ‘terrorists’, ‘enemies of the State’ or ‘political opponents.’” States “systematically invoke national security and public safety to restrict the scope” of civil society activities.²⁵ In many countries special legislative and regulatory measures have been used to crack down on NGOs and activists who criticize government policies. These measures make it more difficult for civil society actors to operate freely and effectively. Negative impacts have been especially noticeable in conflict zones and among groups that challenge government policies through their work in peace building, democratization, and human rights. CTMs, counterinsurgency operations, emergency measures, and repressive actions have combined, with the distinctions often blurred, to create hardships for those who contest unequal power relations.

Governments have tightened controls over civil society groups by imposing onerous registration requirements and in some cases denying organizations the right to operate. CIVICUS reported in December 2010 a pattern of “arbitrary

denials of registration for many organizations” in the Euro-Mediterranean region. Governments have established new requirements for CSO reporting on finances, governance structures, and the identities of partner organizations and clients. In some countries fear-based rhetoric has had a chilling effect that hinders the operational freedom of nongovernmental groups.²⁶

In the United States laws against ‘material support’ for terrorism prohibit aiding or engaging with groups that are designated as ‘foreign terrorist organizations.’ Under the *Holder v. Humanitarian Law Project* ruling, charities could be convicted under the law for providing ‘material support’ to a group that the government determines has diverted funds for terrorist purposes, even if the group in question has not been officially designated as terrorist-related and the charity has no knowledge of or intent to support the alleged diversion. Such an expansive definition of ‘material support’ creates legal jeopardy for organizations involved in humanitarian assistance and conflict mediation efforts. It places roadblocks in the way of delivering aid to designated groups or the communities they control.²⁷ Some governments view groups working for peace and reconciliation as sympathizers or supporters of terrorism. In the Philippines, Colombia, Uganda, Ethiopia, and other countries, civil society groups attempting to overcome violence and marginalization face pressures from both armed rebels and the government—a problem described as fire below and fire above. Some conflict areas have been declared off limits, and NGOs have been denied access. In other areas—such as Mogadishu and parts of Afghanistan—CSO operations have become untenable because of extreme dangers.

In a number of countries the creation of special security forces and intensified operations against insurgents and alleged criminals and terrorists have led to a sharp rise in the number of extrajudicial killings and abductions of human rights workers and political activists. The Commonwealth Human Rights Initiative expressed concern in 2009 that rights defenders are “being spied on or defamed...or being subject to arbitrary arrest, physical violence and death.”²⁸ The UN High Commissioner for Human Rights noted in September 2010 that “human rights defenders, journalists, and civil society activists in all regions of the world face threats to their lives and security because of their work.”²⁹

Gender Impacts

Women suffer directly from counterterrorism pressures when they are unlawfully detained or ill-treated to gain information about a male family member. They often face harassment because of their attempts to win freedom for those imprisoned men or gain information about the disappeared. As noted by the UN Working Group on Enforced or Involuntary Disappearances, women are often at the forefront of efforts to resolve abductions and deportations of family members, and as a result they are themselves “susceptible to intimidation, persecution and reprisals.”³⁰ Extremist groups have targeted women by restricting their public mobility and imposing harsh codes of behavior in the regions they control. During the period of Taliban rule in Afghanistan and in some communities in Afghanistan

and Pakistan today, women face restrictions on their movement and participation in public life. The West's support of women's rights in Afghanistan since 2001 has created a backlash against Afghan women's rights defenders. In Afghanistan as in other countries human rights defenders are often caught between militant group pressures and government counterterrorism measures.

Abusive interrogation methods have a gendered dimension. At Abu Ghraib and other prisons, U.S. contractors and soldiers manipulated gender and cultural stereotypes as means of coercive interrogation, including the use of female interrogators to torment and question naked male Arab prisoners. In some countries that are allies of the United States and where prisoners are rendered, officials have resorted to the threat or use of violence and sexual abuse against prisoners and their relatives as a means of extracting information. In the United States and other countries hyper-masculine imagery and language may play a role in motivating overly aggressive military and counterterrorism actions.³¹

In some countries women who wear visible religious garb are subjected to discrimination and profiling. France has banned the wearing of the hijab in schools, and government officials in other countries have adopted or are considering similar measures to restrict the wearing of religious clothing and symbols in public places. Political and social pressures against Muslim immigrants have increased in Europe and other regions in recent years. So have misperceptions and stereotypes falsely equating the wearing of the hijab with terrorist sympathies. In some instances anti-terrorism posters have included images of veiled women.³² Populist politicians have exploited such distortions to fan the flames of intolerance and gain electoral advantage. As a result Muslim women are often stigmatized for following religious and cultural traditions. This can generate feelings of humiliation and anger among the affected women and their family members and may exacerbate tensions between social communities.

Women have important contributions to make in combating violent extremism. In some of the world's most dangerous settings they have proven to be courageous and effective advocates for peace. Yet women often are not heard or adequately represented in policymaking bodies. The denial of women's voices in counterterrorism policy is contrary to the intent of UN Security Council Resolution 1325 and related measures, including Resolution 1960 (2010), which emphasize the importance of female participation in conflict prevention and peacemaking. The active involvement of women is essential to the crafting of effective and balanced means of countering armed violence.

Case Studies

The following cases illustrate the consequences of repressive security measures in specific countries and the challenges civil society groups face in their work for justice and human rights.

COLOMBIA: CONFLICT WITHOUT END

For more than four decades Colombia has been the stage for an internal armed conflict involving guerilla groups, paramilitaries, and government security forces. Each has been responsible for gross human rights abuses and the killing of civilians. The United States has channeled nearly \$5 billion in military assistance to Colombia over the past two decades. Since 2001 this aid has been justified partly in the name of counterterrorism. Most of the assistance has gone to Colombian security forces and has had the effect of intensifying violence in regions where the aid is concentrated. A recent study by the Center for Global Development in Washington, D.C. found that U.S. military aid is being diverted to paramilitary groups, leading to an increase in killings and electoral manipulation, with no apparent reduction in drug production or guerilla attacks.³³

In this turbulent context, civil society organizations have faced difficulty from all sides. Community groups working for justice and peace have been accused of supporting terrorism and aiding the insurgents. The International Center for Not-for-Profit Law stated that “Colombia is one of the most dangerous countries in the world in which to be a human rights defender, with dozens of labor rights activists, lawyers, indigenous activists and community and religious leaders being murdered every year.”³⁴ The major guerilla groups, the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), and the paramilitary groups succeeding the former Self-Defense Forces of Colombia (AUC) are known to target human rights defenders. Also subject to attack are community leaders and peace activists who criticize guerilla and paramilitary violence and resist illegal land expropriations. Women’s groups have documented widespread sexual abuse by the warring parties, including government forces. In 2009 the local NGO Justapaz documented sixty-nine cases of violations of human rights and humanitarian law against hundreds of pastors, church leaders, and other members of Protestant and Evangelical churches in Colombia. Seventeen of the cases included documented homicides, including three pastors and two Protestant church leaders.³⁵

Members of the Colombian armed forces have been investigated recently for killing unarmed civilians and covering up the crimes by claiming that the deceased were guerillas killed in a firefight. The civilian intelligence service was shut down in September 2010 for colluding with paramilitaries in spying on judges, opposition politicians, journalists, and human rights defenders. More than eighty members of the Colombian Congress, many of them members of the ruling coalition, have been jailed or placed under investigation for ties with paramilitary groups.³⁶



Colombian rebels of the ERG surrender their weapons in El Carmen de Atrato Choco Province, 21 August 2008.

REUTERS/ALBERTO LOPERA (COLOMBIA)

Under the “Seguridad Democratica” policy of former President Juan Uribe, Colombia significantly increased its security forces and targeted insurgent groups for military defeat. This has led to a significant reduction in the number of kidnappings and killings in the last two years, but little progress has been made in addressing the underlying causes of armed conflict. The government has partially tamed right wing militias and isolated FARC-led insurgents, but it has not ameliorated the conditions of social exclusion and inadequate development that fuel extremism. The government that took power in 2010 started to return land to displaced families, but this policy has faced strong right wing opposition.

The government’s ‘consolidation’ strategy, backed by the United States, gives the military a central role in promoting development. Civil society actors are advancing an alternative strategy in the form of Development and Peace Programs that are participatory, democratic, and respectful of human rights. These programs have the support of the Catholic Church and some private enterprises, as well as international development NGOs. They are consistent with international efforts to reorient counterterrorism policy away from a war paradigm toward a more holistic approach that addresses the social, economic, and political roots of extremism.

KENYA: BATTLING IMPUNITY

Kenya’s role as a strategic ally of the West intensified following the August 1998 terror bombing in Nairobi. Kenya has expanded its counterterrorism programs with British and American aid and has supported U.S. operations against armed actors along the border region with neighboring Somalia. Suspected insurgents have been detained and rendered to neighboring countries for interrogation by U.S. intelligence agents.³⁷

Kenya has a sophisticated civil society and comparatively strong institutions, yet the country faces many deeply rooted problems and unresolved conflicts. Since the 1990s the country has gradually evolved toward a more democratic political system after a period of one-party rule, but little has been done to address under-

lying grievances stemming from socio-economic inequality and disputes over land use and control. These tensions exploded in the aftermath of the disputed December 2007 presidential election between incumbent President Mwai Kibaki and challenger Raila Odinga. More than 1,100 Kenyans were killed during the tumult. According to the government’s own investigative commission, 35.7 percent of those who died in the post-election violence were killed by the police.³⁸

Civil society groups played an important role in facilitating and encouraging the post-election settlement mediated by former UN Secretary-General Kofi Annan in 2008 in which Kibaki and Odinga agreed to rule



Women raise their hands and shout slogans during a march for peace in Nairobi, 10 January 2008.

together in a coalition government. Civil society groups have also sought an end to government impunity and were cheered when the prosecutor for the International Criminal Court charged six high ranking Kenyan officials for crimes related to the post-election violence, including Deputy Prime Minister Uhuru Kenyatta and three cabinet members.³⁹

Although CSOs have been at the forefront of efforts to create multiparty democracy and constitutional reform, they are sometimes accused of sympathizing with violent extremists. When CSOs speak out against extrajudicial killings or human rights abuses, they are harassed, intimidated, and threatened by security officials.⁴⁰ In October 2008 a Kenyan police whistleblower was assassinated after providing information to the Kenya National Commission of Human Rights. In 2009, two human rights defenders were assassinated because of their criticism of police killings.⁴¹ Legislation designed to prevent support for terrorism has contributed to a climate of suspicion toward NGOs, especially Muslim charities, which have found it more difficult to operate.⁴²

Despite the many obstacles they face, Kenya's CSOs continue to struggle for justice. In August 2010, Kenyans voted to adopt a new constitution with 67 percent approval and the highest voter turnout in the nation's history.⁴³ This success followed an advocacy campaign and public review process in which citizen groups played an active role. Voting patterns did not follow standard ethnic, regional, or tribal lines—a sign that the constitutional process may be able to quell some of the tensions that have led to violence in the past.⁴⁴ The new constitution limits the power of the presidency and strengthens parliamentary oversight. It provides structures for weeding out corruption and addressing political grievances.⁴⁵ Whether these changes will be sufficient to open space for greater democracy and civil society engagement remains uncertain.

MANIPUR: FACING REPRESSION

Following the September 11 terrorist attacks in the United States, India joined the war-on-terror bandwagon by enacting the Prevention of Terrorism Act (POTA). The act labeled as terrorist any person who “threaten(s) the unity, integrity, security or sovereignty of India.”⁴⁶ Following strong public pressure POTA was repealed in 2004, but its key provisions are incorporated into the Unlawful Activities (Prevention) Act (UAPA), originally adopted in 1967 and made more stringent following an amendment process in 2008. The repressive measures contained in UAPA and other laws have been used to suppress movements for autonomy and independence among indigenous peoples.

The impacts have been felt acutely in the state of Manipur, where nationalist groups have challenged India's 1949 annexation of the region and have struggled for decades to achieve an independent state, often resorting to violent insurgency and terror attacks.⁴⁷ The Indian government has attempted to maintain central rule by relying on the Armed Forces Special Powers Act (AFSPA), initially enacted in 1958, which allows the national armed forces to detain suspects, conduct warrantless searches, and shoot to kill to maintain public order.⁴⁸ The AFSPA essentially grants impunity to the armed forces and over the decades has led to countless



Women's protest against excessive army violence in Imphal, Manipur.

incidents of unlawful arrest, torture, and extrajudicial killing.

Supplementing national military forces are the large Manipur state security forces, which number one in every 20 citizens. These forces have also committed widespread human rights violations. Abuses by national and local security forces have fueled political resentment and greater demands for local autonomy. This in turn has prompted further crackdowns from the security forces, perpetuating a vicious cycle of continuous violence and political discontent.⁴⁹

Insurgent nationalist forces have also committed many abuses and killed innocent civilians. Human Rights Watch estimates that at least 20,000 people have been killed by either

government or nationalist forces since the beginning of the conflict in the 1950s. In recent years killings have continued on an almost daily basis in the region.⁵⁰ According to Human Rights Watch, "The situation in Manipur is nothing less than a breakdown in the rule of law."⁵¹

Further fueling the conflict in the region and disrupting indigenous communities are attempts by large corporate and government interests to take over land and exploit the region's resources. Plans are in place to build as many as seventy dams in Manipur. These efforts are exacerbating popular anger and discontent, leading in some cases to further armed attacks.⁵²

Local civil society groups are attempting to resolve political disputes in the region through political and legal means. Government repressive measures and insurgent violence have made their work extremely difficult. Calls for an end to land seizures and the easing of government repressive measures have been largely ignored. Advocates for human rights or local self-determination are often labeled terrorists and accused of collusion with armed nationalists.

In September 2010, nine Manipuri police officers accused of killing an unarmed man were arrested.⁵³ This appears to be the first instance of security personnel being charged with crimes related to human rights abuse. Whether this incident presages a turn toward greater legal accountability remains uncertain. The overall pattern of government policy in the region remains one of repression and impunity.

MINDANAO: STRUGGLING FOR JUSTICE

Political violence in Mindanao has multiple dimensions—armed conflict between the government and various revolutionary groups, tensions between local political chiefs and clans, disputes over land and identity issues, and the arming of civilian militias as part of the government's counterinsurgency and counterterrorism policies. The conflict in the region is rooted in centuries-old disputes between mostly Christian populations in the northern part of the country, which dominate

the Philippine government, and indigenous and Moro communities in Mindanao. Government-sponsored settlement programs over the decades have encroached upon local lands and marginalized their populations. Numerous attempts have been made to negotiate autonomy and power sharing agreements, but these have often failed.

The Philippine government response to these challenges has focused on security measures and enhanced counterterrorism authority. In 2007 the government enacted the Human Security Act (HSA), which was opposed by civil society groups because of its overly broad definitions of terrorism and harsh punishments for even minor offenses.⁵⁴ The national alliance for human rights in the Philippines, Karapatan, criticized the HSA for giving the state a legal framework to suppress civil and political liberties.⁵⁵ The Consortium of Bangsamoro Civil Society, the largest umbrella civil society network for Muslim NGOs in Mindanao, said the law would jeopardize efforts to negotiate an end to violent conflict in the region. The HSA empowered military and police forces that in some cases have been responsible for violent abuse. A number of studies have documented extrajudicial killings, torture, and gross violations of human rights by government forces, militia members, and death squads, most of which go unpunished.⁵⁶

During the 2009 provincial elections, fifty-seven unarmed civilians were massacred, including women and members of the press. Relatives of Ismael Mangudadatu were attacked while attempting to file a certificate of candidacy on behalf of his campaign for governor in the predominantly Muslim province of Maguindanao. Implicated in the killings were local police officers and paramilitary forces, and members of the Ampatuan clan, a wealthy political family allied with then President Gloria Macapagal-Arroyo. In response, the government declared a state of martial law and resorted to large-scale arrests and warrantless searches across Maguindanao.⁵⁷

Civil society organizations and human rights defenders in the Philippines have pressed for greater democratic rights and an end to extrajudicial killings. They have sought to reform the security forces and establish greater legal protections for those subject to the criminal justice system.⁵⁸ They have sponsored dialogue and mediation efforts to help resolve armed conflict. These efforts have been made more difficult by counterterrorism legislation that prohibits engagement with those designated as terrorists.

In 2010 Mindanao Peaceweavers published a Mindanao Peoples' Peace Agenda, based on dialogue and consultations with multiple local constituencies.⁵⁹ The document offers policy suggestions and serves as a roadmap for overcoming violence, injustice, and oppression in the region. It affirms the right of self-determination and highlights the need for human rights,



Youth Protest Against Ampatuan Massacre, 26 November 2009.

VICTOR VILLANUEVA (PHILIPPINES)/FLICKR

The percentage of U.S. ODA allocated through the Pentagon has increased in recent years from 3.5 percent in 1998 to approximately 25 percent ten years later. Aid budgets have increased around the world, but fully two-fifths of the increase since 2002 has gone to just two countries—Iraq and Afghanistan.

humanitarian accountability, good governance, sustainable development, and a national peace policy.

The 2010 election of Benigno ‘Noynoy’ Aquino III as President of the Philippines created hope for a reduction of corruption and political violence, but to date few changes have occurred.⁶⁰ Whether the promises of a better future are realized for the people of Mindanao will depend on the nurturing and strengthening of human rights and the resolution of deeply rooted injustices and conflicts in the region.

Securitizing Aid

The global trend toward using aid and development funds for military purposes has accelerated. This approach subordinates traditional goals of mitigating poverty to the agenda of counterterrorism and defeating insurgency. It blurs the analytic boundaries between security and development while politicizing both and detracting from efforts to improve the lives of the world’s most disadvantaged communities.

The process works in two ways: a growing proportion of the aid budget is channeled directly through military institutions, and funds are allocated increasingly in support of military operations. The percentage of U.S. ODA allocated through the Pentagon has increased in recent years from 3.5 percent in 1998 to approximately 25 percent ten years later.⁶¹ Aid budgets have increased around the world, but fully two-fifths of the increase since 2002 has gone to just two countries—Iraq and Afghanistan.⁶² Major recipients of U.S. development assistance are countries central to security and counterterrorism objectives. In some of the countries where foreign assistance is provided, police forces are highly repressive and unaccountable. Assistance provided to such forces in the absence of needed structural reforms may simply reinforce repressive tendencies and undermine civil society efforts to defend human rights and establish democratic oversight.⁶³

The British Department for International Development announced in October 2010 a 35 percent increase in development funding over a four year period, with a major boost in spending in countries affected by conflict, especially Afghanistan and Pakistan. Over the four year period funding to support fragile and conflict-affected states will increase from 22 percent to 30 percent of ODA.⁶⁴ British development advocates welcomed the increased commitment to development assistance but questioned the greater prioritization of security concerns. Labor MP Joan Ruddock asked how the aid budget would be able to maintain its focus on helping women and children and reducing poverty if a third of the budget is reallocated to conflict prevention. “Aid money should go toward poor nations rather than countries that present a security threat,” said one aid official.⁶⁵

Oxfam argued in a February 2011 report that aid is being politicized to the detriment of people with the greatest need. Lifesaving humanitarian assistance and long-term efforts to reduce poverty “are being damaged where aid is used primarily to pursue donors’ own narrow political and security objectives.” While huge sums are devoted to countries where Western nations have direct security interests, “equally poor and conflict-afflicted countries from the Democratic Republic

of Congo to the Central African Republic have received far smaller shares of aid relative to their needs.” Aid provided through a security lens overlooks the plight of some of the world’s most marginalized populations.⁶⁶

The securitization of aid has generated deep concerns in the development community. Development advocates have sought to shield aid programs from military encroachments, even as they recognize the deep and inexorable connections that exist between development and security. Accepting the need for a more integrated and coherent approach to development and security does not justify “the slow bleeding of financing for development purposes into security-related military activities,” declared a report for CIDSE, the coalition of Catholic development agencies in Europe and North America.⁶⁷ Nor does it mean that all development and security goals are compatible. APRODEV, the Association of World Council of Churches-related Development Organizations in Europe, acknowledged that development can contribute to security, but only if the integrity and autonomy of development activities are respected fully. Faith-based agencies emphasize their commitment to the preferential option for the poor and the powerless, and to the vision of a more just and peaceful world. They support a holistic human security strategy that prioritizes the well-being of individuals and communities rather than a narrow approach that protects the interests of states. They argue that human rights and development should be seen as ends in themselves, not as means to other purposes. Development cooperation should not be subsumed to an idea of security based on defending the interests and preserving the way of life of states in the global North. Peace cannot be imposed “from above.” For peace to be sustainable, it must grow “from below.”⁶⁸

‘Money as a Weapons System’

The development aid that is provided in Afghanistan and other war zones is not for the purpose of alleviating poverty and supporting long-term sustainability. Its strategic objective is to gain the sympathy of local populations and win political support for military missions. Aid programs from the U.S. and other NATO countries generally flow to regions and communities where military and counter-terrorism operations are taking place. In Afghanistan funding is concentrated in southern provinces where insurgency and counterinsurgency are most prevalent, while other previously less turbulent parts of the country receive fewer development resources. U.S. military leaders are explicit in describing development assistance as an element of war. A U.S. Army manual for Iraq and Afghanistan was entitled “A Commander’s Guide to Money as a Weapons System.” It described aid as “a nonlethal weapon” utilized to “win the hearts and minds of the indigenous population to facilitate defeating the insurgents.”⁶⁹

In Afghanistan and Iraq U.S. and allied forces have established military Provincial Reconstruction Teams (PRTs) that play a direct role in providing humanitarian and development assistance. PRTs have been criticized as “overwhelmingly military in scope and operation,” with a primary focus on force protection and security assistance. Problems identified with the PRTs include “generally poor development practice” and “relative lack of attention to promoting good governance

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and the rule of law.”⁷⁰ A subcommittee of the House Armed Services Committee in the U.S. Congress reported that PRTs tend to pursue “short-term, feel-good projects...without consideration of larger strategic and capacity-building implications.”⁷¹ A January 2010 report by seven humanitarian agencies in Afghanistan argued that PRTs often lack the capacity to manage effective development initiatives.⁷² In many cases, PRTs rely on wasteful and corrupt contractors with limited capacities and have weak links to local communities. PRTs are unable to gain the trust of local populations and thus cannot foster the sense of community ownership and local empowerment that are needed to achieve sustainable development. Many Afghans are afraid to work with the PRTs for fear of insurgent attacks directed against these foreign-run military institutions.

The U.S. military has also established the Commander’s Emergency Response Program (CERP), which allows field commanders to dispense payments of tens of thousands of dollars or more on projects intended to generate goodwill among local populations. CERP spending in Afghanistan has increased sharply over the years, from \$40 million in 2004 to \$1 billion in 2010.⁷³ The program has been criticized by the U.S. General Accounting Office for a lack of management and oversight and the absence of metrics for evaluating the impact of local projects.⁷⁴ A report of the Committee on Appropriations of the U.S. House of Representatives described CERP as a program with “few limits and little management.”⁷⁵

Military forces are not appropriate providers of development assistance. Aid inappropriately delivered by military forces “has proved expensive and ineffective,” according to Oxfam. Military service members do not have the mandate and are not trained or equipped to address problems of underdevelopment, alienation, and instability in marginalized communities. Few soldiers possess the needed expertise in matters of governance, development, and the rule of law.⁷⁶ Assigning these tasks to military rather than civilian actors displaces the role of civil society and undermines the principles of local self-reliance and grassroots empowerment that are vital to genuine development and democratic governance. It also militarizes international policymaking. U.S. Defense Secretary Robert Gates described this process as the “creeping militarization” of U.S. foreign policy and said that concerns about this trend are “not an entirely unreasonable sentiment.”⁷⁷

The January 2010 report by humanitarian agencies in Afghanistan summarized the dire consequences of militarizing aid:

More and more assistance is being channeled through military actors to “win hearts and minds” while efforts to address the underlying causes of poverty and repair the destruction wrought by three decades of conflict and disorder are being sidelined. Development projects implemented with military money or through military dominated structures aim to achieve fast results but are often poorly executed, inappropriate, and do not have sufficient community involvement to make them sustainable. There is little evidence this approach is generating stability and, in some cases, military involvement in development activities is, paradoxically, putting Afghan lives further at risk as these projects quickly become targeted by antigovernment elements.⁷⁸

Direct attacks on aid workers have increased, according to Oxfam—225 killed, kidnapped, or injured in 2010, compared to eighty-five in 2002. This increase

reflects a greater number of aid workers operating in insecure areas but also results from an apparent rise in politically motivated attacks, which account for nearly half the total.⁷⁹

The Director of Operations for the International Committee of the Red Cross (ICRC) warned recently that linking humanitarian action and security operations endangers aid agencies and diminishes their ability to serve populations in need. Subordinating humanitarian assistance to military purposes is a violation of the ICRC Code of Conduct, which provides for a strict separation of humanitarian assistance from any military or political agenda. Separation is necessary to safeguard aid workers and the communities they serve, and to uphold the principle of prioritizing humanitarian assistance according to need.⁸⁰

Civil-military Cooperation?

Interaction between civilian and military actors is increasingly common in UN operations and in development, humanitarian, counterterrorism, and peacebuilding activities. Military forces, civilian government agencies, and civil society groups share operational space in many conflict-affected regions, often uneasily. Establishing appropriate mechanisms of civil-military cooperation is a major challenge for civil society and government. Some NGOs try to avoid involvement with armed forces. Others adopt a more pragmatic approach under the dictum ‘as civilian as possible, as military as necessary.’ The 3-D Security Initiative has been a pioneer in reaching out to military actors on behalf of civil society. It seeks to protect the integrity of civilian-based development and peacebuilding activities, and to transform security and counterterrorism policies through the incorporation of human security principles.⁸¹

Differences in military and civilian purposes create inherent tensions between the two communities. Security forces often focus on short-term, quick-impact efforts to reduce immediate threats. Civil society organizations generally take a long-term, relationship-based approach and question the legitimacy of military and counterterrorism missions that do not have the consent of local populations. The short-term security emphasis at times jeopardizes longer term human security objectives.

A Cordaid-commissioned report identified principles for managing civilian-military interactions.⁸² The report highlights the valuable protection that security forces can provide but emphasizes the importance of civil society actors performing functions for which civilians are uniquely suited, such as providing humanitarian assistance and promoting human rights. CSOs are often better able to identify and address local grievances, reconcile divided communities, and foster more participatory and accountable governance.

The coordination of military and civil society activities is necessary in some settings, but in many instances it is neither feasible nor desirable. The general goal of civil-military dialogue is communication rather than integration. The 3-D Security Initiative has convened a number of civil-military forums for exchanging information, reviewing civil-military guidelines, and considering options for more coordinated conflict assessment and program coordination. These sessions have

identified the following principles for maintaining the integrity of civilian-based aid and peacebuilding activities:

- ▶ Humanitarian imperative: to save lives, alleviate suffering, and uphold human dignity.
- ▶ Independence and neutrality: to avoid taking sides in political or military struggles.
- ▶ Impartiality: to provide resources regardless of the identity of those suffering.
- ▶ Do no harm: to avoid harmful secondary effects.
- ▶ Accountability: to consult and be accountable to local people.⁸³

De-funding Civil Society

Tighter restrictions on international financial transactions are a central element of international counterterrorism policy. The intended purpose is to prevent the financing of terrorism, but these measures have had the effect of hindering the work of foundations and charitable agencies that support humanitarian and peace-making activities. Some donors have become risk averse and reluctant to fund initiatives that address controversial issues or challenge inequalities. The new rules have had a chilling effect on donors and charities and have left vulnerable populations underserved.

The targeting of civil society financing is rooted in the Special Recommendations against the Financing of Terrorism issued by the Financial Action Task Force (FATF). Recommendation VIII instructs governments and financial institutions to “ensure that nonprofit organizations cannot be misused to finance terrorism.” In its Interpretive Note on Recommendation VIII, FATF claims, without supportive evidence, that nonprofit organizations are vulnerable to terrorist group manipulation and exploitation.⁸⁴

Officials of foundations and charitable funding agencies contest these claims and refute assertions that charities are a significant source of funding for terrorist organizations. Rob Buchanan, Managing Director of International Programs at the U.S. Council on Foundations, stated in a March 2009 presentation in Washington, D.C. that there is no evidence of U.S. charitable funds falling into the hands of al-Qaida or other global terrorist groups. Of the 1.8 million charitable organizations in the United States, Buchanan noted, only a handful have been alleged to have links with terrorism financing. To date the Treasury Department has designated eight U.S. charities for alleged terrorist financing, only four of these for connections to al-Qaida. The most recent Treasury designations of U.S. charities have been for alleged support of Hizbollah and Tamil organizations. No claims of U.S. charitable support for al-Qaida have been registered since 2004.⁸⁵

Allegations of wrongdoing and restrictions on nonprofit financing have eroded trust and cooperative relations between donors and overseas partners in many countries.⁸⁶ They have created a “cloud of suspicion” over the entire nonprofit sector.⁸⁷ Programs in Arab and/or Muslim countries are particularly susceptible to

critical scrutiny and in many cases have been subjected to asset freezes and legal or administrative barriers to continued operation. A 2004 survey by the U.S.-based Foundation Center found that international grant making has become more difficult due to a “more demanding and uncertain regulatory environment” and “increased security risks abroad.”⁸⁸

Laws against terrorist financing have had negative impacts on organizations working for gender equality, including women’s rights organizations. As observed by the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, “The small scale and grass roots nature of such organizations means that they present a greater ‘risk’ to foreign donors.” Development agencies are increasingly choosing to fund a limited number of centralized, large-scale organizations for fear of having their charitable donations stigmatized as financing terrorism.⁸⁹

The Office of Foreign Assets Control of the U.S. Treasury Department has established a Risk Matrix that stigmatizes and labels as “high risk” any charity that “engages in work in conflict zones or in countries/regions known to have a concentration of terrorist activity.”⁹⁰ USAID has established a requirement dating from 2002 that all grantees obtain a worldwide Anti-Terrorism Certification, dissociating themselves from dealings with any entity designated by the U.S. government as terrorist-related. Prohibitions on engaging with armed actors have led to reduced support for track two diplomacy and informal peace processes in conflict zones.⁹¹

In several countries, governments have adopted legislation and implemented regulations curbing remittances and imposing conditions on foreign funding. In Bangladesh the government notified NGOs that at least half of all foreign grants must be spent on visible development projects such as roads and canals. In Jordan government approval is needed to receive foreign funds.⁹² In some countries local groups are required to raise “counterpart funds” to match a percentage of the funding offered from external sources, a condition that is difficult to meet in low-income countries. Hardest hit by such restrictions are communities in war-torn areas, such as the Gaza Strip in Palestine, which depend upon the support of charitable agencies and funding from diasporas and external donors.

Islamic NGOs have experienced particular difficulties because of CTMs and tighter restrictions on transnational funding. The Oxford-based International NGO Training and Research Centre (INTRAC) has reported that Muslim NGOs “in the USA and elsewhere...are finding it harder to raise funds” and fulfill their religious duty of almsgiving, the Zakāt, which is one of the five pillars of Islam.⁹³ Since 2001, three of the largest Islamic organizations in the United States—the Holy Land Foundation, Global Relief Foundation, and Benevolence International Foundation—have had their assets frozen. Muslim charities and trusts in the UK also have been exposed to high levels of scrutiny under anti-terror legislation. The overall effect of such measures is a decline in giving to Islamic charities and challenges to the religious obligation to serve the needy.⁹⁴

NGOs as partners?

The U.S. government has attempted to enlist foundations and charities in its war on terror. The Treasury Department's *Anti-Terrorist Financing Guidelines* calls upon charities to collect information about their grantees, to investigate possible links with terrorism, and to report 'suspicious information' to the Treasury Department or the FBI.⁹⁵ Foundation executives are highly critical of such provisions and have described them as "useless and embarrassing, damaging trust...with the very groups that could make a difference" in addressing conditions that lead to terrorism.⁹⁶ Requiring nonprofit groups to collect personal information on their partners puts them at risk of being perceived as law enforcement or intelligence agents. It attempts to turn philanthropists into spies.

A coalition of more than seventy U.S. nonprofit agencies, led by the Council on Foundations, attempted for more than seven years to persuade Treasury officials to change the guidelines, without success. In November 2010, the coalition called off the talks and criticized the government for its "unwillingness to make any substantive changes to its approach—or to recognize the important role of global philanthropy in increasing national security through funding to address poverty, inequality, disease, and other pressing needs." The coalition has called for the withdrawal of the Guidelines and their replacement by the "Principles of International Charity" adopted voluntarily by the nonprofit sector in 2005 as an alternative means of assuring accountability.⁹⁷

Charitable agencies have also sharply criticized USAID's proposed Partner Vetting System (PVS), which would require all USAID grant applicants to submit detailed personal information on key individuals within partner organizations. The information could be shared with intelligence agencies in the event of a 'risk to national security,' which is not defined. If implemented PVS would impose new data collection obligations on charities and divert staff and funding from grant making. It would compromise the independence of nonprofits operating in conflict zones and further endanger aid workers and their local partners. A major health care NGO warned that the new procedures "can only serve to incite animus and increase the likelihood of attacks" against donor agencies and their partners.⁹⁸ Charitable groups have been successful so far in challenging the PVS proposal and as of this writing have delayed its implementation.

While many governments follow the U.S. model of establishing onerous vetting and registration requirements on charities, other governments take a more cooperative approach to addressing the risks of terrorist financing. The European Commission has issued guidelines and a draft code of conduct for engaging with civil society groups.⁹⁹ The EU Justice and Home Affairs Council seeks to safeguard the integrity of the nonprofit sector and assure greater dialogue among states, civil society groups, and relevant stakeholders. Accountability and transparency are "at the heart of donor confidence," according to the Justice and Home Affairs Council. The challenge of preventing terrorist finance requires "effective, proportionate measures of oversight," which are best achieved through cooperation rather than accusation.¹⁰⁰

The recent World Bank study on nonprofit organizations questioned whether government regulation is the best way of preventing the diversion of charitable funding to terrorist purposes. It noted the existence of self-regulatory mechanisms within the nonprofit sector that have the force of contract and can impose penalties on organizations that violate the law and agreed codes of conduct. Because they cannot succeed without public trust, nonprofit agencies are subject to peer pressure and have strong incentives to eliminate fraud and abuse within their sector. The World Bank study urges governments to “recognize the need felt in the sector to demonstrate its good governance...and use that aspiration to also address terrorism financing concerns,” allowing nonprofits to take ownership of the problem through greater transparency.¹⁰¹

Protecting Civil Society

In response to the repressive pressures and restrictions that have been imposed on civil society groups and their supporters, NGOs have established a set of core principles for protecting the ability of civil society groups to promote development, good governance, and conflict prevention. To uphold the rights of people in the communities they serve, civil society groups must have the ability to operate freely without government interference and harassment. The International Center for Not-for-Profit Law and the World Movement for Democracy spelled out these principles in their landmark report, *Defending Civil Society*. The principles, based on universal human rights conventions and declarations, are as follows:

- ▶ the right to entry, defined as the freedom to associate and form organizations;
- ▶ the right to operate without unwanted state interference;
- ▶ the right to free expression;
- ▶ the right to communicate and cooperate freely internally and externally;
- ▶ the right to seek and secure resources; and
- ▶ the right to have these freedoms protected by the state.¹⁰²

As UN Secretary-General, Ban Ki-moon emphasized in his December 2010 Human Rights Day message, states “bear the primary responsibility to protect human rights advocates.”¹⁰³ Governments are obligated to guarantee fundamental freedoms by numerous international legal agreements, including the Universal Declaration of Human Rights, the International Covenant for Civil and Political Rights, and the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.¹⁰⁴ States that take actions to limit the exercise of these freedoms are violating international law and acting contrary to covenants and legal agreements they themselves have adopted. They are also undermining the essential work of countering violent extremism.

A Voice for Change

The civil society mission of reducing poverty and overcoming social exclusion is exactly what is needed to ameliorate the root causes of terrorism.

In recent years civil society groups have become increasingly engaged in the debate over counterterrorism strategy and the proper approach to overcoming violent extremism. Cordaid, CIVICUS, INTRAC, International Center for Not-for-Profit Law, the Interchurch Organisation for Development Co-operation, the Charity and Security Network, and many other nongovernmental action and research groups are working to end harmful CTMs and protect the operational and political space of rights-based development organizations.

Some civil society actors have called for more substantial and coordinated international advocacy and allied communications efforts to change government policies. They advocate more holistic and effective counterterrorism policies that address the conditions conducive to violent extremism, and that align the quest for security with the necessity of social justice, the protection of human rights, the resolution of conflict, and sustainable economic development.

The civil society mission of reducing poverty and overcoming social exclusion is exactly what is needed to ameliorate the root causes of terrorism. Through their direct experience working in conflict zones and among marginalized communities, civil society actors have important knowledge about the causes and cures of armed violence. They can speak with authority about the importance of development and conflict transformation strategies in overcoming the conditions that give rise to violent extremism.¹⁰⁵

Civil society actors also help to advance the goal of greater accountability and transparency in the delivery of international aid. Civil society groups and development NGOs fully support the need for greater accountability in their finances and program operations and have adopted a number of voluntary codes for greater due diligence and transparency. These include the following:

- ▶ InterAction's Private Voluntary Organization standards,¹⁰⁶
- ▶ Principles of International Charity, developed specifically to address the threat of diversion of resources for terrorism by a working group of grantmakers, NGOs, civil society organizations, and legal experts,¹⁰⁷ and
- ▶ An accreditation program developed and operated by Muslim Advocates.¹⁰⁸

One World Trust has identified an extensive set of standards and principles for enhancing the accountability of nongovernmental organizations, ensuring that international laws are equitably applied, and strengthening the capacity of civil society to engage in global policy and decision-making processes.¹⁰⁹

As transparency and accountability are demanded of NGOs, the same are required of governments and donor agencies. Political leaders must be held to account for the harmful consequences of militarized development strategies and overly repressive counterterrorism measures. In the absence of verifiable evidence public officials should withdraw claims of alleged NGO association with terrorism and revoke policies based on such assertions.

Conclusion

Civil society groups are performing work that is essential to the challenge of countering global terrorism by advancing development, human rights, and conflict prevention. This work is not labeled counterterrorism, nor should it be, but it is what the UN *Strategy* proposes as the key to preventing terrorism. International policy-makers should recognize and protect this vital mission and take action to eliminate counterproductive CTMs.

Civil society groups themselves must engage more actively in the counterterrorism debate and take necessary steps to strengthen their role in eliminating conditions conducive to violent extremism. Independent citizen groups must stand together to protect their operational space and assert their right to serve community needs free of state interference. CSOs can respond most effectively to repressive counterterrorism measures by continuing to expose and challenge abuses and by building public support for more accountable governance based on the rule of law. They can contribute to the struggle against global terrorism by pursuing their core mission of human rights and economic empowerment and by emphasizing that development, freedom, and security are indivisible.

Civil society groups are performing work that is essential to the challenge of countering global terrorism by advancing development, human rights, and conflict prevention. This work is not labeled counterterrorism, nor should it be, but it is what the UN *Strategy* proposes as the key to preventing terrorism.



Recommendations

The following actions are recommended for the United Nations, individual states, and civil society organizations:

UNITED NATIONS

- ▶ **Establish an independent civil society advisory committee for the UN Counterterrorism Implementation Task Force (CTITF), with a mandate to provide informal research and policy inputs to the work of the Task Force.**

The proposed civil society advisory committee would 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 Civil Society Advisory Committee and a similar body that provides input on the UN's work on women and armed conflict. The civil society advisory committee should serve as a strategic body and sounding board on key policy and programming issues. Its members should be invited to propose mechanisms for increased engagement of civil society in the Task Force's working groups and projects. The advisory committee should have the opportunity to brief the CTITF and submit a written record of best practices and challenges facing civil society groups as they perform work that helps to advance the goals of the UN *Strategy*. CTITF should invite this submission from the civil society advisory committee on the occasion of the review of the *Strategy* in the spring of 2012 and at each review thereafter.

- ▶ **Ask the proposed independent civil society advisory committee to establish human rights benchmarks for UN counterterrorism implementation.**

The advisory committee should craft standards for implementing the *Strategy* that focus on preserving the operational space of civil society groups and that measure the progress of states and regional organizations in realizing human rights, development, good governance, and conflict prevention objectives. The benchmarks should include indicators of compliance with international conventions on human rights and guarantees of fundamental rights such as freedom

of association, access to information, and due process legal protections. The indicators should also measure direct and indirect gender impacts. The proposed benchmarks and indicators could become a tool for the United Nations to provide member states guidance and concrete criteria for protecting human rights while implementing counterterrorism mandates.

STATES

- ▶ **Adopt the ‘do no harm’ principle by ensuring that counterterrorism policies do not restrict or cause hardships for legitimate civil society organizations working for charitable or humanitarian purposes.** Conduct a review of existing counterterrorism legislation to amend or eliminate provisions that are shown to have adverse impacts on the political space and operational capacity of legitimate civil society organizations. Avoid policies or administrative measures that impede humanitarian, development, peacebuilding, and human rights activities of lawful civil society organizations. Amend ‘material support’ laws to enable impartial nonviolent humanitarian and conflict transformation groups to engage in peacemaking dialogue and mediation support activities. Consult with civil society networks in reviewing legislation and policies to identify adverse measures that need to be altered or eliminated.
- ▶ **Ensure that measures to prevent the financing of terrorism do not hinder legitimate humanitarian, development, peacebuilding, and human rights activities of lawful civil society organizations.** Take special precautions to ensure that measures to prevent the financing of terrorism do not discriminate against Islamic charities or impede the ability of religious communities to fulfill alms-giving obligations. Invite major foundations and nongovernmental donor agencies to join with government officials and financial officers to establish more effective measures to protect the funding of humanitarian, development, peacebuilding, and human rights activity while taking appropriate measures to prevent the financing of terrorism. Limit the freezing of charitable funds to instances where a judicial finding authorizes action. In such instances authorize courts to appoint receivers to protect the charitable mission and assets of affected non-profit organizations, with a view toward resuming charitable activities under monitored reorganization.

CSOs

- ▶ **Create regional civil society “networks of networks” to engage systematically with national, regional, and international authorities on implementation of the UN *Strategy*.** National and transnational civil society networks should cooperate in forging regional civil society networks and establishing focal points for interaction with governmental and intergovernmental authorities. The goals of engagement would be to: 1) urge adherence to international human rights legal standards in counterterrorism implementation, 2) document adverse harmful impacts of counterterrorism measures, and 3) work with governmental

authorities to take appropriate remedial action to avoid harmful impacts. CSOs can use existing networks where appropriate or work with international NGOs such as Cordaid and the Center on Global Counterterrorism Cooperation to facilitate links among civil society networks and create viable mechanisms for engaging with international and state authorities. The regional civil society networks would feed information and policy recommendations directly to the proposed independent civil society advisory committee for the CTITIF.

- ▶ **Develop working groups within regional civil society networks to address specific issues and policy challenges corresponding to the pillars of the UN *Strategy*.** Working groups could be formed to address such issues as: 1) defending human rights and enhancing due process protections, 2) overcoming conditions conducive to violent extremism through rights-based economic and social development, 3) resolving political grievances through conflict transformation and mediation efforts, and 4) helping to ensure that security forces are accountable to civilian authority and compliant with international legal obligations and the standards of the Organization on Economic Cooperation and Development. Each of the working groups would be asked to provide findings and recommendations for presentation to national, regional, and international governmental authorities, and to the proposed independent civil society advisory committee for the UN CTITIF.

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