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**STOPPING TERRORISM AT ITS SOURCE:
CONCEPTUAL FLAWS OF THE DETERRENCE-BASED
COUNTERTERRORISM REGIME AND
COMMITTING TO A PREEMPTIVE CAUSAL MODEL**

*By Dr. Mark D. Kielsingard and Tam Hey Juan Julian**

This Article analyzes the psycho-social causes of terrorism, conceptual failures of deterrence, and sketches a coherent bifurcated model of counterterrorism under a policy-oriented framework with the role of relevant domestic and international actors, methodologies, and the identification of prototypical societal insecurity drivers. It argues that there is a lacuna in counterterrorism policy that has failed to bridge the gap between the different social sciences and law leading to a failure to develop a fundamentally inclusive and coherent counterterrorism model which strikes at the heart of terror recruitment. It calls for a causal model that applies the multi-disciplinary efforts of all social sciences and particularly that of law, politics and social psychology. It should be evolutionary, intellectually-based and customized to each at risk community. This Article argues that contemporary international counterterrorism policy relies largely on military/law enforcement models grounded in general deterrence rationales that are conceptually flawed, inconsistent with applicable theoretical assumptions of law compliance sounding in perceived legitimacy, and ineffective when applied to group crimes such as terrorism. Drawing from the insights of social science, criminology and law, it argues that communities whose social identity is threatened, sense of group security is precarious and subject to unfair treatment will not be deterred from terroristic conduct under securitization approaches, which paradoxically leads to counter-productive consequences of enlarged terror recruitment. It calls for a focus on, and providing demonstrable incentives for, targeted radicalization-prevention to change extremist group narratives and shrink terror recruitment by undertaking the resolution of long-standing socio-

political-economic disputes and human rights inequities incumbent to the discourse.

INTRODUCTION

Historically, terrorism has shaped world events and been the cause of unspeakable violence, such as the 1914 assassination of Archduke Francis Ferdinand,¹ the policy of Islampolitiks,² the 1972 Munich Olympics kidnapping,³ and the attacks of September 11, 2001.⁴ In contemporary society, terrorism has evolved into an overarching geopolitical consideration, which has significantly affected the way states and international organizations operate both domestically and internationally.⁵ In recent years, the advent of ISIS has demonstrated the resilience of the modern global jihadist

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¹ See Michael Duffy, *Who's Who—Archduke Franz Ferdinand*, FIRST WORLD WAR A MULTIMEDIA HISTORY OF WORLD WAR ONE (Aug. 22, 2009), <http://www.firstworldwar.com/bio/ferdinand.htm>.

² EUGENE ROGAN, *THE FALL OF THE OTTOMANS: THE GREAT WAR IN THE MIDDLE EAST, 1914-1920* 47 (2015) (citing 59 TILMAN LUDKE, *JIHAD MADE IN GERMANY: OTTOMAN AND GERMAN PROPAGANDA AND INTELLIGENCE OPERATIONS IN THE FIRST WORLD WAR* 33–34 (2005)).

³ See generally CBS News, *September 6, 1972: World Learns of Munich Olympics Massacre*, CBS NEWS (Sept. 6, 2016, 2:00 AM), <https://www.cbsnews.com/news/on-this-day-september-6-1972-world-learns-of-munich-olympics-massacre/>.

⁴ See generally *September 11th Terror Attacks Fast Facts*, CNN (Aug. 24, 2017, 10:04 PM), <http://edition.cnn.com/2013/07/27/us/september-11-anniversary-fast-facts/index.html>.

⁵ David L. Altheide, *Consuming Terrorism*, 27 *SYMBOLIC INTERACTION* 289, 289–290 (2004).

movement,⁶ and highlighted the fact that terror violence will not diminish in the face of deterrence-based reactionary government policy, but rather thrives in this potent medium of discursive securitization.

Key to understanding effective solutions to terrorism is the limited role deterrence plays as compared to legitimacy theory. Fundamentally, deterrence-based counterterrorism policy alone is ineffective because significant numbers of people who fail to accept the legitimacy of the socio-political legal order will not be deterred from principal or secondary participation by personal sanctions, and incapacitation is more than offset by an autocatalytic process of securitization measures heightening terror recruitment leading to greater securitization and so on.⁷ Why people comply with (or disobey) law is subject to various interpretations with economists and legal scholars, who often point to its coercive character to deter through incapacitation or fear of sanction.⁸ Other social scientists and legal philosophers emphasize perceived normative legitimacy (procedural and substantive) in the socio-political legal order.⁹ Though he does not refute deterrence- and legitimacy-based explanations, Professor Richard McAdams postulates that legal

⁶ Audrey Kurth Cronin, *ISIS is Not a Terrorist Group: Why Counterterrorism Won't Stop the Latest Jihadist Threat*, 94 FOREIGN AFF. 87, 87–88 (2015).

⁷ See generally Mark Kielsgard & Tam Hey Juan Julian, *Autocatalytic Models of Counter-Terrorism in East and Southeast Asia: An International Comparative Analysis of China, Indonesia and Thailand*, 50 GEO. WASH. INT'L L. REV. 101, 146 (2018).

⁸ See Steven D. Levitt & Thomas Miles, *Economic Analyses of Deterrence: Empirical*, NEW PALGRAVE DICTIONARY OF ECONOMICS (Steven Durlauf & Lawrence Blume eds., 2nd ed. 2008) (discussing studies which evaluate the relationship between police levels and crime rates); see also RICHARD H. MCADAMS, *THE EXPRESSIVE POWERS OF THE LAW: THEORIES AND LIMITS 2* (2015) (citing Raymond Paternoster, *How Much Do We Really Know About Criminal Deterrence?*, 100 J. CRIM. L. & CRIMINOLOGY 765 (2010)) (discussing the deterrence of crime through sanctions).

⁹ MCADAMS, *supra* note 8 (citing Kenworthy Bilz & Janice Nadler, *Law, Psychology, and Morality*, in 50 THE PSYCHOLOGY OF LEARNING AND MOTIVATION: MORAL JUDGMENT AND DECISION MAKING 101, 117 (Daniel M. Bartels et al. eds., 1st ed., 2009)).

compliance also stems, in part, from its function to inform¹⁰ and coordinate¹¹ human behavior, but nonetheless recognizes these functions have limitations and inapplicability in some contexts.¹² McAdams' theory of the "expressive powers of law" is inapplicable to well-defined radical terrorist groups, as they typically follow a *sui generis* normative construct mandated by sub-group membership, which is distinct from the conventional civil norm set.¹³ Moreover, in law compliance theory, mainstream consensus assumes that both deterrence and legitimacy are instrumental.¹⁴ However, counterterrorism policy and initiatives are heavily weighted toward incapacitation and threat of sanction, as evinced, *inter alia*, by military/law enforcement models¹⁵ pursuant to the international war on terrorism.¹⁶ Other soft law initiatives are directed at perceived legitimacy, largely consisting in economic aid and efforts at peacekeeping,¹⁷ leading to causal solutions¹⁸ grounded in socio-political and economic equality.

This dichotomy is reflected in the long-standing polarization over the definition of terrorism, in which deterrence (and retributive) theory inures to a legalistic criminalized definition,¹⁹ while legitimacy theory yields a social or causal definition.²⁰ Yale Professor Michael Reisman articulated that, "[d]efinitions of terrorism are particularly outcome sensitive precisely because they tend to delimit the range of lawful responses to them."²¹ Thus, deterrence theory places small importance on motivations (except as

¹⁰ MCADAMS, *supra* note 8, at 6.

¹¹ *Id.* at 5.

¹² *Id.* at 261.

¹³ *See id.* at 6.

¹⁴ *Id.* at 4.

¹⁵ Jackson Nyamuya Maogoto, *Countering Terrorism: From Wiggled Judges to Helmeted Soldiers? Legal Perspectives on America's Counter-terrorism Responses*, 6 SAN DIEGO INT'L L.J. 243, 253–55 (2005).

¹⁶ *Id.* at 252.

¹⁷ *See infra* note 384 and accompanying text.

¹⁸ *See* G.A. Res. 3034 (XXVII), (Dec. 18, 1972).

¹⁹ *See infra* notes 247–51 and accompanying text.

²⁰ G.A. Res. 3034, *supra* note 18, at 3–4.

²¹ W. Michael Reisman, *International Legal Responses to Terrorism*, 22 HOUS. J. INT'L L. 3, 9 (1999).

evidentiary proof of *mens rea*) and advances military/law enforcement initiatives, while legitimacy theory attempts to tackle more complex socio-political motivations to uncover and correct the causation of radical extremism. In practice, the coercive theory tends to result in a self-defeating autocatalytic process, while legitimacy theory lacks commitment and coherence occasioning diffuse and random initiatives without tangible results.

Rising membership in terrorist groups and the growth of terrorist activity signal the failure of both theories of deterrence and legitimacy.²² In as much as deterrence efforts have failed to slow terrorist activity, counterterrorism policy requires a more balanced approach by stepping up efforts to establish legitimacy. Thus, it is instrumental to learn from prior mistakes by examining the causes of extremism and crafting effective causal approaches to counterterrorism. Yet the extant international power structure, mirrored by many domestic initiatives, continues to embrace a response to terror threats grounded in military and law enforcement models, creating a discursive narrative of securitization.²³ It fails to realistically undertake the more arduous, yet arguably effective, causal model to terror preemption. A few ripples aside, the conventional model and its method and means of combating terrorism persists both in developing and industrialized states.

A causal model requires the multi-disciplinary efforts of all social sciences and particularly that of law, politics and social psychology. This model should be evolutionary, intellectually-based and customized to each at-risk community.²⁴ However,

²² See generally Mark Hanrahan & Jessica Wang, *Number of Fatal Terrorist Attacks in Western Europe Increasing, Data Show*, REUTERS (July 12, 2017), <https://www.reuters.com/article/us-europe-attacks/number-of-fatal-terrorist-attacks-in-western-europe-increasing-data-show-idUSKBN19X1QO> (reporting data from the Global Terrorism Database showing that in Western Europe the number of terrorist attacks resulting in fatalities increased in 2015 and 2016 from previous years).

²³ Arabinda Acharya describes the contemporary discursive securitization as “the construction of broad symbolic enemies and goals, which culminated in narratives like the global jihadist movement and the global war on terrorism.” ARABINDA ACHARYA, *WHITHER SOUTHEAST ASIA TERRORISM?* 24 (2015).

²⁴ In this context, “at-risk communities” refer to communities that are subject to extreme or violent radicalization.

differences of opinion among the social sciences have prevented the development of a successful and inclusive model.

This Article argues that international counterterrorism policy cannot continue to rely on dysfunctional criminological theories of deterrence alone because, though operative against individual criminality, they are ineffective against group crimes such as terrorism or genocide. It argues that communities whose social identity is threatened and whose sense of group security is precarious and subject to perceived unfair treatment will not be deterred from terroristic conduct under conventional deterrence theory, which paradoxically leads to counter-productive consequences of enlarged terror recruitment. This Article calls for domestic and international commitment to an operational perspective aimed at precipitant causation. It argues that this can be achieved with a focus on, and providing demonstrable incentives for, targeted radicalization-prevention to diminish terror recruitment by undertaking the resolution of long-standing socio-political disputes and inequities and providing for perceived legitimacy in the socio-political legal order. Though calls for a causal approach to counterterrorism are not new,²⁵ legitimate action and coherence in model crafting is lacking. In Part A, this Article will analyze the underlying psycho-social causes of radical extremism, followed by a discussion of the inherent conceptual cracks in the current deterrence-based mono-polar global model in Part B. Thereafter, in Part C it will sketch an articulation of a coherent bifurcated causal model under a policy-oriented framework with the role of relevant domestic and international actors, methodologies, and the identification of prototypical societal insecurity drivers to conclude with the inherent need for policy driven approaches sounding in legitimacy theory.

I. CAUSES OF EXTREMISM

Extremism has long been held to be caused by the deprivation of political, civil, security and subsistence rights.²⁶ Jessica Stern, a former lecturer at Harvard's Kennedy School of Government,

²⁵ See G.A. Res. 3034, *supra* note 18.

²⁶ See discussion *infra* Part B.

observed that, “people join religious terrorist groups partly to transform themselves and to simplify life. They start out feeling humiliated, enraged that they are viewed by some ‘other’ as second class . . . [T]he weak become strong.”²⁷ Theories offered to explain this connection include the work of critical security studies scholar Barry Buzan of the Copenhagen School in his work examining the relationship between human security, ethnic conflict, and terrorism.²⁸ Buzan argues that the state is the main source from which individuals derive military, economic, political, societal, and ecological security.²⁹ Yet, this does not fully quantify individuals’ yearn for security and the importance it plays in the psychological transmigration towards radical extremism. Literature in the field of social psychology addresses the demand of human beings for certainty in life and facilitates an appreciation of the individual need for certainty through various forms of security,³⁰ as well as an explanation for the resort to extremism for the lack thereof.

A. *Extremism and Uncertainty*

According to Dr. Michael Hogg, Professor of Social Psychology and Chair of the Social Psychology Department at Claremont Graduate University, the chief cause of extremism is uncertainty.³¹ The economic uncertainty of the Great Depression of the 1930s engendered fascism, communism and nationalism, which culminated in genocide and global war.³² After the war, distrust between the Soviet Union and the West created such uncertainty that

²⁷ Jessica Stern, *Holy Avengers*, FINANCIAL TIMES (June 12, 2004), http://belfercenter.hks.harvard.edu/publication/915/holy_avengers.html.

²⁸ BARRY BUZAN, *PEOPLE, STATES AND FEAR: AN AGENDA FOR SECURITY STUDIES IN THE POST-COLD WAR ERA* (ECPR Press 2007).

²⁹ Michael Clarke, *China’s “War on Terror” in Xinjiang: Human Security and the Causes of Violent Uighur Separatism*, 20 *TERRORISM AND POLITICAL VIOLENCE* 271, 273 (2008).

³⁰ *See generally id.* (explaining the distinction between state and societal security and how they relate to sovereignty, identity, and survival).

³¹ Michael A. Hogg & Danielle L. Blaylock, *Preface: From Uncertainty to Extremism*, in *EXTREMISM AND THE PSYCHOLOGY OF UNCERTAINTY* x (Michael A. Hogg & Danielle L. Blaylock eds., 2012).

³² *Id.* at xv–xvi.

the only ‘compromise’ reached was the nuclear Mutually Assured Destruction of both parties.³³ Uncertainty regarding the United States’ future degenerated into race riots and anti-war demonstrations during the 1960s, creating extreme movements such as Jim Jones’ People’s Temple and the Black Panthers.³⁴ Two co-related theories addressing the association between extremism and uncertainty, the Uncertainty-Identity model, and the Unfair-Treatment model are relevant to this association.

1. Uncertainty-Identity Theory

The Uncertainty-Identity theory is grounded in conventional social psychological theory,³⁵ known as the Social Identity Theory.³⁶ While the latter theorizes the role of “self-concept” in the life of groups,³⁷ the Uncertainty-Identity theory examines the “motivational role of self-uncertainty in group identification” and how it could transform uncertainty into extremism.³⁸ The theory postulates three premises. First, human beings are inherently adverse to uncertainty and are motivated to reduce such feelings.³⁹ Pragmatist philosopher John Dewey concisely summarized the psychological phenomenon: “in the absence of actual certainty in the midst of a precarious and hazardous world, men cultivate all sorts of things that would give them the *feeling* of certainty.”⁴⁰ Events inducing uncertainty may include challenges both

³³ *Id.*

³⁴ *Id.* at xvi.

³⁵ *Id.*

³⁶ Social Identity Theory was first theorized by Henri Tajfel and John Turner in the 70s and the 80s. *See, e.g.,* Henri Tajfel & John Turner, *An Integrative Theory of Intergroup Conflict*, in *THE SOCIAL PSYCHOLOGY OF INTERGROUP RELATIONS* 33 (William G. Austin et al. eds., Brooks/Cole Pub. Co. 1979).

³⁷ Michael A. Hogg, *Self-Uncertainty, Social Identity, and the Solace of Extremism*, in *EXTREMISM AND THE PSYCHOLOGY OF UNCERTAINTY*, *supra* note 31, at 19.

³⁸ *Id.*

³⁹ *Id.* at 20.

⁴⁰ JOHN DEWEY, *THE QUEST FOR CERTAINTY: A STUDY OF THE RELATION OF KNOWLEDGE AND ACTION* 33 (Kessinger Publishing 2005).

manageable and insurmountable,⁴¹ and may arise from the perception that culture and religion are being diluted by the state for purposes of governing and forced cultural assimilation.⁴² Second, one of the most effective ways of reducing uncertainty is to psychologically identify oneself with a group.⁴³ Groups proscribe “prototype” attributes.⁴⁴ A group thus provides a sense of direction for its members by dictating how they ought to think and act, which is further “validated by fellow group members.”⁴⁵ Finally, and consistent with the second premise, successful groups tend to be those that proscribe the clearest “prototype” attributes. Groups exhibiting “entitativity,” a term used to describe groups which “[rest] on clear boundaries, internal homogeneity, social interaction, clear internal structure, common goals, and common fate,”⁴⁶ are preferred in reducing self-uncertainty.⁴⁷

The relationship between societal uncertainty and extremism, such as mass violence,⁴⁸ religious fundamentalism,⁴⁹ and

⁴¹ See generally Jim Blascovich & Joe Tomaka, *The Biopsychosocial Model of Arousal Regulation*, 28 *ADVANCES IN EXPERIMENTAL SOCIAL PSYCHOLOGY* 1, 33–35 (1996) (explaining the results of a study on the effect of rehearsed attitudes on cardiac response when presented with related or unrelated objects).

⁴² In this context, cultural assimilation refers to “a process by which members of an ethnic minority group lose cultural characteristics that distinguish them from the dominant cultural group or take on the cultural characteristics of another group.” See PETER HARRIS ET AL., *MOSBY’S DICTIONARY OF MEDICINE, NURSING AND HEALTH PROFESSIONS—AUSTRALIAN & NEW ZEALAND EDITION* 462 (Elsevier Health Sciences 2014).

⁴³ See generally *Preface to* JOHN C. TURNER ET AL., *REDISCOVERING THE SOCIAL GROUP: A SELF-CATEGORIZATION THEORY* vii, vii (1987) (describing the group process and accompanying shift in self-perception).

⁴⁴ Hogg, *supra* note 37, at 22.

⁴⁵ *Id.* at 19.

⁴⁶ Donald T. Campbell, *Common Fate, Similarity, and Other Indices of the Status of Aggregates of Persons as Social Entities*, 3 *BEHAV. SCI.* 14 (1958).

⁴⁷ HOGG, *supra* note 31, at 23; see also Campbell, *supra* note 46, at 14.

⁴⁸ See ERVIN STAUB, *THE ROOTS OF EVIL: THE ORIGINS OF GENOCIDE AND OTHER GROUP VIOLENCE* 32 (1989) (describing research approach to causes of genocide that stresses “pervasive identity crisis” as a response to social discontinuity).

⁴⁹ See generally Michael A. Hogg et al., *Religion in the Face of Uncertainty: An Uncertainty-Identity Theory Account of Religiousness*, 14 *SOC. PSYCHOL. R.*

ideological thinking,⁵⁰ is well-grounded in groups that exhibit high levels of entitativity. Extremist groups have exclusive and clear proscription and strict policing mechanisms as to how members should act, to the point of expressing the “hallmark[s] of narcissism.”⁵¹ Extremist groups also have absolute values in judging right and wrong, “providing a firm and unassailable platform of certitude.”⁵² These attributes help individuals diminish self-uncertainty by attaching themselves to an identity they can feel certain about. In the context of Islam in the modern age, historian Bernard Lewis wrote, “[i]n a time of intensifying strains, of faltering ideologies, jaded loyalties, and crumbling institutions, an ideology expressed in Islamic terms” stands out to uncertain individuals.⁵³

2. “Unfair-Treatment” Model

The “Unfair-Treatment” model sums up a worldview defense in reaction to personal uncertainty emanating out of unfair treatment.⁵⁴ The model is related to extremism when it is used to justify violence as a radical defense of one’s worldview. It is widely recognized that cultural norms and values are fundamental to people,⁵⁵ and one of

72, 77–78 (2010) (discussing the relationship between uncertainty created through modernity and religious movements).

⁵⁰ See *Introduction* to MICHAEL BILLIG, *IDEOLOGY AND SOCIAL PSYCHOLOGY: EXTREMISM, MODERATION, AND CONTRADICTION* 1, 3 (1982) (introducing a chapter relating Marx’s concept of ideology as a function of group psychology).

⁵¹ Roy F. Baumeister et al., *Relation of Threatened Egotism to Violence and Aggression: The Dark Side of High Self-Esteem*, 103 *PSYCHOL. REV.* 5, 23 (1996).

⁵² Hogg, *supra* note 37, at 26.

⁵³ BERNARD LEWIS, *THE CRISIS OF ISLAM: HOLY WAR AND UNHOLY TERROR* 19 (2004).

⁵⁴ Kees van den Bos & Annemarie Loseman, *Radical Worldview Defense in Reaction to Personal Uncertainty*, in *EXTREMISM AND THE PSYCHOLOGY OF UNCERTAINTY*, *supra* note 31, at 70.

⁵⁵ See Robert B. Cialdini et al., *A Focus Theory of Normative Conduct: A Theoretical Refinement and Reevaluation of the Role of Norms in Human Behavior*, 24 *ADVANCES EXPERIMENTAL SOC. PSYCHOL.* 201, 202 (1991).

the most important social norms is fairness.⁵⁶ Unfair treatment thus violates individual cultural worldviews.⁵⁷

An early theory predating the Unfair-Treatment Model, the Relative Deprivation Theory was raised by Ted Robert Gurr in his book *Why Men Rebel*. Formulated in the 1960s, the theory was postulated in an era where western “observers were . . . concerned about political violence in postcolonial states, particularly [those] in Africa and Southeast Asia, and mass protest movements” such as those in the United States.⁵⁸

Gurr summarized his thesis as an analysis of three factors. First is popular discontent and its sources. He raised the term “relative deprivation” to understand this and defined it as “actors’ perception of discrepancy between their value expectations and their value capabilities.”⁵⁹ “Value expectations,” he explained, are “the goods and conditions of life to which people believe they are rightfully entitled,”⁶⁰ whereas “[v]alue capabilities are the goods and conditions they think they are capable of getting and keeping.”⁶¹ Where there is a huge discrepancy between these two values, this yields a conflict that Gurr describes to be “fundamentally unpleasant.”⁶² Where “innovative behavior” cannot be adopted to avoid such conflict, they are likely to adopt “destructive behavior” to “strike out at their sources,” creating such discrepancy.⁶³ Gurr, however, pointed out innovative responses to conflicts may also involve violence.⁶⁴ Whether actors resort to violence to avoid or “strike out” at the source of conflict ultimately depends on whether

⁵⁶ See generally Robert Folger, *Preface, in* THE SENSE OF INJUSTICE: SOCIAL PSYCHOLOGICAL PERSPECTIVES ix (Robert Folger ed., 1984).

⁵⁷ Van den Bos & Loseman, *supra* note 54.

⁵⁸ Ted Robert Gurr, *Why Men Rebel Redux: How Valid are its Arguments 40 years On?*, E-INTERNATIONAL RELATIONS (Nov. 17, 2011), <http://www.e-ir.info/2011/11/17/why-men-rebel-redux-how-valid-are-its-arguments-40-years-on/>.

⁵⁹ TED ROBERT GURR, *WHY MEN REBEL* 24 (1st ed. 1971).

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.* at 22.

⁶³ *Id.* at 22–23.

⁶⁴ *Id.* at 23.

actors can justify them and whether it is economically sound, as would be enumerated below.

The second factor are people's perception regarding political action in terms of its justifiability or utility.⁶⁵ Finally, the third factor to consider is the "discontented people's capacity to act," which is a balance between their organizational abilities and the "government's capacity to repress or channel their anger."⁶⁶ These steps are in summary rational-choice analysis undertaken by the actors whether resorting to political action, including violence, would yield results. This is supported by Gurr who, in hindsight, thought it was a "mistake" to deem actors who reacted violently to injustice as "non-rational."⁶⁷

In explaining why people resort to violence in the face of injustice, Gurr argues that actors rationalize violence by justifying it and by assessing its utility, and there are two points he made that is relevant to the current thesis. The first being the receptivity of intensely discontented people to doctrinal justifications for political violence, who he argues are "most susceptible to new doctrines when they are uncertain about the origins of their discontent, and more generally are anxious about the lack of certainty in their social environment."⁶⁸ Second regarding the utility of violence, individuals' immediate hope is personal gain in the form of social change.⁶⁹

Moreover, a research project for the Dutch Ministry of Justice and the National Coordinator for Counterterrorism revealed that youths are likely to engage in a radical worldview defense and even harbor sympathy for terrorist movements when they perceive they were unfairly treated.⁷⁰ The project hypothesizes that feelings of injustice lead youths to "hold more positive beliefs about radical belief systems, judge Dutch authorities as illegitimate, start to contrast their own group with other groups, feel superior to others,

⁶⁵ Gurr, *supra* note 58.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ GURR, *supra* note 59, at 198.

⁶⁹ *Id.* at 211.

⁷⁰ Van den Bos & Loseman, *supra* note 54, at 80. Kees van den Bos, the author of the article referenced, was also part of the project.

and be less committed to the Dutch society.”⁷¹ The study further revealed feelings of unjust results among Muslim radicalism and right-wing extremism.⁷²

The twin theories of the Uncertainty-Identity theory and the Unfair-Treatment model bring into focus the need to derive military, economic, political, societal and ecological security from the state, and the failure of which results in a resort to extremism.⁷³ Using these theories as a backdrop, contemporary models of counterterrorism can be assessed from a social psychology perspective, *inter alia*, and their suitability for state action should be judged from a causal perspective.

3. The Conformity Effect

Scholar Paul Roth hypothesizes that groups will resort to extremism based on situational and dispositional factors in a theory known as the “*conformity effect*.”⁷⁴ Drawing on such studies as the Milgram experiment⁷⁵ and the Stanford Prison Project,⁷⁶ Roth observes that, “the ‘situation’ in which one finds oneself—[is] a highly reliable predictor of behaviour”⁷⁷ and that “[c]hanges in normative expectations change behaviour.”⁷⁸ In essence, if members of a social group with a well-defined prototype identity are confronted by situational factors which threaten their world view, and/or if the group is treated with perceived indefensible inequities

⁷¹ *Id.* (explaining that the conclusions were supported by a survey of 1,341 Dutch between 13 and 21 years old, and 24 radical young persons).

⁷² *Id.* at 82.

⁷³ See generally BUZAN, *supra* note 28.

⁷⁴ Paul A. Roth, *Social Psychology and Genocide*, in THE OXFORD HANDBOOK OF GENOCIDE STUDIES 198, 212 (Donald Bloxham & A. Dirk Moses eds., OUP Oxford 2010).

⁷⁵ Stanley Milgram, *Behavioral Study of Obedience*, 67 J. OF ABNORMAL AND SOC. PSYCHOL. 371, 375 (1963).

⁷⁶ PHILIP G. ZIMBARDO, THE LUCIFER EFFECT: UNDERSTANDING HOW GOOD PEOPLE TURN EVIL (2007).

⁷⁷ Roth, *supra* note 74, at 199.

⁷⁸ *Id.* This has been tested empirically in many studies such as the Milgram experiment and the Stanford Prison experiment. See LEE ROSS & RICHARD E. NISBETT, THE PERSON AND THE SITUATION: PERSPECTIVES OF SOCIAL PSYCHOLOGY (Pinter & Martin Ltd. 2011) (1991).

to the point that its collective sense of security is threatened, then the group will become radicalized, and terroristic violence is likely.⁷⁹ Conversely, if situational factors and normative expectations are conducive to non-violent responses in risk groups at large, extremist sub-groups will have a significantly smaller pool of recruits to draw upon.

These theories dovetail into other scholarly assumptions by some political scientists who conclude that radical Islamic terrorism stems not from religious conviction but from, *inter alia*, perceptions of foreign aggression and geopolitical motives.⁸⁰ These perceptions generate fear and insecurity amongst target groups of the destruction of their institutions, and raise fears that their culture, institutions, and economic stability may be destroyed via military action and martial law.⁸¹ These perceptions also engender profound feelings of mistrust and unfair treatment within these groups.⁸²

Political scientist Robert A. Pape, of the University of Chicago, concluded from a study he conducted on suicide bombings that the commonality of the attacks was “a specific secular and strategic goal: to compel modern democracies to withdraw military forces from territory that the terrorists consider to be their homeland.”⁸³ In a subsequent enlarged study, Pape concluded that, “Overall, foreign military occupation accounts for 98.5%—and the deployment of American combat forces for 92%—of all the 1,833 suicide terrorist attacks around the world in the past six years.”⁸⁴ Thus, religious piety is not a cause of terrorism but may merely be a component part of a prototype identity—radicalization stems from indicia of insecurity; crisis of identity and common perceptions of unfair treatment.

⁷⁹ See Roth, *supra* note 74, at 199.

⁸⁰ See discussion *infra* Section A.4.

⁸¹ See *id.*

⁸² See *id.*

⁸³ ROBERT A. PAPE, DYING TO WIN: THE STRATEGIC LOGIC OF SUICIDE TERRORISM 4 (2005) [hereinafter PAPE, DYING TO WIN].

⁸⁴ ROBERT A. PAPE, CUTTING THE FUSE: THE EXPLOSION OF GLOBAL SUICIDE TERRORISM AND HOW TO STOP IT 28 (2010) [hereinafter PAPE, CUTTING THE FUSE].

4. Stratum of Extremism

Though terrorists typically adopt violent prototype identities in much the same way and for the same genus of situational motivations, the level of violence and the role individuals are prepared to play vary according to individual dispositional factors. While there is research that an inhibitory mechanism exists to prevent interspecies killing,⁸⁵ some individuals spiral into hyper-violence to include acts of murder, torture, and other violent conduct usually associated with terrorism. From a criminological perspective this is principle liability,⁸⁶ and includes perpetrators as well as leaders who order acts of violence as co-conspirators.⁸⁷ Others play less direct roles assisting in the commission of the acts as secondary liability.⁸⁸ Still, others provide emotional reinforcement, feeding the ideology as passive supporters.⁸⁹

The role of individuals in terrorist activity can be articulated as a matrix of principle liability, secondary liability and bystander liability. Principles commit the *actus reus* (or order those acts as leaders). Secondary parties engage in conduct such as directly or indirectly providing information to extremist groups (or its

⁸⁵ KONRAD LORENZ, ON AGGRESSION 156 (M. Wilson trans., Harcourt, Brace & World 1966) (1963).

⁸⁶ The principal under this liability is described in relation to the *actus reus*. MICHAEL J. ALLEN, TEXTBOOK ON CRIMINAL LAW 224 (13th ed. 2015); (“A person is the perpetrator if his act is the immediate cause of the *actus reus* of the offence.”); MICHAEL JACKSON, CRIMINAL LAW IN HONG KONG 330 (2003) (quoting P. GILLIES, THE LAW OF CRIMINAL COMPLICITY 39 (1980)) (“The principal . . . is . . . ‘the person who personally participates in the physical transaction of the *actus reus* of the offence.’”); Derek Hodgson et al., Parties, *Complicity and Liability for the Acts of Another* 9 (The Law Comm’n, Working Paper No. 43, 1972 (“A principal in an offence is the one who, with any necessary fault element, does the acts constituting the external elements of the offence.”)).

⁸⁷ See ARCHBOLD: PLEADING, CRIMINAL PLEADING, EVIDENCE AND PRACTICE 1577 (P.J. Richardson et al. eds., Sweet and Maxwell 2002).

⁸⁸ See *id.* at 1575.

⁸⁹ See Laurel E. Fletcher, *Reflections on Twenty Years in Human Rights, Facing Up to the Past: Bystanders and Transitional Justice*, 20 HARV. HUM. RTS. J. 47 (2007) (observing that while “the transitional justice movement has taken enormous strides in addressing the consequences of mass violence and repression: it has largely failed to confront bystanders with the tragic consequences of their passivity.”).

command structure), provide financial assistance,⁹⁰ or otherwise aid,⁹¹ abet,⁹² counsel⁹³ or procure⁹⁴ acts of violence. Bystander liability, usually associated with genocide, has no counterpart in domestic criminal law as a basis for criminal liability but from a psychological perspective of extremism, it plays an important role in counterterrorism.⁹⁵ Bystander liability provides emotional support, vitally important to reinforcing the righteousness sought by the principles and secondary parties and the propagation of violent prototype group identities essential for the viability of the movement. Occasionally, bystanders will conceal relevant information from law enforcement out of sympathy for the principles/secondary parties or out of fear of retaliation or social ostracization from the group. Within that hierarchy, the individual's level of extremism manifests in the role he is willing to play as either principle, secondary or bystander.

Fathali M. Moghaddam suggests a processual model of extremism in his articulation of the "Staircase to Terrorism."⁹⁶ He observes the process as being increasingly narrow, where individuals are given less and less possibilities other than that of resorting to violence and complying with the views and authority of the terrorist organization.⁹⁷ Whether the process is lineal or irregular is suspect as his conclusions are not grounded in empirical research. Nonetheless, it is a safe assumption that violent radicalization is a psychological process rather than by fiat.

⁹⁰ Financing of terrorism is a recognized threat by the UN Security Council. See United Nations Security Council Counterterrorism Committee, *Terrorism financing*, UNITED NATIONS, <https://www.un.org/sc/ctc/focus-areas/financing-of-terrorism/> (last visited June 1, 2018); see also S.C. Res. 2178, ¶ 13 (Sept. 24, 2014) (recognizing threats to international peace and security caused by foreign terrorist fighters).

⁹¹ ARCHBOLD, *supra* note 87, at 1575.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ See Fletcher, *supra* note 89, at 47.

⁹⁶ Fathali M. Moghaddam, *The Staircase to Terrorism: A Psychological Exploration*, 60 AM. PSYCHOLOGIST 161, 161 (2005).

⁹⁷ See *id.*

The causes of extremism are as complicated as human nature itself, seldom lending solutions to simplistic self-interested coercive approaches. Rather, acknowledgement of the human need for certainty and perceived fair treatment, politically, economically and socially, serve to reverse extremist trends. Indicia of unfair treatment, including but by no means limited to economic disparity, serve as situational factors that aggravate uncertainty, which is expressed by group members in accordance with individual dispositional factors and the extent of the role they are willing to play in violent initiatives.

B. Approaches to Counterterrorism

The international community adopts a holistic approach in combatting terrorism by combining the military, law enforcement and human rights models.⁹⁸ The military model comprises of military action such as peacekeeping tasks,⁹⁹ deterring state support for terrorism,¹⁰⁰ improving a state's preventive capacity through military assistance,¹⁰¹ or the orderly distribution of humanitarian aid.¹⁰² In the post-9/11 era it has also taken a more pragmatic role,

⁹⁸ See Mark D. Kielsgard, *A Human Rights Approach to Counterterrorism*, 36 CALIFORNIA W. INT'L L. J. 249, 251–52 (2006).

⁹⁹ For instance, China's commitment to send peacekeepers to South Sudan. See Karen Allen, *What China Hopes to Achieve with First Peacekeeping Mission*, BBC (Dec. 2, 2015), <http://www.bbc.com/news/world-africa-34976580>.

¹⁰⁰ One example could be India's threat of a military response against Pakistan, who they believed harbored the terrorists who took part in the Mumbai attacks in 2008. See Joe Leahy & James Fontanella-Khan, *India's Home Minister Resigns Over Mumbai Attacks*, FINANCIAL TIMES (Nov. 30, 2008), <https://www.ft.com/content/e1ccc782-bd7e-11dd-bba1-0000779fd18c>.

¹⁰¹ The United States' Securities Force Assistance program in post-conflict States such as Iraq and Afghanistan is one such case. See generally THOMAS K. LIVINGSTON, CONGRESSIONAL RESEARCH SERVICE, BUILDING THE CAPACITY OF PARTNER STATES THROUGH SECURITY FORCE ASSISTANCE 26 (2011), <https://fas.org/sgp/crs/natsec/R41817.pdf>.

¹⁰² An example would be the dispatch of military personnel to Somalia to ensure that local warlords would not make away with the humanitarian relief meant for the famine in 1992. See David Binder, *Bush Ready to Send Troops to Protect Somalia Food*, N. Y. TIMES (Nov. 26, 1992), <http://www.nytimes.com/1992/11/26/world/bush-ready-to-send-troops-to-protect-somalia-food.html>; see also Kielsgard, *supra* note 98, at 253.

as the so-called “War on Terrorism” continues to rage throughout Western and Southern Asia and North Africa.¹⁰³

Working in concert with the military approach, the law enforcement model is premised on domestic and international criminal law and anti-terrorism treaties and conventions.¹⁰⁴ It is focused on the “investigatory” aspect of counterterrorism such as preventing dangerous materials from falling into the wrong hands,¹⁰⁵ reducing terrorism funding,¹⁰⁶ building state police and investigatory capacities, exchange of intelligence,¹⁰⁷ etc., as well as being the first responders to terrorist attacks in non-conflict zones. Both military and law enforcement are reactive models principally designed to deter and react to terrorist acts as they occur but are seldom concerned with rooting out and addressing the fundamental causes of extremism and thus lack a preemptive component.¹⁰⁸ Moreover, these models inure only to a coercive theory of law compliance and fail to address fundamentally perceived substantive legitimacy. The latter is particularly relevant to group crimes such as terrorism and halting terror recruitment.

1. The Inadequacy of a Pure Military and Law Enforcement Model

Indeed, these models, though indispensable for temporary safety, are primarily predicated on striking back at extremists retrospectively.¹⁰⁹ They rely on preventive measures rooted in the

¹⁰³ “*War on Terrorism*,” GLOBAL POLICY FORUM, <https://www.globalpolicy.org/war-on-terrorism.html> (last visited June 1, 2018).

¹⁰⁴ See International Legal Instruments, UNITED NATIONS OFFICE OF COUNTERTERRORISM, <http://www.un.org/en/counterterrorism/legal-instruments.shtml> (last visited June 1, 2018) (providing a list of antiterrorism conventions deposited with the Secretary General).

¹⁰⁵ See generally *id.* (showing that some legal instruments do have an investigatory aspect concerning nuclear terrorism).

¹⁰⁶ See S.C. Res. 2178, *supra* note 90, ¶6(b).

¹⁰⁷ Alex Schmid, *Terrorism — The Definitional Problem*, 36 CASE W. RES. J. INT’L L. 375, 380 (2004).

¹⁰⁸ Kielsingard, *supra* note 98, at 257.

¹⁰⁹ For example, the Convention for the Suppression of Terrorist Bombings adopted by the United Nations in 1997, was “the result of an initiative by the United States following such incidents as the 1996 bombing attacks on U.S.

criminal justice theories of deterrence and retribution. Retribution is significant as it allows a wronged community to feel more secure, assuaging the goal of extremists to cause widespread societal terror, and it reinforces a non-violent group identity. However, it is not designed as a preventative model, but rather as *just desserts*.¹¹⁰

Use of military/law enforcement as a model for deterrence or incapacitation is more problematic. These approaches are counter-productive in as much as extreme measures against terrorism and the social injustice consequences incumbent to these initiatives, particularly in the military model, radically increases terrorist recruitment. It denigrates into an autocatalytic cycle as seen in the United States' ill-advised conflict in Iraq, the ramifications of which still plague international safety in virtually all quarters of the globe. This differs from typical domestic deterrence objectives, as traditional state criminality does not adhere to a unified prototype social identity and lacks a commonality of purpose. However, like the crime of genocide, terrorism is a group crime (though typically perpetrated by the minority instead of the majority) and is not subject to the same constraints as individual criminality, which is grounded in personal self-interest instead of the interests of the group. In traditional criminal justice, the threat of state sanction serves as a situational factor discouraging ordinary community members from engaging in prohibited conduct but fails to deter group-focused terrorism.¹¹¹ Conversely, it is viewed along with other societal insecurity drivers as indicia of state illegitimacy, and encourages reactionary radical group membership to spur on greater responsive acts of violence.

The classic example of the failure of the coercive approach to group crimes was the military action in Iraq. Though some efforts were made at “[d]iminish[ing] the underlying conditions that

military personnel in Saudi Arabia.” See Anti-Terrorism Conventions, Nov. 27, 2001, S. EXEC. REP. NO. 107-2.

¹¹⁰ See Russell L. Christopher, *Deterring Retributivism: The Injustice of ‘Just’ Punishment*, 96 NW. U.L. REV. 843, 937 (2002); Douglas N. Husak, *Retribution in Criminal Theory*, 37 SAN DIEGO L. REV. 959, 972. See also Thomas Michael McDonnell, *The Death Penalty—An Obstacle to the “War on Terrorism?”*, 37 VAND. J. TRANSNAT’L L. 353, 387 (2004).

¹¹¹ See generally *infra* pp. 508–10 (discussing the influence of the Social Network theory and Group Dynamic theory on group crimes).

terrorists seek to exploit,”¹¹² they proved to be a dismal failure.¹¹³ Corruption was rampant¹¹⁴ coupled with complete lack of oversight of the spending on reconstruction efforts.¹¹⁵ There was also a lack of political will in Washington to eliminate the underlying causes of

¹¹² See U.S. DEPT OF STATE, *The National Strategy for Combating Terrorism* 12 (2003), https://www.cia.gov/news-information/cia-the-war-on-terrorism/Counter_Terrorism_Strategy.pdf. See generally *id.* at 11–12 (outlining the four strategic fronts to address terrorism against the United States: “defeat terrorists organizations of global reach,” “deny further sponsorship, support, and sanctuary to terrorists”, “diminish the underlying conditions that terrorist seek to exploit”, and “defend the United States, our citizens, and our interests at home and abroad.”).

¹¹³ James Jeffrey, the U.S. Ambassador in Iraq from 2010-2012, told Special Inspector General for Iraq Reconstruction Stuart W. Bowen Jr. in his final report on the U.S. occupation: “The U.S. reconstruction money used to build up Iraq was not effective. There were many development problems, and we didn’t get much in return for the \$50 billion-plus that we spent.” See STUART W. BOWEN JR., A FINAL REPORT FROM THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION: LEARNING FROM IRAQ 29 (2013).

¹¹⁴ Bowen’s report included a 2012 audit by the Board of Supreme Audit, an Iraqi government watchdog agency, which recorded: “up to \$800 million was laundered money transferred illegally under false pretenses [weekly]. Calculated cumulatively over the course of a year, this presents the possibility that up to \$40 billion was leaving the country annually because of corruption.” See *id.* at 103.

¹¹⁵ In the early phase of the reconstruction, funds were distributed in the form of \$12 billion worth of dollar bills flown into Baghdad in C-130 Hercules cargo planes. See *War and Occupation in Iraq - Chapter 9: Corruption, Fraud and Gross Malfeasance*, GLOBAL POL’Y F., https://www.globalpolicy.org/component/content/article/168/37153.html#_ednref77 [hereinafter *Global Policy Forum paper*]. Lack of oversight in spending was also evidenced by the performance failures of construction firms. Early contracts were granted exclusively to firms that had close political ties to Washington without competitive bidding or specified cost. See *id.* Successful bidders were also ineffective in seeing through their contracts, with price mark-up being the norm. For instance, take the construction of healthcare centers as an example. The Parsons Corporation was awarded a \$253 million contract in 2004 to build 150 local clinics: two years after and \$186 million spent, only five were completed. See *id.* (citing STUART W. BOWEN, JR., SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION, STATEMENT BEFORE THE U.S. HOUSE COMMITTEE ON GOVERNMENTAL REFORM, OVERSIGHT HEARING ON: “RECONSTRUCTION CONTRACTING IN IRAQ” 3 (Sept. 28, 2006)).

extremism in Iraq.¹¹⁶ The result was that the majority of the intended spending on reconstruction went to security costs.¹¹⁷ Just in the fall of 2004, roughly \$6 billion of the \$21 billion then committed to reconstruction was “reprogrammed” into security.¹¹⁸ Diverting reconstruction funds into security evinces a prioritization of the military and law enforcement approach over the causal or legitimacy approach. Such a prioritization not only ignored the underlying causes of extremism, but undoubtedly provided more cause for Iraqis to resort to violence.¹¹⁹ There was also convincing evidence of the United States’ complicity in torture.¹²⁰ Amnesty International has accused the United States of outsourcing torture to a deniable distance,¹²¹ and, of course, the well-publicized arbitrary and infamous abuses against civilians at numerous detention facilities in Iraq and Afghanistan including varying degrees of cruel, inhumane, and degrading treatment as well as torture as documented in a 2004 unauthorized release of an International Committee of the Red Cross

¹¹⁶ Discord lies between the State Department and the Pentagon headed by then Defense Secretary Donald Rumsfeld who, when presented rebuilding plans in Iraq, (in)famously said: “If you think we’re going to spend a billion dollars of our money over there [in Iraq], you are sadly mistaken.” See James Glanz & T. Christian Miller, *Official History Spotlights Iraq Rebuilding Blunder*, N. Y. TIMES (Dec. 13, 2008), <https://www.nytimes.com/2008/12/14/world/middleeast/14reconstruct.html>.

¹¹⁷ See R. Jeffrey Smith, *The Failed Reconstruction of Iraq*, THE ATLANTIC (Mar. 15, 2013), <http://www.theatlantic.com/international/archive/2013/03/the-failed-reconstruction-of-iraq/274041/>.

¹¹⁸ Charles J. Hanley, *Can Iraq Fill The ‘Reconstruction Gap’?*, GLOBAL POL’Y F. (Oct. 15, 2006), <https://www.globalpolicy.org/component/content/article/168/37255.html>.

¹¹⁹ *Global Policy Forum paper*, *supra* note 115.

¹²⁰ General Muntazar Jasim al-Samarra’i, who formerly worked for the Interior Ministry, claimed: “The U.S. troops knew everything about the torture.” AMNESTY INTERNATIONAL, *BEYOND ABU GHRAIB: DETENTION AND TORTURE IN IRAQ 9* (2006) (citing Marc Thorner, *Urnengang im Schatten des taglichen Terrors*, DEUTSCHLANDRADIO (Dec. 14, 2005), <http://www.dradio.de/dlf/sendungen/hintergrundpolitik/448279/>).

¹²¹ Amnesty International described such conduct as “either seriously negligent or, effectively, complicit in the abuses committed by Iraqi government forces.” *Id.* at 8.

report.¹²² As a result of this securitization approach and the erosion of the social identity of those targeted, as well as the unfair treatment, insecurity proliferated polarizing extremist groups. The number of insurgents in Iraq went from 5,000 at the end of 2003 to 40,000 active fighters with an additional 160,000 “part-time fighters and supporters who provide[d] food, shelter, funds and intelligence.”¹²³ The effects were not only limited to Iraq as observed by the Institute of Strategic Studies, the campaign has become “a potent global recruitment pretext.”¹²⁴ As former U.S. counterterrorism tsar Richard Clark stated after Al-Qaeda’s defeat in Afghanistan: Al-Qaeda is now a “many-headed hydra that is just as deadly and far harder to slay.”¹²⁵ Arguably this has also fueled the rise of ISIS and the resultant twin conflict zones in Syria and Iraq.¹²⁶

Another failure resulted from the securitization approach in southern Thailand in the early 2000s, when efforts to negotiate with the majority Malay-Muslim population¹²⁷ coincided with a 10-

¹²² David S. Cloud et al., *Red Cross Found Widespread Abuse of Iraqi Prisoners*, WALL ST. J. (May 7, 2004), <https://www.wsj.com/articles/SB108384106459803859> (quoting INT’L COMM. OF THE RED CROSS, REPORT OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) ON THE TREATMENT BY THE COALITION FORCES OF PRISONERS OF WAR AND OTHER PROTECTED PERSONS BY THE GENEVA CONVENTIONS IN IRAQ DURING ARREST, INTERNMENT AND INTERROGATION (Feb. 2004)).

¹²³ Tom Lasseter & Jonathan S. Landay, *Analysis: Iraqi Insurgency Growing Larger, More Effective*, MCCLATCHYDC (Jan. 21, 2005), <http://www.mcclatchydc.com/news/special-reports/iraq-intelligence/article24443278.html>.

¹²⁴ Kim Sengupta, *Occupation Made World Less Safe*, GLOBAL POL’Y F. (May 26, 2004), <https://www.globalpolicy.org/component/content/article/154/26691.html> (quoting the International Institute of Strategic Studies).

¹²⁵ Charles B. Strozier, *Historical and Psychological Reflections on the Emergence of the New Terrorism*, in UNDERSTANDING AND RESPONDING TO THE TERRORISM PHENOMENON: A MULTI-DIMENSIONAL PERSPECTIVE 28, 30 (O. Nikbay & S. Hancerli eds., 2007).

¹²⁶ See Martin Chulov, *Isis: The Inside Story*, THE GUARDIAN (Dec. 11, 2014), <https://www.theguardian.com/world/2014/dec/11/sp-isis-the-inside-story>.

¹²⁷ See Peter Chalk, *The Malay-Muslim Insurgency in Southern Thailand Understanding the Conflict’s Evolving Dynamic*, 5 RAND COUNTERINSURGENCY

month government-led war on drugs.¹²⁸ This led to increased radicalization of the indigenous population,¹²⁹ as well as extrajudicial killings carried out by police without fundamental due process.¹³⁰ According to Human Rights Watch, a member of a militant group claimed that:

[o]ut of resentment towards Thai authorities, those villagers were desperate and requested us to give them protection. We gave them training in military and self-defense tactics, in parallel with political indoctrination about the struggle for independence. This is how we re-established control of the population and stepped up attacks on the government. We truly believe in our cause—that we are fighting to liberate our land and protecting our people from the oppressive Thai authorities.¹³¹

A similar securitization approach has been applied in the Philippines with the complex and ongoing Bangsamoro peace

STUDY 9 (2008), https://www.rand.org/content/dam/rand/pubs/occasional_papers/2008/RAND_OP198.pdf.

¹²⁸ BBC News, *Thai PM Hails Drug War Success*, BBC (Dec. 3, 2003, 07:24 GMT), <http://news.bbc.co.uk/2/hi/asia-pacific/3256836.stm>.

¹²⁹ Just this past year there has been surging evidence of an active insurgency in Southern Thailand. See Austin Bodetti, *Thailand's Forgotten Insurgency*, THE DIPLOMAT (June 15, 2017), <http://thediplomat.com/2017/06/thailands-forgotten-insurgency/>; *Cars Stolen from Thai Dealer Used as Bombs*, THE STRAITS TIMES (Aug. 18, 2017), <http://www.straitstimes.com/asia/se-asia/cars-stolen-from-thai-dealer-used-as-bombs>; *Roadside Bombs Kills Six Soldiers in South Thailand*, REUTERS (June 19, 2017), <http://www.reuters.com/article/us-thailand-south-idUSKBN19A0RJ>.

¹³⁰ HUMAN RIGHTS WATCH, "IT WAS LIKE SUDDENLY MY SON NO LONGER EXISTED": ENFORCED DISAPPEARANCES IN THAILAND'S SOUTHERN BORDER PROVINCES 4, 13, 18, 14 (2007), <https://www.hrw.org/reports/2007/thailand0307/thailand0307webwcover.pdf>.

¹³¹ See *id.* at 13–14 (quoting a member of BRN-Coordinate, a nascent extremist organization in Thailand).

process,¹³² and President Duterte's "war on drugs,"¹³³ ultimately spiraling into the current "war on terrorism" in Mindanao,¹³⁴ and the "strike hard" policy in Xinjiang Province of China with Uyghur populations.¹³⁵ In every case, military/law enforcement approaches have led to increased extremism and terror recruitment, occasioning greater violence and destruction.

2. Deterrence and Radicalization

The effectiveness of the military model in counterterrorism is also questionable under a general geopolitical deterrence theory. Epitomized during the Cold War, the application of the deterrence theory to geopolitics was a strategic concept intended to prevent catastrophic nuclear war triggered by state actors.¹³⁶ It is therefore

¹³² The re-ignition of the peace process together with the extension of martial law in the area until the end of 2017 calls into question the government's sincerity. See Carolyn O. Arguillas, *Duterte: "There Shall Be a Bangsamoro Country"*, MINDA NEWS (July 18, 2017), <http://www.mindanews.com/peace-process/2017/07/duterte-there-shall-be-a-bangsamoro-country1/>; Eugene Mark, *Bangsamoro Peace Process Complicated by Philippine Politics*, THE DIPLOMAT (Feb. 13, 2018), <https://thediplomat.com/2018/02/bangsamoro-peace-process-complicated-by-philippine-politics/>; see also *Philippines Duterte: Martial Law Extended in Mindanao*, BBC (July 22, 2017), <http://www.bbc.com/news/world-asia-40690589>.

¹³³ Kate Lamb, *Philippines Secret Death Squads: Officer Claims Police Teams Behind Wave of Killings*, THE GUARDIAN (Oct. 5, 2016), <https://www.theguardian.com/world/2016/oct/04/philippines-secret-death-squad-s-police-officer-teams-behind-killings>.

¹³⁴ Chad de Guzman, *Marawi Crisis Hits 300 Death Toll Mark*, CNN PHILIPPINES (June 19, 2017, 6:46 AM), <http://cnnphilippines.com/news/2017/06/19/Marawi-crisis-hits-300-death-toll-mark.html>.

¹³⁵ See Adrien Morin, *Is China's Counterterrorism Policy in Xinjiang Working?*, THE DIPLOMAT (Feb. 23, 2017), <https://thediplomat.com/2017/02/is-chinas-counterterrorism-policy-in-xinjiang-working/>; see also Sean Roberts, *Imaginary Terrorism? The Global War on Terror and the Narrative of the Uyghur Terrorist Threat*, PONARS EURASIA WORKING PAPER 15 (2012); *The "Three Fast" Principle of 'Fast Review, Fast Arrest and Fast Prosecution'*, PEOPLE.COM.CN (July 18, 2009), <http://politics.people.com.cn?GB/14562/9678322.html>.

¹³⁶ ELLI LIEBERMAN, RECONCEPTUALIZING DETERRENCE: NUDGING TOWARD RATIONALITY IN MIDDLE EASTERN RIVALRIES i (2013).

inapplicable to terrorists in several regards. Firstly, terrorists are motivated differently. Unlike state actors with state of the art weaponry, terrorists have no possible chance to succeed in a military context other than employing terrorist tactics.¹³⁷ Alternatively, individuals relying on terrorism to advance their cause typically feel they have “nothing to lose” or that their cause idolizes martyrdom.¹³⁸ Secondly, it is conceptually amiss to treat a terrorist organization, a non-state actor, as one would a state. Though geopolitical deterrence can theoretically deter state sponsorship or state support of terrorism,¹³⁹ it does not deter non-state actors. A terrorist organization can be divided into different classes of actors, each with their own prerogatives.¹⁴⁰ No simple theory of deterrence thus could apply to such a wide spectrum of actors, except perhaps to the lowest level of the hierarchy and then only if they have not been successfully radicalized.

More particularly, deterrence and the prevention of radicalization are distinguishable. Deterrence manifests as the threat of sanctions for illegal acts and can co-exist with radicalized populations. Individuals can hold extreme views and still avoid conduct that would result in state sanction, although individuals with an ultra-violent social identity will not be deterred by state sanction. Deterrence focuses on the *actus reus* of criminal activity and, with few exceptions, is not concerned with views held by group members

¹³⁷ PAUL K. DAVIS & BRIAN MICHAEL JENKINS, *DETERRENCE & INFLUENCE IN COUNTERTERRORISM: A COMPONENT IN THE WAR ON AL-QAEDA* 4 (RAND 2002).

¹³⁸ *Id.*

¹³⁹ For instance, the Security Council’s sanctions against Al-Qaeda and Taliban, and eventually a resolution that approved war against Afghanistan *See* S.C. Res. 1390 (Jan. 16, 2002); S.C. Res. 1378 (Nov. 14, 2001). *See also* S.C. Res. 1883 (Nov. 11, 1993) (including sanction against Libya with the Lockerbie incident after Libya refused to cooperate with investigation and extradition).

¹⁴⁰ *See* DAVIS & JENKINS, *supra* note 137, at 14 (describing the range of classes as, “not only leaders, but also lieutenants, foot soldiers, external suppliers and facilitators (e.g., the Arab financiers who support bin Laden while enjoying the good life at home), heads of supportive states, supportive population segments from which terrorist groups draw recruits and within which they find relative sanctuary and physical support, and, finally, other sources of an organization’s moral support (e.g., Islamist leaders preaching hate in neighborhood mosques).”).

as criminalizing opinions would constitute thought crimes.¹⁴¹ Moreover, in groups that have assumed a radical prototype identity with significant levels of entitativity, members have to balance the norm set of the sub-group with that of the society at large, often with conflicting results. Sanctions imposed by the group may be swifter, harsher and more certain than conventional state sanctions and the norms of the sub-group are perceived as more closely mirroring member's world-view. State sanctions can also be perceived as illegitimate instruments of repression, feeding feelings of unfair treatment and further radicalizing group members.

Radicalization efforts can be aimed at either radicalization-prevention and de-radicalization. The latter comprises the effort to reform group members who have already radicalized to the extent of adopting violent prototype identities, but who may be beyond redemption.¹⁴² The former enterprise is directed at preventing violent radicalization of the group identity. In the context of modern Islamic jihadism, this involves the promotion of moderate Islamic teachings¹⁴³ without violent elements. Views that equate Islam as a

¹⁴¹ A Senior Adviser at the RAND Corporation wrote that "In the United States, to hold radical views is not considered to be a crime. The Constitution provides strong protection of individual beliefs and free speech. Only when these turn to criminal incitement and violent action or manifest intent to engage in violence is there cause for legal intervention; this is why analysts favor the complete phrase 'radicalization *and* recruitment to terrorist violence.' It is the second step that makes the first step a matter of concern." BRIAN MICHAEL JENKINS, *STRAY DOGS AND VIRTUAL ARMIES: RADICALIZATION AND RECRUITMENT TO JIHADIST TERRORISM IN THE UNITED STATES SINCE 9/11*, RAND CORPORATION vii (2011), https://www.rand.org/pubs/occasional_papers/OP343.readonline.html. See generally Jeremy M. Miller, *Mens Rea Quagmire: The Conscience or Consciousness of the Criminal Law?*, 29 W. ST. U. L. REV. 21, 44 (2002) (explaining the distinction between actus reus and mens rea and the implication on criminal liability).

¹⁴² See *infra* text accompanying notes 150–54 (discussing Social Network Theory Group Dynamic theory and the hurdles of reforming those who have adopted a radical identity); see also Sabine von Schorlemer, *Human Rights, Substantive and Institutional Implications of the War Against Terrorism*, 14 EUR. J. INT'L L. 265, 268 (2003) (describing "hard core terrorists" whose minds are beyond reach).

¹⁴³ For instance, in Indonesia, civil societies such as Nahdlatul Ulama and Muhammadiyah address polarized Koran studies by challenging controversial interpretations and by regulating preachers through a code of conduct. See

religion with terrorism¹⁴⁴ serve to reverse radicalization-preventative efforts by creating the illusion that the war on terrorism is a war on Islam generally, further eroding affected members' pacific social identity and driving increasingly violent radicalization.

As applied to terrorism, conventional criminal justice general deterrence theory (i.e., the threat of criminal sanctions to society at large to assuage anti-social behavior)¹⁴⁵ has limited effectiveness under the law enforcement model. At its most extreme level, terrorism is a denial of larger societal conventions and rules; it rejects those norms and replaces them with a new normative construct in accordance with a radicalized prototype identity. As seen herein, an ultraviolent worldview produced by individual uncertainty/insecurity and perceived unfair treatment cannot be offset by the fear of state sanction as with ordinary criminal behavior. Indeed, reversing the hyper-violently radicalized is a daunting aim and is probably unrealistic under any deterrence theory.¹⁴⁶

Additionally, individuals radicalize to different extents within the same sub-group. Under Roth's theory, dispositional factors can predict an individual's propensity toward violence within an environment of conducive situational factors,¹⁴⁷ including assuming the existence of operative situational factors of uncertainty and

NOORHAIDI HASAN ET AL., COUNTER TERRORISM STRATEGIES IN INDONESIA, ALGERIA AND SAUDI ARABIA, 39–45 (Roel Meijer ed., 2012), https://www.wodc.nl/binaries/1806-volledige-tekst_tcm28-70796.pdf.

¹⁴⁴ For example, President Trump's speeches often justify such a rhetoric, such as the usage of "I think Islam hates us" or "radical Islamic terrorism" in his campaign. Theodore Schleifer, *Donald Trump: 'I Think Islam Hates Us'*, CNN (Mar. 10, 2016), <http://www.cnn.com/2016/03/09/politics/donald-trump-islam-hates-us/index.html>; Margaret Talev, *Donald Trump Drops Phrase 'Radical Islamic Terrorism' on Saudi Arabia Trip to Soften Tone on Muslims*, INDEPENDENT (May 22, 2017), <http://www.independent.co.uk/news/world/middle-east/donald-trump-saudi-arabia-radical-islamic-terrorism-muslims-soften-tone-iran-palestinians-israel-a7748541.html>.

¹⁴⁵ See 1 ENCYCLOPEDIA OF PRISONS AND CORRECTIONAL FACILITIES 233 (Mary Bosworth ed., 2004).

¹⁴⁶ Van Schorlemer, *supra* note 142, at 268.

¹⁴⁷ Rob Vanderbeeken & Erik Weber, *Dispositional Explanations of Behavior*, 30 BEHAVIOR AND PHILOSOPHY 43, 46 (2002).

unfair treatment.¹⁴⁸ Individuals who have already subscribed to the most violent prototype identity, principles, are the least likely to be deterred, as they are willing to devote their lives to their cause and in some cases embrace martyrdom.¹⁴⁹ Secondary parties will generally be more receptive to deterrence, as they lack the disposition to directly engage in principle acts, but this is offset by the dominating norm-set within the social group, particularly in groups that have highly developed entitativity. Bystander parties are usually unwilling to serve as secondary parties, and would be most susceptible to deterrence but are also subject to the same persuasive conformity factors as secondary parties. Given that those classified as bystanders constitute the majority of relevant actors, they make up the significant pool from which terrorist recruitment efforts draw. Intervention at that stage in the radicalization process is most fruitful in preventing terror recruitment and, more importantly, moderating the norm-set and worldview of the at-risk group at large. This can most effectively be accomplished by changing the perceptions of the bystander population clusters to accept the legitimacy of the conventional norm set by addressing feelings of uncertainty/insecurity.

Despite the significance of dispositional factors, mainstream conclusions suggest that situational factors are indispensable for radicalization. Social Network Theory postulates that a social network is a group of individuals connected by specific types of interdependency.¹⁵⁰ Consistent with Social Identity Theory, in relevant part, the Social Network Theory in the context of sociology stipulates that humans are influenced by their network of closest associates, which may be a greater influence than an individual's internal variables such as their personality or personal experience.¹⁵¹ Members in the prototype group exert great influence over each

¹⁴⁸ Roth, *supra* note 74, at 76–77.

¹⁴⁹ See HASAN ET AL., *supra* note 143 (describing radical Islamists in Indonesia that understand through the Koran that jihad is an obligation within their country).

¹⁵⁰ CHUCK CROSSETT & JASON A. SPITALETTA, JOHNS HOPKINS UNIVERSITY APPLIED PHYSICS LABORATORY, RADICALIZATION: RELEVANT PSYCHOLOGICAL AND SOCIOLOGICAL CONCEPTS 16 (2010).

¹⁵¹ *Id.*

other and serve to reinforce opinions and responses and serve as a barometer for action.

Proceeding beyond these theories, the Group Dynamic Theory analyzes how a group's dynamic process is conducive to reinforcing the radicalization of individuals. Group dynamic processes include "norms, roles, relations, development, need to belong, social influence, and effects on behavior."¹⁵² Group Dynamic Theory identifies two attractions of a group. First is the value of material goals, which include "rewards of group membership, such as progress toward common goals, congeniality, status, and security."¹⁵³ Second is the value of social reality created by the group, for some the group offers the sole source of certainty for many questions of value.¹⁵⁴

These dynamic processes and attractions of a group engender psychological phenomena conducive to radicalization. One such phenomena is de-individuation, "a situation in which . . . individuals are not seen or paid attention to as individuals; their immersion in a group is sufficiently intense whereby the individual ceases to be seen as such."¹⁵⁵ This is favorable to groups in general as it builds cohesion and loyalty, through "indoctrination (including the exploitation of cultural, religious, and martial symbology and ritual), training, and the use of uniforms."¹⁵⁶ Another is groupthink, a thought process in a highly cohesive group where its members try to "minimize conflict and reach consensus without critically testing, analyzing, and evaluating ideas."¹⁵⁷ This helps to reinforce in-group norms without the challenge of out-group perspectives.

Finally, another factor is how groups react to perceived threats.¹⁵⁸ To varying extents, both small and large groups react to

¹⁵² *Id.* at 22.

¹⁵³ *Id.* at 23.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* at 23.

¹⁵⁶ *Id.* The extreme form of de-individuation is illustrated by the famous Zimbardo experiment coined as the Lucifer Effect. *Id.* See also ZIMBARDO, *supra* note 76.

¹⁵⁷ CROSSETT & SPITALETTA, *supra* note 150, at 24; see also IRVING L. JANIS, VICTIMS OF GROUPTHINK (1972).

¹⁵⁸ See CROSSETT & SPITALETTA, *supra* note 150, at 23.

perceived threats with increased group cohesion in the form of “increased respect for in-group leaders, increased sanctions for in-group deviates, and idealization of in-group norms.”¹⁵⁹ Along with isolation, outside threats make group dynamics more powerful and underground.¹⁶⁰

The effectiveness of conventional deterrence theory is diminished in these groups, as the influence of peers¹⁶¹ outweighs normal moderating dispositional factors. This, coupled with the reinforcement of radical opinions, renders individuals immune to deterrence because self-interest, the cornerstone of deterrence, is sublimated to the adoption of the group identity. Individuals within groups with highly developed entitativity are motivated by their status within the group and de-individualize for group cohesion, group think and increasingly become isolated from the outside community at large in favor of the idealization of the group. Traditional values and abhorrence to violence are sublimated in favor of the collective group identity and its distinct norm set, rendering conventional deterrence ineffectual. Moreover, in these extreme cases, de-radicalization is largely ineffectual because state efforts and medico-psychological intervention usually cannot assuage the powerful socio-psychological reinforcement of this highly polarized group subset.

In this sense, the most effective means of deterring terrorism, and terror recruitment, is by radicalization-prevention; precluding ideological radicalization before it polarizes to a point of no return. This may be made possible by removing the socio-political situational factors that drive the group dynamic of

¹⁵⁹ *Id.* See also Clark McCauley & Sophia Moskalenko, *Mechanisms of Political Radicalization: Pathways Toward Terrorism*, 20 *TERRORISM AND POLITICAL VIOLENCE* 415, 421–22 (2008), <https://www.tandfonline.com/doi/pdf/10.1080/09546550802073367?needAccess=true>.

¹⁶⁰ CROSSETT & SPITALETTA, *supra* note 150, at 23.

¹⁶¹ For instance, the Social Learning Theory argues that human violence is the result of observation and imitation of an aggressive model. *See id.* at 24. On the outset, the theory stipulates that humans internalize certain moral standards as a guide for their behaviour, violation of which incurs self-condemnation which individuals are motivated to avoid. *Id.* While social norms generally encourage restraint of violence from others, with certain socialization such as those in radical groups, individuals may be able to suspend such restraints and rationalize violence towards others. *Id.*

uncertainty/insecurity, particularly targeting potential secondary liability and bystander liability candidates through resolution of political grievances, et cetera, though it is admittedly less effective in preventing those with dispositions more conducive to radicalization. This engenders a different way of looking at general deterrence shifting from the threat-based or “stick” model to a “carrot” model of deterring terrorism by offsetting the underlying causes of social uncertainty and perceived unfair treatment and reinforcing perceptions of legitimacy in the larger socio-political legal norm-set. This approach is addressed in the causal model through enfranchising potential actors before they become violently radicalized, and by addressing the scientific causes of radicalization to serve as a platform of preemptive non-threat based solutions.

3. Self-Determination and the Existential Threat

To address situational factors that give rise to violent extremism, due consideration must be given to socio-political-economic phenomena that create insecurity and feelings of unfair treatment in the affected groups. Accessing these underlying grievances is subject to differing interpretations and theories and constitutes a thorny issue for counterterrorism. From an international perspective, solutions must be tailored for each situation and typically depend more on state action rather than intervention by international organizations. International mono-polar approaches such as deterrence centric military/law enforcement models discussed above are of limited utility and tend to yield, *inter alia*, increased radicalization and therefore terror recruitment. On the other hand, approaches such as Professor Pape’s implied causation of terrorism (or at least of suicide bombings)¹⁶² specifically tied to military presence, especially U.S. military bases, on foreign territory borders on the simplistic and fails to account for the far-ranging complexity of the group dynamics of radicalization.¹⁶³ It also only accounts for the narrower focus of al-Qaeda on removing foreign military presence on holy land instead of the broader ISIS mandate of creating radical Islamic states generally. To be fair, the presence of

¹⁶² See generally PAPE, CUTTING THE FUSE., *supra* note 84.

¹⁶³ *Id.* at 49–50.

foreign military bases is a significant situational factor, and Pape never explicitly stated that mere removal of military installations would serve as a panacea.¹⁶⁴

Nonetheless, there are certain causative commonalities to group extremism in the context of jihadist terrorism. Economic and ecological factors tend to play a role, as explicated in the Relative Deprivation Theory,¹⁶⁵ because the inequities between those groups at greatest risk are often (though not always) communities which tend to have less aggregate net worth in developing countries or regions.¹⁶⁶ Financial and subsistence depravation tend to fuel hopelessness that can spiral into extremism. However, of greater significance are political barriers to group security, as many poorer communities have shown resistance to radicalization and refrained from resorting to violent terroristic behavior. Most definitions of terrorism, outlier aside,¹⁶⁷ commonly identify or imply

¹⁶⁴ *Id.*

¹⁶⁵ For a discussion of how economic deprivation yields extremist violence, *see generally* GURR, *supra* note 59.

¹⁶⁶ *Id.*

¹⁶⁷ The UNSC in 2004 condemned terrorism as “criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.” S.C. Res.1566, ¶18, U.N.Doc. S/RES/1566 (Oct. 8, 2004), [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1566\(2004\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1566(2004)); U.S. defined “terrorism” as “premeditated, politically motivated violence perpetrated against non-combatant targets by subnational groups or clandestine agents.” 22 U.S.C. § 2656f (2012); China’s new counter-terrorism legislation which came out in 2015 defines terrorism as: “any proposition or activity that, by means of violence, sabotage or threat, generates social panic, undermines public security, infringes upon personal and property rights, or menaces state authorities and international organizations, with the aim to realize political, ideological and other purposes.” Counter-terrorism Law of the People’s Republic of China (27 December 2015) Order No. 36 of the President (Counter-terrorism Law of the PRC), <http://en.pkulaw.cn/display.aspx?cgid=261788&lib=law>; Indonesia’s 2003 counter-terrorism laws, for instance, defines terrorism in as “any person who by intentionally using violence or threats of violence, creates a widespread atmosphere of terror/fear or causes mass casualties,

political/social change as the *raison d'être* of terrorist movements¹⁶⁸ rather than economic rationales. This is further supported by the assumptions of Professor Buzan, who concludes that the State, as a political body, is the institution from which groups obtain security.¹⁶⁹

Terrorism frequently springs from failed self-determination objectives or lack of political power sharing. The right to self-determination is explicated in modern human rights treaties¹⁷⁰ and assumptions of modern legal scholars¹⁷¹ and can be described as:

plainly a collective rather than an individual right, although obviously enough individuals are to be involved in the exercise of the right, and a majority of them at least will benefit from it directly in the sense of retaining or achieving a measure of self-government in accordance with their wishes or preferences. Secondly, self-determination is plainly

by taking the liberty or lives and property of other people, or causing damage or destruction to strategic vital objects, the environment, public facilities or international facilities, faces the death penalty, or life imprisonment, or between 4 and 20 years' imprisonment." Article 6, Law No. 15 of 2002 on the Stipulation of Interim Law No. 1 of 2002 on the Eradication of the Crime of Terrorism as a Statute. See translation adopted from Simon Butt, *Anti-Terrorism Law and Criminal Process in Indonesia*, THE UNIVERSITY OF MELBOURNE, http://law.unimelb.edu.au/__data/assets/pdf_file/0010/1546327/AntiTerrorismLawandProcessInIndonesia2.pdf (last visited June 1, 2018).

¹⁶⁸ The U.N. General Assembly described terrorist activities as "[c]riminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them." G.A. Res. 49/60. U.N. Doc. A/Res 49/60 (Jan. 16, 1997) (on measures to eliminate international terrorism: resolution); for similar elements in the United States' definition for "international terrorism," see 18 U.S.C.A. § 2331.

¹⁶⁹ BUZAN, *supra* note 28, at 67.

¹⁷⁰ International Covenant on Civil and Political Rights art. 1, Dec. 19, 1966, 999 U.N.T.S. 171; International Covenant on Economic, Social and Cultural Rights art. 1, Dec. 16, 1966, 993 U.N.T.S. 3.

¹⁷¹ See generally JAMES CRAWFORD, *THE CREATION OF STATES IN INTERNATIONAL LAW* (2d. ed. 2007).

to be thought of as a right of “peoples” rather than governments.¹⁷²

Pape concluded that acts of terrorism are focused on political objectives rather than religious or other considerations,¹⁷³ this observation is borne out not only by his empirical survey,¹⁷⁴ but by the historic and modern objectives of the groups themselves. The Al-Qaeda group arose with the Soviet invasion of Afghanistan in the 1980s;¹⁷⁵ its resurgence in the 1990s was inspired by the permanent presence of U.S. military forces¹⁷⁶ in Saudi Arabia¹⁷⁷ (and Somalia)¹⁷⁸ on holy ground,¹⁷⁹ after the Gulf War of 1990.¹⁸⁰ The ISIS terrorist group¹⁸¹ is directed, *inter alia*, at the formation of Islamic states¹⁸² and has spread its ideology through North Africa¹⁸³

¹⁷² JAMES CRAWFORD, *The Rights of Peoples: ‘Peoples’ or ‘Governments’?*, in *THE RIGHTS OF PEOPLES*, at 59 (1988).

¹⁷³ PAPE, *DYING TO WIN*, *supra* note 83.

¹⁷⁴ *Id.*

¹⁷⁵ *Al-Qaeda’s Origins and Links*, BBC NEWS (Jul. 20, 2004), http://news.bbc.co.uk/1/hi/world/middle_east/1670089.stm.

¹⁷⁶ *See Desert Shield and Desert Storm: a Chronology and Troop List for the 1990-1991 Persian Gulf Crisis*, STRATEGIC STUDIES INSTITUTE U.S. ARMY WAR COLLEGE (Mar. 25 1991), <http://www.dtic.mil/dtic/tr/fulltext/u2/a234743.pdf> (listing the units participating in Operations Desert Storm and Desert Shield).

¹⁷⁷ Flynt Leverett & Hillary M. Leverett, *The Balance of Power, Public Goods, and the Lost Art of Grand Strategy: American Policy Toward the Persian Gulf and Rising Asia in the 21st Century*, 1 PENN STATE J. OF L. & INT’L AFF. 202, 219 (2012); *see also* PAPE, *DYING TO WIN*, *supra* note 83, at 16.

¹⁷⁸ PAPE, *DYING TO WIN*, *supra* note 83, at 26.

¹⁷⁹ *See id.*; *see generally* Davil Polin, *Proof of Coverage or Exclusion of Alleged Acts of Terrorism Under Commercial Property Insurance*, 74 AM. JUR. PROOF OF FACTS 3D 233 (2003).

¹⁸⁰ PAPE, *DYING TO WIN*, *supra* note 83, at 23.

¹⁸¹ For a discussion of the shifting ideology of ISIS, *see generally* Cole Bunzel, *From Paper State to Caliphate: The Ideology of the Islamic State*, 19 THE BROOKINGS PROJECT ON U.S. RELATIONS WITH THE ISLAMIC WORLD 7 (2015).

¹⁸² *See id.*

¹⁸³ Bethan McKernan, *Isis is Regrouping for Battle after Losing Mosul and Raqqa, Warn Libyan Forces*, INDEPENDENT (July 27, 2017), <http://www.independent.co.uk/news/world/middle-east/isis-regrouping-libya-forces-mosul-raqqa-islamic-state-syria-iraq-islamic-state-a7862606.html>.

and Western, Southern and Eastern Asia.¹⁸⁴ Self-determination objectives lie at the heart of the decades old Palestinian-Israeli conflict,¹⁸⁵ inspired the so-called Arab Spring movement in North Africa and Western Asia and currently rages, *inter alia*, in the theaters of Syria and Iraq.¹⁸⁶ Moreover, self-determination movements continue to yield terrorist activity in East and Southeast Asia in the failed Bangsamoro Peace Process in the Mindanao region of the Philippines,¹⁸⁷ efforts in the 2005 Peace agreement in Indonesia,¹⁸⁸ the Malay-Muslim populations in Southern Thailand¹⁸⁹ and the Xinjiang Province (Uighur Autonomous Region) of China.¹⁹⁰

Some of these movements are amenable to concessions and resolution¹⁹¹ given sufficient political will while other disputes are irreconcilable. In East and Southeast Asia, some countries have attempted negotiations over political power sharing and/or

¹⁸⁴ Adam Brereton, *Isis Seeking to Set Up 'Distant Caliphate' in Indonesia*, *George Brandis Warns*, THE GUARDIAN (Dec. 21, 2015), <http://www.theguardian.com/world/2015/dec/22/isis-seeking-to-set-up-distant-caliphate-in-indonesia-george-brandis-warns>.

¹⁸⁵ See *Timeline: Palestine since 1915*, AL JAZEERA (Feb. 1, 2009), <http://www.aljazeera.com/focus/arabunity/2008/02/20085251908164329.html>.

¹⁸⁶ Solon Solomon, *The Quest for Self-Determination: Defining International Law's Inherent Interstate Limits*, 11 SANTA CLARA J. INT'L L. 397, 404–406 (2013); see also Matthew Packard, *Earning Independence in Iraqi Kurdistan*, 27 TEMP. INT'L & COMP. L.J. 177, 178–179 (2013).

¹⁸⁷ Arguillas, *supra* note 132.

¹⁸⁸ Esther Pan, *Indonesia: The Aceh Peace Agreement*, COUNCIL ON FOREIGN RELATIONS (Sept. 15, 2005), <https://www.cfr.org/background/indonesia-aceh-peace-agreement>.

¹⁸⁹ DUNCAN MCCARGO, *TEARING APART THE LAND: ISLAM AND LEGITIMACY IN SOUTHERN THAILAND* §x (Cornell University Press 2008).

¹⁹⁰ In the form of the East Turkestan Islamic Movement and the Turkistan Islamic Party, see 王雷鸣、沈路涛、邹声文, 公安部认定第一批“东突”恐怖组织和恐怖分子 (*The Ministry of Public Security has identified the first "East Turkistan" terrorist organizations and terrorists*), PEOPLE.COM (Dec. 15, 2003), <http://www.people.com.cn/GB/shehui/1060/2247175.html>.

¹⁹¹ “[S]ome radical groups in Southeast Asia that have been accused of terrorism by the governments settled their disputes or are inclined to settle their disputes and grievances through negotiation.” ACHARYA, *supra* note 23, at 46.

economic advantage in Thailand,¹⁹² the Philippines,¹⁹³ and Indonesia.¹⁹⁴ In other states, self-determination movements have resulted in civil war, leading to regime change in Libya¹⁹⁵ and Egypt.¹⁹⁶ In still other states, the terror problem is an existential threat, such as the Palestinian conflict, in which there is little to no discernable room for negotiation and perhaps no realistic near-term possibility of peaceful or military resolution.¹⁹⁷ ISIS is particularly good at mobilizing regional terror forces as its mandate calls for establishing Islamic states generally,¹⁹⁸ an ideology consistent with self-determination objectives of most relevant groups, rather than a narrower focus, such as removing U.S. military bases from the Saudi peninsula¹⁹⁹ or even the cause of anti-Zionism.²⁰⁰

A spillover of the existential threat manifests as violent terrorist attacks in industrialized states in Europe and North America, who

¹⁹² Peter Chalk, *The Malay-Muslim Insurgency in Southern Thailand Understanding the Conflict's Evolving Dynamic*, 5 RAND COUNTERINSURGENCY STUDY 1, 9 (2008).

¹⁹³ Arguillas, *supra* note 132.

¹⁹⁴ Pan, *supra* note 188.

¹⁹⁵ Ian Black, *Libya Regime Change is West's Goal, But Doubts Remain Over How to Achieve It*, THE GUARDIAN (Apr. 15, 2011), <https://www.theguardian.com/world/2011/apr/15/libya-regime-change-analysis>.

¹⁹⁶ Asli Bali & Aziz Rana, *Pax Arabica?: Provisional Sovereignty and Intervention in the Arab Uprisings*, 42 CAL. W. INT'L L.J. 321, 321–323 (2012).

¹⁹⁷ “Exclusive claims to Jerusalem which are inscribed in holy scripts make compromise political solutions to the problem of the city rather difficult. A permanent solution to the problem of Jerusalem is contingent on a solution to the question of Palestine, and vice versa. But no permanent solution to the Palestinian question is likely to take place without the resolution of the issue of Jerusalem. So far, Jerusalem remains one of the main obstacles to the realization of peace between the Palestinians and the Israelis.” Ziad Abu-Amr, *The Significance of Jerusalem: A Muslim Perspective*, 2 PALESTINE-ISRAEL J. No.2 (1995), <http://www.pij.org/details.php?id=646>.

¹⁹⁸ See Bunzel, *supra* note 181, at 36.

¹⁹⁹ Leverett & Leverett et al., *supra* note 177, at 237 n.78.

²⁰⁰ For instance, the preamble to the Arab Charter on Human Rights, as deemed by Louise Arbour does not meet international human rights standards in that it “equates Zionism with racism,” which is a viewpoint that has been rejected by the United Nations. *Arab Rights Charter Deviates from International Standards, Says UN Official*, UN NEWS (Jan. 30, 2008), <http://www.un.org/apps/news/story.asp?NewsID=25447#.WaOh0iiGM2w>.

are seen as the allies of the opponents of terror groups, which serve as propaganda venues. These venues have no significant indigenous populations seeking self-determination and can be classified as revenge attack fronts which, more significantly, serve as potent recruitment tools in primary/secondary venues, reinforcing the violent prototype group identity and giving the illusion of victory or at least the collective catharsis of striking back at the collective enemy.

Therefore, while the commonality of self-determination and political power-sharing movements in the different primary and secondary front venues persists, not all venues (such as portions of East and Southeast Asia) are necessarily beyond resolution and do not represent an existential threat.²⁰¹ However, even in these venues, common cause with those existential threat/primary venue actors results in foreign terrorist fighters,²⁰² greater violence in home

²⁰¹ Both latter considerations carry less traction than domestic initiatives in such regions as Southeast Asia. The Malay-Muslim conflict in South Thailand, for instance, revolves around issues of domestic self-determination and separatism. See PETER CHALK ET AL., *THE EVOLVING TERRORIST THREAT TO SOUTHEAST ASIA* 5–7 (Rand 2009). The conflict remained “nationalistic” in the sense that “Islamic imperatives” have not superseded the basic objectives, namely “protecting the region’s unique way of life.” *Id.* at 21. See generally Arguillas, *supra* note 132; Pan, *supra* note 188.

²⁰² Citizens from the region leaving for Syria to fight make up a notable number of the total number of foreign fighters there. See Edward Delman, *ISIS in the World’s Largest Muslim Country*, *THE ATLANTIC* (Jan. 3, 2016), <http://www.theatlantic.com/international/archive/2016/01/isis-indonesia-foreign-fighters/422403/>. This goes both ways, for instance, in the latest Mindanao conflict it was found that foreign fighters alien to the region had joined the fight against Philippines forces; Solicitor General Jose Calida was quoted describing the conflict as having “transmogrified into invasion by foreign terrorists, who heeded the call of [IS] to go to the Philippines if they find difficulty in going to Iraq and Syria.” *Philippines Says Foreign Fighters Part of Islamic State ‘Invasion’*, *ABC NEWS* (May 26, 2017), <http://www.abc.net.au/news/2017-05-26/philippines-says-foreign-fighters-part-of-marawi-city-fight/8564216>.

regions,²⁰³ inter-regional movement of terrorist fighters,²⁰⁴ and increasingly significant ties with ISIS.²⁰⁵

C. The Causal Model

The casual approach is a more suitable model of general deterrence in the sense of deterring radicalism. It applies the “carrot” approach, which serves as a positive reinforcement for radicalization-prevention and takes into account the findings of the social psychology and sociology theories discussed above. This approach entails taking preventative measures grounded in international human rights and humanitarian law aimed at the root causes of extremism (and thus terrorism)²⁰⁶ in accordance with legitimacy considerations under law compliance theory. Based on principles of pluralism, non-discrimination,²⁰⁷ and due process,²⁰⁸ these initiatives assuage those groups whose insecurity makes them

²⁰³ According to a recent U.S. State Department report, there were numerous terrorist attacks in Mindanao in 2016. See *Philippines Failed to Stop Terrorist Attacks in 2016 Amid Duterte's War on Drugs: US govt*, THE STRAITS TIMES (July 21, 2017), <http://www.straitstimes.com/asia/se-asia/philippines-failed-to-stop-terrorist-attacks-in-2016-amid-dutertes-war-on-drugs-us-govt>.

²⁰⁴ In December 2015, a raid by Indonesian police concluded with the discovery of an explosive device, a model of a government building, bomb-making materials and the arrest of a Uighur – it was alleged that he was “learning Indonesian, and he was a [suicide bomber] in training.” Yenni Kwok, *Is There a Uighur Terrorist Buildup Taking Place in Southeast Asia?*, TIME (Dec. 28, 2015), <http://time.com/4161906/uighur-terrorism-indonesia-thailand-islam-isis/>. Officials are quoted stating that there were about 40 foreigners from Indonesia, Malaysia, India, Saudi Arabia, Morocco and Chechnya involved in the conflict. See Neil Jerome Morales, *Philippines Says Islamist Back Foot in Besieged City*, REUTERS (June 8, 2017), <http://www.reuters.com/article/us-philippines-militants-idUSKBN18Z0KP>.

²⁰⁵ See generally THOMAS KORUTH SAMUEL, RADICALIZATION IN SOUTHEAST ASIA: A SELECTED CASE STUDY OF DAESH IN INDONESIA, MALAYSIA AND THE PHILIPPINES 23 (The Southeast Asia Regional Centre for Counter-Terrorism (SEARCCT), (2016)), https://www.unodc.org/documents/southeastasiaandpacific/Publications/2016/Radicalisation_SEA_2016.pdf.

²⁰⁶ Kielsingard, *supra* note 98, at 254–55.

²⁰⁷ See International Covenant on Civil and Political Rights art. 3, Dec. 16, 1966, 999 U.N.T.S. 171.

²⁰⁸ *Id.* at art. 14.

susceptible to violent extremism. The pluralism inherent in human rights ideology provides a platform for ensuring cultural²⁰⁹ and religious identity,²¹⁰ eschews discrimination²¹¹ and radical cultural assimilation and presumes political and economic power sharing.²¹² This promotes the development of non-violent individual and group identity and feelings of heightened societal security. Additionally, it postulates the provision of economic infrastructure, *inter alia*, in at

²⁰⁹ In Article 5 of the Universal Declaration on Cultural Diversity, it is stated that “[c]ultural rights are an integral part of human rights, which are universal, indivisible and interdependent. The flourishing of creative diversity requires the full implementation of cultural rights as defined in Article 27 of the Universal Declaration of Human Rights . . . All persons have therefore the right to express themselves and to create and disseminate their work in the language of their choice, and particularly in their mother tongue; all persons are entitled to quality education and training that fully respect their cultural identity; and all persons have the right to participate in the cultural life of their choice and conduct their own cultural practices, subject to respect for human rights and fundamental freedoms.” UNESCO Universal Declaration on Cultural Diversity art. 5, Nov. 2, 2001, UNESCO Doc. 31/C/RES/25; *see also* Universal Declaration of Human Rights, art. 27 (1984), U.N.T.S. Doc. A/810.

²¹⁰ *See* U.N. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, art. 1, Dec. 18, 1992, U.N.T.S. A/RES/47/135. In Article 1, it is stated that “[S]tates shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.” *See also* International Covenant on Civil and Political Rights art. 18, Dec. 16, 1966, 999 U.N.T.S. 171.

²¹¹ In Article 7 of UDHR, it is stated that: “All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.” Universal Declaration of Human Rights, G.A. Res. 217A (III) art. 7, U.N. Doc. A/810 (1948); *see also* International Covenant on Civil and Political Rights art. 26, Dec. 19, 1966, 999 U.N.T.S. 171.

²¹² In U.N. Charter art. 13, it is stated that: “The General Assembly shall initiate studies and make recommendations for the purpose of: promoting international co-operation in the political field and encouraging the progressive development of international law and its codification; promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.” U.N. Charter art. 13 ¶ 1.

risk communities fostering a sense of personal well-being and a stake in peaceful resolution of differences.

The Unfair-Treatment Model is a causal factor for radicalization, as radicalism may stem from real and/or perceived social and political injustices which was explicated by the High-level Panel on Threats, Challenges and Change in their 2004 report, which opined that radicalism stems from real and/or perceived social and political injustices.²¹³ This is reflected in the concerns of a majority of states, though arguably not some of principle stakeholder wealthy states, and is apparent in the UN General Assembly Global Counter-Terrorism Strategy.²¹⁴ The development of moderate non-violent prototype attributes, especially along cultural and religious lines, is a common feature of identity theory²¹⁵ whose existence is common in pluralistic cultures.²¹⁶ However, when the prototype is spawned by insecurity and perceived unfair treatment and validated by uncompromising “entitativity” it often leads to violent behavior.²¹⁷

²¹³ “International terrorist groups prey on weak States for sanctuary. Their recruitment is aided by grievances nurtured by poverty, foreign occupation and the absence of human rights and democracy; by religious and other intolerance; and by civil violence – a witch’s brew common to those areas where civil war and regional conflict intersect.” See U.N. Secretary-General, *A More Secure World: Our Shared Responsibility: Executive Summary*, ¶ 21, U.N. Doc. A/59/565 (Dec. 2, 2004), http://www.un.org/en/events/pastevents/a_more_secure_world.shtml [hereinafter *HPTCC 2004 Report*].

²¹⁴ Adopted by the General Assembly on September 8, 2006 this strategy, at paragraphs 11, 12, 13 of the preamble, calls for “[r]ecognizing that development, peace and security, and human rights are interlinked and mutually reinforcing,” and “[b]earing in mind the need to address the conditions conducive to the spread of terrorism,” and “[a]ffirming Member States’ determination to continue to do all they can to resolve conflict, end foreign occupation, confront oppression, eradicate poverty, promote sustained economic growth, sustainable development, global prosperity, good governance, human rights for all and rule of law, improve intercultural understanding and ensure respect for all religions, religious values, beliefs or cultures.” The United Nations Global Counter-Terrorism Strategy, G.A. Res. 60/288, ¶ 11–13 (Sept. 20, 2006). These provisions are in sharp contrast with the Security Council global strategy on counter terrorism.

²¹⁵ See Tajfel & Turner, *supra* note 36, at 40–43.

²¹⁶ *Id.*

²¹⁷ Campbell, *supra* note 46, at 14–23.

The causal model of counterterrorism addresses insecurity and unfair treatment and comprises of two co-related and indispensable initiatives both stand-alone²¹⁸ and integrated approaches.²¹⁹ The stand-alone approach seeks to relieve the underlying root causes of extremism mentioned above.²²⁰ This could conceivably be brought about in part through collective economic relief provided by industrialized states to developing states with struggling economies.²²¹ Apart from economic relief, the initiative also addresses political grievances, cultural and ideological integrity and personal security by observing the rights enshrined in international human rights treaties,²²² particularly the right to self-determination. The integrated model is positive rights based designed to preclude extremism that stem from the securitization initiated by domestic and foreign governments and international organizations.

1. Integrated Approach

The integrated initiative provides for fully integrated human rights norms into the military and law enforcement models,²²³ to assuage perceptions of unfairness and to decrease polarization and reduce fear of affected groups. The impact of terrorism on human rights is both direct and indirect.²²⁴ While the direct impacts are apparent, the indirect impacts are the result of overreaction from states against terrorism by intruding civil liberties and the public's acquiescence to such incursion out of an uninformed fear of

²¹⁸ Kielsgard, *supra* note 98, at 254–55.

²¹⁹ *Id.* at 255.

²²⁰ These causes can be relieved through “a deep engagement to strengthen collective security systems, ameliorate poverty, combat extremism, end the grievances that flow from war, tackle the spread of infectious disease and fight organized crime.” *HPTCC 2004 Report*, *supra* note 213, at ¶ 27.

²²¹ *Id.* at ¶ 59–65.

²²² Kielsgard, *supra* note 98, at 255.

²²³ *Id.*

²²⁴ Kalliopi K. Koufa (Special Rapporteur on Terrorism and Human Rights), *Terrorism and Human Rights*, United Nations Economic and Social Council Sub-Commission on the Promotion and Protection of Human Rights, ¶ 102–120, U.N. Doc. E/CN.4/Sub.2/2001/31 (June 27, 2001), http://www.un.org/documents/ecosoc/cn4/sub2/e-cn4sub2_01_31.pdf.

extremism.²²⁵ A holistic, integrated approach of both models (military/law enforcement and causal) is the United Nation's current strategy, yet the primary focus is on the military/ law enforcement model.²²⁶ After the 9/11 attacks then UN Secretary-General Kofi Annan formed the High-level Panel on Threats, Challenges and Change, which ushered in a report during 2004 of reforms to better equip the United Nations in addressing modern terrorism.²²⁷ These recommendations were later streamlined into what Annan called the "five D's" in his speech at the International Summit on Democracy, Terrorism, and Security in 2005.²²⁸ The "five D's" falls squarely within the two models mentioned above.²²⁹

An integrated approach calls for greater sensitivity to human rights processes in the exercise of the military and law enforcement models.²³⁰ The character of military operations are destabilizing to the effected community. As discussed by Pape, even the presence of foreign military on relevant territory is a cause for great consternation of local groups²³¹ and a source of uncertainty and

²²⁵ "It is equally obvious that this form of State terrorism can also be deployed by a democratic government in a situation of 'emergency', internal strife or civil war, in which overreactions to the dangers of terrorism and a cult of counter-terrorism tactics could result in the deprivation of individual freedom, the increase of potential government violations of human rights and, generally speaking, "terror from above", with no one left to protect the public from intimidation and repression." *Id.* at ¶ 44.

²²⁶ At least the focus on counter-terrorism from the perspective of the UN Security Council is sanctioned-based, consistent with the military/law enforcement model described in Article 41 and 42 of the Charter, which is sanctioned-based. *See* U.N. Charter art. 41 and 42.

²²⁷ *See HPTCC 2004 Report, supra* note 213.

²²⁸ Firstly, "all sectors of society must play their part in *dissuading* disaffected groups who choose terrorism because they think its tactics are effective and people in whose name they claim to act will approve"; secondly, "*denying* terrorists their means"; thirdly, "*detering* countries from supporting terrorist groups"; fourthly, "*developing* state capacity to prevent terrorism", and; finally, "*defending* human rights in the struggle against the scourge [that is terrorism]." *Annan Lays Out Detailed Five-Point UN Strategy to Combat Terrorism*, UN NEWS (Mar. 10, 2005), <http://www.un.org/apps/news/story.asp?NewsID=13599#.VtAwFbZ97cs> (emphasis added).

²²⁹ *See* a useful tabular illustration in Kielsingard, *supra* note 98, at 256.

²³⁰ *Id.*

²³¹ PAPE, DYING TO WIN, *supra* note 83.

fear.²³² When military forces abuse their duties in the form of human rights violations, fear is heightened, and the resultant societal counter-measures are extremism.²³³ Even with modern sophisticated weaponry collateral damage is unavoidable in part due to poor intelligence, ‘proportionate’ attacks on high value military targets in proximity to non-military targets, and destruction of civilian infrastructure.²³⁴ Moreover, due process is frequently suspended in a time of martial emergency.²³⁵ It de-stabilizes communities and poses great risks economically, physically, politically and culturally, thus it creates an environment where radicalization becomes perceived as a rational response and a means of self-defense. Examples of military excesses, real or exaggerated, further heighten this de-stabilizing process.²³⁶ This phenomenon also applies to over-intrusive law enforcement where individuals, innocent or guilty, are targeted in a way inconsistent with ordinary criminal suspects providing a sometimes well-grounded belief that they are unfairly suspected because of their group membership (violent or non-violent), not their actions. It often spirals into unacceptable conduct such as torture, rendition and cruel, inhumane and degrading treatment, and extra-judicial killings.²³⁷ This provides impetus for

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.*

²³⁵ International Covenant on Civil and Political Rights art. 4, Dec. 16, 1966, 999 U.N.T.S. 171.

²³⁶ For instance, abuses were documented by the International Committee of the Red Cross/Crescent by coalition troops in the Iraq war, *See Int’l Comm. Of The Red Cross, Report Of The International Committee Of The Red Cross (ICRC) On The Treatment By The Coalition Forces Of Prisoners Of War And Other Protected Persons By The Geneva Conventions In Iraq During Arrest, Internment And Interrogation* (Feb. 2004), http://www.globalsecurity.org/military/library/report/2004/icrc_report_iraq_feb2004.htm.

²³⁷ *Id.* Many human rights instruments specifically prohibit killings and torture during war time, which requires State Parties to “take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.” *See Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* art. 2, 1465 U.N.T.S. 85 (Dec. 10, 1984); *see also International Covenant on Civil and Political Rights* art. 7, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171 (Dec. 16, 1966) (“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

beliefs that the group (such as Islam itself for example) is targeted, not individuals, and the war on terrorism is consequently perceived as a war on Islam.

The threat of greater radicalization from the securitization incumbent to an unchecked military/law enforcement model is generally recognized by international scholars and many policy-makers. G Hogan and C. P. Walker postulate in their book *Political Violence and the Law in Ireland* that “security and rights” are not contradictory²³⁸ and that “failure to observe rights may be counterproductive.”²³⁹ The office of the UN High Commissioner for Human Rights goes further to stipulate that, “[e]ffective counter-terrorism measures and the protection of human rights are complementary and mutually reinforcing objectives.”²⁴⁰ Others consider a tradeoff between liberty and security in the context of counterterrorism as “inherently unconstitutional, unethical, and counterproductive” and leads to guilt by association,²⁴¹ which suggests collective punishment.²⁴²

However, this is not to say that a causal approach is sufficient without the other approaches. Indeed, the military/law enforcement model, even without effective individual deterrence and its failure to address terror recruitment, is necessary to provide security for the larger society (not associated with radical groups), and for the twin objectives of state deterrence and popularly perceived retribution. Law enforcement will necessarily investigate terror activity, serve as first responders, and uncover conspiracy as an essential

In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”).

²³⁸ GERARD HOGAN & CLIVE WALKER, *POLITICAL VIOLENCE AND THE LAW IN IRELAND* 36 (Manchester University Press, Manchester 1989).

²³⁹ *Id.*

²⁴⁰ UN Office of the High Commissioner for Human Rights, Fact Sheet No 32: Human Rights, Terrorism and Counter-terrorism, (Dec. 2007), <http://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf>.

²⁴¹ Robert M. Chesney, *Civil Liberties and the Terrorism Prevention Paradigm: Guilt by Association Critique*, 101 MICH. L. REV. 1408, 1426 (2003).

²⁴² Sahar F. Aziz, *The Laws on Providing Material Support to Terrorist Organizations: The Erosion of Constitutional Rights or a Legitimate Tool For Preventing Terrorism?*, 9 TEX. J. ON C.L. & C.R. 45, 49–50 (2003); see also Sahar F. Aziz, *Caught in a Preventing Dragnet: Selective Counterterrorism in the Post 9/11 America*, 47 GONZ. L. REV. 429, 483–485, 491 (2012).

component of greater societal security and military will continue to serve as a reasonable deterrent to states that openly sponsor or support terrorist groups. Nonetheless, each model is rendered less effective alone, “the military model lacks prevention and moral certainty, the law enforcement model lacks strength to act globally against state-sponsored terrorism, and the human rights model [causal model] lacks enforcement capability.”²⁴³ However, over-reliance on the military/law enforcement model has led to the neglect of a standalone causal approach in the mainstream fight against extremism, as evidenced in the 2003 U.S.-led invasion of Iraq²⁴⁴ and the disastrous global War on Terrorism.

Though mainstream political jargon may at times argue for a viral military/law enforcement approach without emphasis on moderating human rights mechanisms,²⁴⁵ few scholars agree. However, some have guardedly explicated on the success of the military/law enforcement model. Aziz Z. Huq concedes that after implementing strict military policies and surveillance, there might have been some success.²⁴⁶ On the other hand, Hug observes that despite some gains, this is offset by new growth of localized terrorist groups in weak or failed states,²⁴⁷ increased recruitment efforts “using intermediaries and the internet,”²⁴⁸ and the “growing number of radical, self-generating cells in Western countries.”²⁴⁹

In another study, Tom Tyler describes how Muslim American communities have cooperated with law enforcement and shown

²⁴³ Kielsingard, *supra* 98, at 257.

²⁴⁴ General Muntazar Jasim al-Samarra’i, who formerly worked for the Interior Ministry, claimed: “U.S. soldiers knew all about the torture.” Thorner, *supra* note 120; Amnesty International described such conduct as “either seriously negligent or, effectively complicit in the abuses committed by Iraqi government forces.” See Amnesty International, *supra* note 120, at 8.

²⁴⁵ Sabine von Schorlemer describes US opinion as hostile to a human rights solution to terrorism as such measures such as the “dialog between cultures” or combating poverty (to discourage terrorism) are viewed as “appeasement rather than as part of an effective strategy to combat terrorism.” Von Schorlemer, *supra* note 142, at 268.

²⁴⁶ Aziz Z. Huq, *The Social Production of National Security*, 98 CORNELL L. REV. 637, 646–47 (2013).

²⁴⁷ *Id.* at 647–48.

²⁴⁸ *Id.* at 649.

²⁴⁹ *Id.*

little support for terrorism organizations.²⁵⁰ He argues that these communities see police as instrumental,²⁵¹ they trust police as the legitimate authority,²⁵² and they cooperate with police out of self-interest either to preempt police intrusions or in anticipation of rewards²⁵³ (e.g., social stability in Muslim communities). Thus, Tyler argues that deterrence can work.²⁵⁴ Conversely, Tyler also allows that deterrence gains may be overwhelmed by backlash effects,²⁵⁵ unjust treatment of innocents,²⁵⁶ erroneous arrests and internment without trial²⁵⁷ and increased violence.²⁵⁸ Nonetheless, Tyler has called for a community policing character to terrorism prevention.²⁵⁹

However, Tyler's conclusions grounded in community policing and the law enforcement approach are of limited application to terrorism at large. His study is based on Muslim Americans, communities that are not subject to self-determination considerations, are located in revenge/propaganda venues and not a primary or second front setting. Additionally, though Muslim Americans are sometimes subject to societal discriminatory behavior,²⁶⁰ they do not approach the level of group insecurity

²⁵⁰ Tom Tyler et al., *Legitimacy and Deterrence Effects in Counterterrorism Policing: A Study of Muslim Americans*, 44 LAW & SOC'Y REV. 365, 365-74 (2010).

²⁵¹ *Id.*

²⁵² *Id.*

²⁵³ *Id.*

²⁵⁴ *Id.* at 371.

²⁵⁵ *Id.* at 371-72.

²⁵⁶ Tyler et al., *supra* note 250, at 371; Garry LaFree et al., *The Impact of British Counterterrorism Strategies on Political Violence in Northern Ireland: Comparing Deterrence and Backlash Models*, 47 CRIMINOLOGY 17 (2009).

²⁵⁷ Stephan J. Schulhofer et al., *American Policing at a Crossroads: Unsustainable Policies and the Procedural Justice Alternative*, 101 J. CRIM. L. & CRIMINOLOGY 335, 368-369 (2011).

²⁵⁸ Tyler et al., *supra* note 250, at 371-72.

²⁵⁹ Tom Tyler, *Mechanisms for Eliciting Cooperation in Counter-Terrorism Policing: Evidence from the United Kingdom*, 8 J. OF EMPIRICAL LEGAL STUD. 728, 729 (2011); Tom Tyler, *Procedural Justice, Legitimacy, and the Effective Rule of Law*, 30 CRIME AND JUST. 283, 291, 334 (2003).

²⁶⁰ See generally Sahar F. Aziz, *Sticks and Stones, The Words That Hurt: Entrenched Stereotypes Eight Years After 9/11*, 13 N.Y. CITY L. REV. 33 (2009);

(outliers aside) in the other relevant venues because in the US, religious discrimination is not openly advocated by civil authority, there is relatively strong rule of law, constitutional guarantees and relative prosperity when compared to venues in many primary and secondary front venues. This provides a greater sense of security and perceived legitimacy in the socio-political legal order. Thus, Tyler's conclusions, though relevant in the US from a social science perspective, are by degree, inapplicable in jurisdictions where radicalization has reached crisis point (i.e., in primary front and second front venues). On the other hand, Tyler's overall policy approach calling for community policing in the sense of developing healthy non-violent narratives and re-enforcing sub-group moderation, is consistent with a causal approach.

Wholesale exportation of a securitization approach under the mono-polar military/law enforcement models alone has proven self-defeating. For example, In the East and Southeast region of Asia the lack of a trifold policy is most disastrous. In this region many of the conflicts are of a national character²⁶¹ and the extremists have historically shown some resistance to international caliphate.²⁶² Populations have not yet resorted to extremism to the measures as compared to the Middle East,²⁶³ thus most do not pose an existential threat.²⁶⁴ The introduction of a causal model would help deter at risk populations from resorting to extremist measures adopted by those radically polarized domestic groups and groups from other regions. In this region, domestic populations are more susceptible to causal

Ramzi Kassem, *Implausible Realities: Iqbal's Entrenchment of Majority Group Skepticism Towards Discrimination Claims*, 114 PENN ST. L. REV. 1443, 1456–57 (2010).

²⁶¹ For example, the communist New People's Army in the Philippines aims to establish a socialist system. See PETER CHALK ET AL., *THE EVOLVING TERRORIST THREAT TO SOUTHEAST ASIA* 36 (2009). In Thailand, the Malay-Muslim conflict in the south revolves around issues of self-determination. *Id.* at 5. In Indonesia, it was observed that extremist groups are a result of internal conditions such as inflation, poverty, unemployment, and a weak government. *Id.* at 67.

²⁶² Austin Bodetti, *Will Southern Thailand Turn to Jihad?*, *THE DIPLOMAT* (Nov. 20, 2017), <https://thediplomat.com/2017/11/will-southern-thailand-turn-to-jihad/>.

²⁶³ ACHARYA, *supra* note 23, at 23.

²⁶⁴ *Id.*

policies and initiatives, as they have arguably not radicalized to the extent of their counter-parts in the Middle East,²⁶⁵ have not yet radicalized on the same scale numerically, have less identification with the regional concerns of the Middle East²⁶⁶ and in many situations view the Western powers with less vitriol than their own states.²⁶⁷ Some groups have made peaceful overtures in this region.²⁶⁸ Thus, from a preventative perspective, the importance of a standalone causal model to this region by assuaging uncertainty, insecurity and perceived unfairness is of great importance.

2. Standalone Model

The causal model has been promoted by developing countries for many decades,²⁶⁹ but generally without mainstream acceptance by more powerful industrialized states and international organizations. Its antecedent development can be traced to General Assembly Resolution 3034 in 1972 titled 'Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in

²⁶⁵ Bodetti, *supra* note 262.

²⁶⁶ *Id.*

²⁶⁷ For example, in the Philippines the MILF strategically dissociated itself from Al-Qaeda when the U.S. became involved in Afghanistan after 9/11. ANDREW T. H. TAN, SECURITY STRATEGIES IN THE ASIA-PACIFIC: THE UNITED STATES' "SECOND FRONT" IN SOUTHEAST ASIA 66 (2011). In Thailand local Malay-Muslim fighters rejected advances made by Al-Qaeda because they did not want to be associated with that group; they were instead interested in gaining Western and international sympathy and support for their self-determination cause against the government. Shawn W. Crispin, *Islamic Threat in Thailand: A Phantom Threat?*, THE DIPLOMAT (Mar. 4, 2016), <http://thediplomat.com/2016/03islamic-state-in-thailand-a-phantom-threat/>.

²⁶⁸ Having distanced itself from Al-Qaeda, the MILF agreed to participate in joint training with the Philippine government in local ceasefire monitoring teams. The government's chief peace negotiator, Jesus Dureza described the MILF as being "friendlier than the government. *Id.* TAN, *supra* note 267, at 66.

²⁶⁹ G.A. Res. 3034, *supra* note 18.

an attempt to effect radical changes.²⁷⁰ This resolution was clearly a Cold War document at the climax of the Trustee period when new former colonial nations were acquiring their independence from prior master states in the global south and when the composition of the General Assembly had radically changed to reflect the newly formed post-colonial state membership.²⁷¹ It calls for a study of the underlying causes of terrorism and simultaneously ties it to human rights in the quest to prevent terrorism before it occurs.²⁷² It remains a largely unrequited ambition. It also reflects the unstable conditions that fuel extremism identified in social psychology theory. In 1993, the Vienna Declaration expressly linked human rights with terrorism, which implies a human rights approach.²⁷³ Moreover, General Assembly resolution 60/288 adopted on September 20, 2006 articulating the United Nations Global Counterterrorism Strategy expressly reiterated the linkage between human rights protections, or their lack thereof, and terrorism.²⁷⁴ It called for “the need to address the conditions conducive to the spread of terrorism”²⁷⁵ and articulated such conducive conditions as “resolv[ing] conflict, end foreign occupation, confront oppression, eradicate poverty, promote sustained economic growth, sustainable development, global prosperity, good governance, human rights for all and rule of law, improve intercultural understanding and ensure respect for all religions, religious values, beliefs or culture.”²⁷⁶

Yet, despite the support for this approach in the modern history of international law and the approval by a supermajority of states

²⁷⁰ *Id.*

²⁷¹ From UN’s official website, in 1945, there were originally 51 members and in 1975, there were 144 members. See *Growth in United Nations membership, 1945-present*, UNITED NATIONS (2011), <http://www.un.org/en/sections/member-states/growth-united-nations-membership-1945-present/index.html>.

²⁷² See generally UNESCO, *supra* note 209; G.A. Res. 47/135, *supra* note 210.

²⁷³ See Vienna Declaration and Programme of Action Adopted by the World Conference on Human Rights in Vienna on 25 June 1993, U.N. Doc. A/CONF. 157/23, ¶ 17 (June 25, 1993).

²⁷⁴ G.A. Res 60/288, U.N. Doc. A/RES/60/288, ¶ 4, 7, 13 of the preamble (Sept. 20, 2006).

²⁷⁵ *Id.* ¶ 12 of the preamble.

²⁷⁶ *Id.* ¶ 13 of the preamble.

parties to the UN, the causal approach remains very soft law with only token adherence resulting in little more than public relations, education initiatives and efforts of civil society organizations (with varying degrees of government sponsored support to outright neglect²⁷⁷). The UN Security Council approach to counterterrorism is largely grounded in the traditional military/law enforcement model and is particularly revealing in UNSC resolution 1373.²⁷⁸ Naturally, since this was drafted mere weeks subsequent to the 9/11 attacks it would reflect a more hawkish approach. However, indicia of a military/law enforcement model runs through the document from paragraph 4 of the preamble which references UN Charter article 51 and the rights of states to individual or collective self-defense (applied to non-state actors).²⁷⁹ This frames the issue of terrorism in a military context rather than an economic and socio-political one. Article 1 of U.N.S.C. Resolution 1373 requires states to implement criminal provisions within their domestic legislation to stop terrorism funding.²⁸⁰ Significantly, the resolution explicitly provides that States “shall” criminalize, freeze, and prohibit financing of terrorist acts,²⁸¹ leaving no discretion for States in the ordinarily sovereign enterprise of domestic criminal law-making. This imperative is repeated in article 2, particularly at 2(e) requiring

²⁷⁷ For example, in Indonesia moderate NGO groups such as Nahdlatul Ulama (NU) and Muhammadiyah promote non-violence and moderate Islamic teachings but are underfunded and unsupported. See HASAN ET AL., *supra* note 143, at 40.

²⁷⁸ S.C. Res. 1373, ¶ 2 (Sept. 28, 2001) (Threats to international peace and security caused by terrorist acts).

²⁷⁹ “Reaffirming the inherent right of individual or collective self-defence as recognized by the Charter of the United Nations as reiterated in resolution 1368.” *Id.* ¶ 4 of the preamble.

²⁸⁰ *Id.* ¶ 1. See also Jane E. Stromseth, *An Imperial Security Council? Implementing Security Council Resolution 1371 and 1390*, 97 AM. SOC’Y INT’L L. PROC. 41, 41–42 (2003). Some claim these powers assumed by the Security Council are ultra vires or Ultra Innovative as unauthorized law making. See 83 RIVI STA DI DIPLOMAZIA INTERNAZIONALE 609, 723 (2000) 629; Michael C. Wood, *The Interpretation of Security Council Resolutions*, 2 MAX PLANCK Y.B. U.N. L. 73, 77 (1998). See also DANIEL H. JOYNER, INTERNATIONAL LAW AND THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION §4, (2009); Daniel H. Joyner, *The Security Council as a Legal Hegemon*, 43 GEO. J. INT’L L. 225 (2012).

²⁸¹ S.C. Res. 1373, *supra* note 278, ¶1(b)-(d).

states to criminally prosecute²⁸² and 2(f) requiring States to cooperate transnationally with other States in criminal investigations.²⁸³ Moreover, although article 3 uses the less mandatory language of “calls upon States to” it also references the law enforcement approach at article 3(f)²⁸⁴ and (g)²⁸⁵ in applying strict scrutiny for applications for refugee status and particularly for exemptions for extradition based on the political offense exception.²⁸⁶ Article 4 explicitly notes the connection between terrorism and transnational organized crime.²⁸⁷ U.N.S.C. Resolution 1373 is dispositive of the Security Council’s approach as a pragmatic means to control terrorism with a notable absence of a causal approach. It stands in sharp contrast with similar resolutions adopted by the General Assembly.²⁸⁸ This is all the more significant

²⁸² “Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts.” *Id.* ¶ 2(e).

²⁸³ “Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings.” *Id.* ¶ 2(f).

²⁸⁴ “Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts.” *Id.* ¶ 3(f).

²⁸⁵ “Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists.” *Id.* ¶ 3(g).

²⁸⁶ *Id.* ¶ 3.

²⁸⁷ “Notes with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard *emphasizes* the need to enhance coordination of efforts on national, sub-regional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security.” *Id.* ¶ 4.

²⁸⁸ G.A. Res. 60/288, *supra* note 274.

as the Counterterrorism Committee is made up of all members of the Security Council.²⁸⁹

This does reflect the differing roles of UN organs as the Security Council, an executive body, is tasked with addressing emergency situations calling for pragmatic action and hard law initiatives under Chapter 7 of the Charter²⁹⁰ as opposed to human rights policy issues more aptly suitable perhaps to other organs such as the United Nations Economic and Social Council (ECOSOC)²⁹¹ or the United Nations High Commissioner for Human Rights (UNHCHR).²⁹² Nonetheless, the distinction between hard law executive action and soft law policy considerations characterize the vitality, or its deficit, between the various models of counterterrorism. One reason behind the lack of vitality of the standalone model is that current models lack coherence and scientific legitimacy. A standalone model must transcend political rhetoric and be scientifically based, it must focus on localized solutions and it needs to be evolutionary to accurately track the ebb and flow of extremism. In this framework it must specifically address common societal insecurity drivers.

²⁸⁹ “*Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution, with the assistance of appropriate expertise, and *calls upon* all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement this resolution.” S.C. Res. 1373, *supra* note 278, ¶ 6.

²⁹⁰ U.N. Charter art. 39–51.

²⁹¹ The Sub-Commission on the Promotion and Protection of Human Rights, which was under the auspices of ECOSOC, was designated “to undertake studies, particularly in light of the Universal Declaration on Human Rights, and to make recommendations to the Commission [on Human Rights] concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities.” KEIR STARMER & TEHODORA A. CHRISTOU, HUMAN RIGHTS MANUAL AND SOURCEBOOK FOR AFRICA 64 (Beattie et al. eds., 2005).

²⁹² According to the General Assembly Resolution that created the High Commissioner of Human Rights, “the Council shall be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind in a fair and equal manner.” *See* G.A. Res. 60/251, U.N. Doc. A/RES/60/251, ¶ 2, (Apr. 3, 2006).

i. Application of a Causal Model

The sources of popular and/or minority insecurity, social instability and the development of extremism are diverse and complex, and causal models of terroristic preemption are most effective when tailored to individual situations. For example, extremism can be driven by state actors imposing harsh conditions upon minority groups domestically in an effort to force assimilation (or other perceived state goals) in contravention of accepted human rights norms. An example of this is the treatment of Uighurs in the Xinjiang province of China.²⁹³ Extremism may also result in the case of situations involved in internal armed conflicts, such as Syria²⁹⁴ and the Philippines,²⁹⁵ or gradually trending toward conflict such as in southern Thailand.²⁹⁶ Conversely, extremism may be condoned and subtly encouraged by state actors within their own

²⁹³ In 2006 ethnic minorities comprised only 37% of the 958,000 party members in Xinjiang. See Colin Mackerras, *Why Terrorism Bypasses China's Far West*, ASIA TIMES (Apr. 23, 2004), <http://www.atimes.com/atimes/China/FD23Ad03.html>. Though more recent reliable data is not available, Muslims working within the government structure are informed they would lose their jobs if they attend mosques. See CHRISTIAN TYLER, *WILD WEST CHINA: THE TAMING OF XINJIANG* 157 (Rutgers University Press 2003). Cultural and religious discrimination also seeps into other aspects such as employment discrimination. This applies to both high skill and low skill jobs. The privileged and high-paying oil industry requires high-skilled labor while Uighurs, are generally less educated. See Nader Hasan, *China's Forgotten Dissenters: The Long Fuse of Xinjiang*, 22 HARV. INT'L REV. 38, 40 (2000). Private businesses permits are given to Han rather than to minorities. See MICHAEL DILLON, *XINJIANG: CHINA'S MUSLIM FAR NORTHWEST* 71 (2004). Even entry-level jobs normally satisfied by local laborers are dominated by poor Han migrants who are favored over ethnic minorities. See Louisa Lim, *China's Uighurs Lose Out to Development*, BBC NEWS (Dec. 19, 2003), <http://news.bbc.co.uk/2/hi/asia-pacific/3330803.stm>.

²⁹⁴ Lianna Brinded, *Stopping the Cycle of Violent Extremism in Syria Has Nothing to do With Religion*, BUSINESS INSIDER (Aug. 23, 2016), <http://www.businessinsider.com/extremely-togethers-zaid-al-rayes-how-to-stop-violent-extremism-syria-2016-8>.

²⁹⁵ For example, a U.S. State Department report describing violence in Mindanao as a full-fledged 'invasion.' *Philippines Failed to Stop Terrorist Attacks in 2016 Amid Duterte's War on Drugs: US Govt*, *supra* note 203. See also Raymundo B. Ferrer & Randolph G. Cabangbang, *Non-International Armed Conflict in the Philippines*, 88 INT'L L. STUD. 263, 267 (2012).

²⁹⁶ See generally MCCARGO, *supra* note 189.

domestic populations, via acts ranging from sanctioned extremist state rhetoric²⁹⁷ to exposing minority populations to adverse judicial treatment²⁹⁸ to *de facto* impunity for terrorist acts committed abroad by state nationals,²⁹⁹ as arguably seen in Indonesia.³⁰⁰ These states walk a fine line between neutrality and state support for terrorism and typically target non-conforming groups within their own states polity or foreign states and/or international organizations. Prohibited state action has long been relegated into state

²⁹⁷ In Indonesia, hate speech calculated to incite violence has not been prosecuted, including statements made by Sobri Lubis, a member of FPI, who stated “We wage war against Ahmadiyya, kill Ahmadiyya members, where ever they are, kill Ahmadiyya members, kill Ahmadiyya members.” See RAFENDI DJAMIN, *THE PARADOX OF FREEDOM OF RELIGION AND BELIEF IN INDONESIA*, 7, <http://www.ohchr.org/Documents/Issues/Expression/ICCPR/Bangkok/RafendiDjamin.pdf>; Extremist statements verging on incitement have also been made by government officials such as Suryadharna Ali, Minister of Religious Affairs who called for a ban on the Ahmadiyah sect, see *Best to Disband Ahmadiyah, Religious Minister Says*, JAKARTA GLOBE (Feb. 28, 2011), <http://www.thepersecution.org/world/indonesia/11/02/jg28.html>, and for discrimination against Christians, see *Minister: Christians bring discrimination on themselves*, JAKARTA POST (Apr. 2, 2013), <http://thejakartapost.com/news/2013/04/02/minister-christians-bring-discrimination-themselves.html>.

²⁹⁸ See generally U.S. DEPT. OF STATE, *INDONESIA 2015 INTERNATIONAL RELIGIOUS FREEDOM REPORT* 4–8 (2015).

²⁹⁹ See *id.*

³⁰⁰ See Francis Chan, *Indonesia ‘Keeping an Eye’ on ISIS Returnees*, THE STRAITS TIMES (Nov. 27, 2015), <http://www.straitstimes.com/asia/se-asia/indonesia-keeping-an-eye-on-isis-returnees> (reporting figures that put Indonesian volunteers to ISIS at 70 and explaining that returnees from Syria were released and merely put under surveillance “to ensure that they do not propagate ISIS ideology or mount terror attacks at home”); see also *id.* (implying that the number of fighters going to ISIS was downplayed as an Indonesian Foreign Ministry official said figures of returnees were “confusing” as “not all of them joined ISIS as fighters.”).

terrorism,³⁰¹ state sponsorship³⁰² and state support³⁰³ of terrorism, yet a third, non-prohibited category could be described as state acquiescence to terrorism blurring the line between state support and non-prohibited state conduct.

Extremism may also be generated within a state without the active participation of the state government and be directed against foreign enemies and their allies. This situation clearly is applicable to international Jihadism, at least in those states that are facially neutral. Extremism is also often fueled by international acts of states on or affecting the territory of other states regarded as aggressive, intrusive or neo-colonial in character. This is consistent with Pape's study, in which he hypothesized that the overwhelming majority of suicide bombing attacks occurred as a result of military troops on foreign soil.³⁰⁴ Their presence represents a major threat to security in those affected areas among domestic populations and further raises concerns about fairness and foreign neo-colonial overreaching.

Failure to adopt a pragmatic standalone model may be due to international political reticence, being seen as soft on terrorism, state's sovereignty considerations, and perceived latent advantage of some stakeholders, but may also be due to the failure to transcend

³⁰¹ See Koufa, *supra* note 224, at 11 (explaining that state terrorism arises from the concept of the "reign of terrorism" which evolved during the French revolution and refers to terroristic acts perpetrated by the state (or in collaboration with other irregular groups) against nationals and non-nationals and sub-state terrorism (whether in conjunction with state governments or not) arose as a recognized concept in 1878 -1881 in response to sub-state attacks in tsarist Russia, Europe and North America).

³⁰² *Id.* at 11-19. (explaining that sub-state terrorism consists of state sponsorship and state support of terrorism and in both cases the sub-state terror groups receives aid such as safe harbour in state support of terrorism or, intelligence, financing and overall planning and strategy in state sponsorship of terrorism).

³⁰³ *Id.* at 13, 15 ("It is equally obvious that this form of State terrorism can also be deployed by a democratic government in a situation of 'emergency,' internal strife or civil war, in which overreactions to the dangers of terrorism and a cult of counter-terrorism tactics could result in the deprivation of individual freedom, the increase of potential government violations of human rights and, generally speaking, 'terror from above,' with no one left to protect the public from intimidation and repression.").

³⁰⁴ PAPE, DYING TO WIN, *supra* note 83, at 10.

rhetoric and soft law aspirations. In political and academic circles there is some discussion of a causal model but little practical application and coherence. In developing such a model there are several preliminary considerations.

Most legal scholarship in terrorism studies fails to adequately address a causal model, instead relying on assumptions grounded in traditional deterrence theory defaulting to a military/law enforcement approach.³⁰⁵ Other legal scholarship references the mandate of civil society organizations³⁰⁶ and education³⁰⁷ as a solution to radicalization, despite its limited effectiveness. The meagre legal scholarship that does address a preventive model typically consists of lengthy lists of factors and warning signs³⁰⁸ without delving deeper into the psychological genesis of radicalization or assessing its vitality or mapping out a clear articulation of specific pragmatic solutions.³⁰⁹ Additionally, significant research in radicalization in other areas of social science develops theoretical models but doesn't translate into pragmatic action. Thus, there is a lacuna in the scholarship neglecting the fusion of insights from both sets of fields. A practical model necessitates the incorporation of a diverse set of methodologies. It entails findings that are focused geographically, intellectually and evolutionary.

³⁰⁵ See Christina Parajon Skinner, *Punishing Crimes of Terror in Article III Courts*, 31 YALE L. & POL'Y REV. 309, 348–351 (2013); see also Aziz Z. Huq, *Forum Choice for Terrorism Suspects*, 61 DUKE L.J. 1415, 1427–42 (2012); Senator Arlen Specter, *The Time Has Come for a Terrorist Death Penalty Law*, 95 DICK. L. REV. 739, 751–54 (1991).

³⁰⁶ Catherine Moore, *The Game Changer: How the P5 Caused a Paradigm Shift in Norm Diffusion Post-9/11*, 55 VA. J. INT'L L. 187, 201–202 (2014) (explaining that international organizations and non-governmental organizations have been described as influential actors in spreading counter-terrorist campaigns and even oppressive regimes).

³⁰⁷ Diane Webber, *Education as a Counter-terrorism Tool and the Curious Case of the Texas School Book Resolution*, 11 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 271, 271 (2011).

³⁰⁸ See Tyler et al., *supra* note 247, at 385–89 (touching on several factors including the experience of procedural injustice and repressive governments that would affect the preventive model based on societal cooperation).

³⁰⁹ See *generally id.* (discussing a detailed case study on Muslim Americans, without applying the factors identified in improving the model in the conclusion).

First, different at-risk communities face disparate challenges and sources of insecurity. The quest for a unipolar solution is grounded in the myth that terrorist groups are unified and speak with one voice³¹⁰ fails to address the complexity of international terrorism and is bound to be of little practical value. A practical model eschews efforts to address global solutions alone, but identifies the specific considerations of radical groups or clusters of groups in each state or region from a psycho-sociological viewpoint (as opposed to only a law enforcement/investigatory perspective). Considerations and priorities in various regions differ dramatically according to the underpinning territory-specific conditions.³¹¹

Scholar Arabinda Acharya highlights this diffusion of interests by articulating the distinction between different regional extremists groups.³¹² He argues that solidarity of interests (amounting to a second front) between groups in different regions is a myth.³¹³ Acharya advances arguments and concludes that Southeast Asia is unlikely to adopt an al-Qaeda ideology because, *inter alia*, they focus on the near enemy not the distant enemy;³¹⁴ prioritizing local orientation.³¹⁵ He observes that “al-Qaeda and its affiliates target both the ‘near enemy,’ in Afghanistan, Iraq, Saudi Arabia, Yeman and Jordan, and the ‘far enemy,’ referring to the West, especially the US, which is seen to be supportive of apostate regimes,”³¹⁶ while “[f]or the Southeast Asian radical groups, the focus is more on the near enemy.”³¹⁷ On the other hand, Acharya’s conclusions were grounded in the al-Qaeda reality and the trending ISIS dialog is more inclusive; the formation of extremist Islamic states.³¹⁸ The message resonates with non-Middle Eastern localized sectarian movements in a way the al-Qaeda message failed, resulting in stronger ties with ISIS world-wide.³¹⁹ In an extensive study of ISIS in Indonesia,

³¹⁰ See ACHARYA, *supra* note 23, at 40–41.

³¹¹ See generally *id.*

³¹² *Id.*

³¹³ *Id.* at 35–60.

³¹⁴ *Id.* at 41–44.

³¹⁵ *Id.* at 40.

³¹⁶ *Id.* at 41.

³¹⁷ *Id.* at 42.

³¹⁸ See Bunzel, *supra* note 181, at 7, 9.

³¹⁹ SAMUEL, *supra* note 205, at 102.

Malaysia and the Philippines, Thomas Koruth Samuel found an alarmingly growing trend of ISIS support in this region consisting of its ability to disseminate its narrative,³²⁰ vitality of returning foreign terrorist fighters,³²¹ lack of counter-narratives,³²² and the formation of ISIS as a satellite state in Southeast Asia.³²³ Thus, the development of local solutions are more gravely important to preclude meaningful unification of interests among disparate radical groups.

Indeed, the concept of thinking locally can be diffuse and most appropriately operates on a domestic level rather than an international or regional level as considerations of at risk groups in Syria³²⁴ differ from those in Libya³²⁵ or groups in Thailand³²⁶ differ from groups in China,³²⁷ Indonesia³²⁸ or the Philippines.³²⁹ Thus, the calculus must be focused on individual groups and clusters of groups depending upon the specific sources of insecurity which that population cluster faces. To add further complexity, inasmuch as insecurity sources are locally based, solutions must in the main be locally fashioned, which ties the hands of international organizations and sometimes run contrary to other state interests.³³⁰ The role of international organizations is therefore to provide the intellectual and unbiased basis for reform, to objectively assess the localized causes of social insecurity, and to help states fashion causal counterterrorism initiatives while providing support and

³²⁰ *Id.* at 101–05.

³²¹ *Id.* at 104.

³²² *Id.* at 107–08.

³²³ *Id.*

³²⁴ Brinded, *supra* note 294.

³²⁵ See generally Jason Pack, Rhiannon Smith and Karim Mezran, *The Origins and Evolution of ISIS in Libya*, THE ATLANTIC COUNCIL: RAFIK HARIRI CENTER FOR THE MIDDLE EAST (June 2017), http://www.atlanticcouncil.org/images/publications/The_Origins_and_Evolution_of_ISIS_in_Libya_web_0705.pdf (providing a historical analysis of the development and spread of ISIS in Libya).

³²⁶ Kielsingard & Tam, *supra* note 7.

³²⁷ *Id.*

³²⁸ *Id.*

³²⁹ *Id.*

³³⁰ *Id.*

encouragement to state governments to follow through, instead of exporting a securitization approach.

Second, solutions for recruitment to violently radical ideology and extremist groups requires a comprehensive multi-disciplinary methodology. Terrorism is a social problem and calls for solutions stemming from not only law and politics (including strategic policy) but also from the perspective of social psychology, sociology, cultural anthropology, etc. Each discipline provides different insights and methodologies (rational, empirical–qualitative and quantitative, ethnographies, etc.) and adds a new piece to the puzzle. This work needs to be directed at transcending the theoretical, more easily accomplished when limited to a particular localized situation, in order to fashion practical remedies. Different approaches supply complexity in findings and holistically address the sources of susceptibility to radicalization, diagnosis the sources of societal insecurity and translate findings into legal and public policy initiatives.³³¹

Scholar Jeffrey Ian Ross suggests a structural model for addressing the causal approach.³³² Though he focuses on political terrorism³³³ his model assumes a cross-disciplinary methodology as he points out precipitant causes to include social, cultural and historical facilitation³³⁴ as well as many other legal and political factors.³³⁵ The Ross model also illuminates permissive causes with due consideration of geography, political systems and level of modernization within each affected population cluster.³³⁶ The weakness of this model is a failure to delve deeper into the human psychology of radicalization and make the connection between the

³³¹ Under the Policy Oriented framework, the fifth step provides for fashioning remedies based on the findings in the previous steps by offsetting negative conditioning factors through strategic public policy initiatives and appropriate legal responses. *See* Wiessner, *infra* note 346.

³³² Jeffrey Ian Ross, *Structural Causes of Oppositional Political Terrorism: Towards a Causal Model*, 30 J. OF PEACE RESEARCH 317, 317–18 (1993).

³³³ *Id.* at 317, 320.

³³⁴ *Id.* at 322.

³³⁵ *Id.* at 323–25. Ross listed many factors, including failure to maintain democracy, to prevent locals from joining terrorist groups through laws and penalties, insufficient resources to detect, prevent or combat terrorism, etc. *See id.*

³³⁶ *Id.* at 320–22.

different social sciences. Social, cultural and historical review purports to identify and emphasize group solidarity as a means of assessing the risk factor, an important consideration, but fails to specifically identify the source of group insecurity and take into account the powerful psychological factors leading to conformity to violent radicalization. A workable model must go beyond identifying mere “warning signs” but assess the vitality of these factors and predict trends in decision-making. Moreover, “warning signs” typically are assessed from a foreign observational viewpoint that is not culturally specific to the relevant group and lead to mischaracterization of the local situation where indicia presumed to be a driver of radicalization, from the foreign observational standpoint, may be innocent piety or cultural distinctions from the localized viewpoint. This model also fails to contextualize situational factors and undertake the predictive facility essential for assessing their vitality in order to prioritize and intervene in key trending radicalization stimuli.

This “warning signs” approach is also mirrored in many professional and government models conducted by states. The U.S. Department of State country reports identifies signs of radicalization in many at risk states³³⁷ but fails to adequately address underlying psychological factors that cause social uncertainty or take into account cultural factors. Admittedly, as an official government document these reports are directed at specific facts, such as domestic law and policy,³³⁸ to develop pragmatic warning signs and are not intended as a comprehensive intellectual social science study. These reports also analyze each situation from a US centric observational viewpoint and are thus non-contextual and of only limited utility in fashioning realistic remedies.

In Samuel’s study, the author attempts a targeted approach (by going beyond mere warning signs), studying ISIS in Malaysia, Indonesia and the Philippines.³³⁹ In this study the author gives accounts of some of the situational factors in each territory.³⁴⁰

³³⁷ See generally U.S. DEP’T OF STATE, *supra* note 112.

³³⁸ *Id.*

³³⁹ See generally SAMUEL, *supra* note 205.

³⁴⁰ See *id.*

Samuel attempts to address some issues in radicalization³⁴¹ in each of the three countries but fails to adopt a social psychological model for his methodology³⁴² and relies solely on qualitative methodology which he concedes is incomplete:

At present, quantitative as well as qualitative data is lacking in both understanding and describing the process of radicalization and the role and extent it plays in recruitment, the characteristics of both individuals and communities that could be vulnerable and susceptible to such a calling and the reasons that lead to either radicalization or recruitment. Without such baseline data, policies crafted, at best will lack efficacy and potency and at worst, could be counter-productive. Much more needs to be done to rectify this lacuna of knowledge.³⁴³

This study goes beyond simple explication of warning signs and makes efforts to address indicia of radicalization in the affected territories as well as giving an alarmingly vivid account of gains made by ISIS in the Southeast Asian region.³⁴⁴ However, as candidly conceded, there is incomplete data and methodological shortcomings,³⁴⁵ which needs to be addressed by more comprehensive studies, particularly with a greater emphasis on causes of radicalization.

One intellectual framework which comprehensively identifies underlying social grievances and fashioning socio-political remedies is the New Haven or policy oriented jurisprudence.³⁴⁶ New Haven views law and policy as the healer to the body politic.³⁴⁷ Formulated by the intellectual merger of sociologists and legal

³⁴¹ *See id.*

³⁴² *See id.*

³⁴³ *Id.* at 135.

³⁴⁴ *See id.*

³⁴⁵ *Id.* at 135.

³⁴⁶ *See generally* Siegfried Wiessner, *The New Haven School of Jurisprudence: A Universal Toolkit for Understanding and Shaping Law*, 18 ASIA PAC. L. REV. 45 (2010); *see also* W. Michael Reisman, *The View from the New Haven School of International Law*, 86 AM. SOC'Y INT'L L. PROC. 118 (1992).

³⁴⁷ *See* Wiessner, *supra* note 346, at 51.

scholars at Yale University³⁴⁸ and drawing from the legal traditions of natural rights and legal realism,³⁴⁹ it proposes a five step approach.³⁵⁰ These steps consist of delimitation of the problem, analysis of conflicting claims (and sources of power of the claimants), trends in decision-making including conditioning factors driving those trends, prediction, and the development of remedies.³⁵¹ New Haven jurisprudence is uniquely suited to this problem as it assesses social problems and human value sets³⁵² as a basis for legal decision-making and policy strategy.³⁵³ By accessing human values it provides an offset for insecurity of at risk groups and offers remedies grounded in the values all humans crave³⁵⁴ and, consistent with Social Identity theory, its cross disciplinary character³⁵⁵ provides flexibility to craft remedies directed at societal insecurity. Moreover, the New Haven methodology prioritizes trending evolutions in its third step of assessing changing trends in decision-making³⁵⁶ and, in its fourth step, conditioning factors³⁵⁷ driving those trends. Conditioning factors loosely correspond to situational factors in the Roth matrix.

Third, the model must be evolutionary to take into account the changing conditions in the affected population clusters and the developing character of terrorist groups including the level of extremism already experienced and the developing agenda of radicalized groups. Thus, the evolution of terrorism can be viewed as twofold; the evolution of radicalization of the group membership

³⁴⁸ *See id.*

³⁴⁹ MARK D. KIELSGARD, RESPONDING TO MODERN GENOCIDE: AT THE CONFLUENCE OF LAW AND POLITICS 140 (2016).

³⁵⁰ *Id.* at 140–41; *see also* Wiessner, *supra* note 346, at 48.

³⁵¹ *See* Wiessner, *supra* note 346, at 48–52.

³⁵² *See id.* at 51–52. The non-exclusive value sets identified in Policy Oriented jurisprudence include power, wealth, rectitude, respect, skills, knowledge, well-being and affection. *Id.*

³⁵³ *See id.* at 51.

³⁵⁴ *Id.*

³⁵⁵ *Id.*

³⁵⁶ *Id.* at 49.

³⁵⁷ *Id.*

at large³⁵⁸ and the evolution of the message adhered to by the group.³⁵⁹ The former is largely dictated by situational factors³⁶⁰ in accordance with the conformity effect³⁶¹ while the latter may be largely strategic, though overlap exists.

In the larger source at risk groups, different levels of entitativity solidify, causing multiple subgroups to take shape, albeit most customs, ideology and norms are common to all group members. At risk groups at large can be classified under the criminology model discussed earlier as bystander, secondary and principle parties.³⁶² However, other segments in the at risk population cluster also commonly exist being those who are neutral or actively opposed to violent responses.³⁶³ This subgroup poses lessened risk of radicalization except to the extent that members may evolve into bystander status by the changing (increasingly compelling) group dialogs or the perceived risk to the personal safety of neutral group members or stemming from other situational factors such as deteriorating social conditions, civil war or even threat from other radicalized group members. Nonetheless, this group serves as a positive model of behavior for a causation approach. Under a causal application the aim would be to convert more group members to the neutral subgroup and/or prevent neutral group members from joining the other (more radical) group subsets, and to moderate the group dialog overall.

In accordance with Moghaddam's concept of the stairway of terrorism³⁶⁴ it is a rational assumption that the pathway toward

³⁵⁸ This evolution would include both the increased numbers of those radicalized and the increased levels of radicalization.

³⁵⁹ This evolution would include the differences in the primary aim of the groups such as those of the East Asians versus the Middle Eastern groups and those of Al-Qaeda versus ISIS groups.

³⁶⁰ ROTH, *supra* note 74, at 212.

³⁶¹ *Id.*

³⁶² *See infra* Introduction.

³⁶³ *See* Moorthy S. Muthuswamy, *Sharia as a Platform for Espousing Violence and as a Cause for Waging Armed Jihad*, 7 ALB. GOV'T L. REV 347, 350 (2014); *see also* Aziz, *supra* note 260, at 43–48 (reaching the implied conclusion that minorities such as Arab Americans, Middle Easterners and Muslims are non-violent, with a higher income and literacy rate than the public perceived).

³⁶⁴ Moghaddam, *supra* note 96, at 161.

radicalization becomes narrower as it evolves into greater extremism.³⁶⁵ Thus, violently radicalized principles make up the smallest subset, with increasingly larger membership in secondary party groups, followed by bystander parties and, presumably the largest group, neutral parties. Extreme situational factors may alter this group make-up such as ongoing martial conflict, which may foster increasingly radicalized group identities. These four subgroups can be explained, at least in part, by dispositional factors³⁶⁶ and/or the degree of situational factors personally affecting those rising through the calculus of radicalization. For example, dispositional factors such as lack of empathy, susceptibility to overzealousness, weak familial ties³⁶⁷ or poor social skills would add to the propensity for radicalization while situational factors such as war, poverty, systematized injustice and personal experience of particularly brutal treatment would account for external factors. As eluded to earlier, dispositional factors are more difficult to assuage but the situational factors are more pragmatically controlled by strategic government policy.

The second form of evolution is the changing trends of international terrorism entrepreneur groups themselves. Terrorist groups are not static and their *modus operandi* and message change to meet differing situations and changing political and martial environments with which they interact. The growing strength of ISIS over al-Qaeda is characteristic of this evolution. The dialog of ISIS for the formation of Islamic states is more inclusive than al-Qaeda and transcends the considerations of a single region (i.e., the Middle East).

The resilience of ISIS (and other groups) is due, in part, to its adaptability. In a sense it employs a complementarity³⁶⁸ approach largely avoiding fixed battlements, battle changing protocol, target selection that morphs around to attack the weakest spots in the

³⁶⁵ *Id.*

³⁶⁶ ROTH, *supra* note 74, at 212.

³⁶⁷ See Huq, *supra* note 246, at 681 (observing that “most of the radicals have broken with their families or become estranged”).

³⁶⁸ The complimentary principle is a physics theory first proposed in 1928 by the Danish physicist Niels Bohr. See The Editors of Encyclopedia Britannica, *Complementarity Principle*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/science/complementarity-principle>.

community, like light bending around an object with mass. Failures in one venue tend to spark attacks in weaker venues or regions. Thus, predictably, gains made in the war on terrorism in Syria, *inter alia*, will drive greater terrorist activity in other prone regions such as East and South East Asia. Even the strategic command structure has the flexibility to change to make more elusive targets as demonstrated in the so-called bottom-up operational philosophy or “one-man Jihad” approach adopted amongst international terror organizations.³⁶⁹ This flexibility means greater emphasis must be made toward assuaging terror recruitment, which is dependent upon the process of radicalization of at risk groups.³⁷⁰

Though this is a significant consideration for military/law enforcement approaches, it is also relevant to a causal approach as the narrative of terrorist groups continues to evolve along with paramilitary tactics. The dialog of extremist groups requires a sufficiently powerful counter-message³⁷¹ to offset individual insecurity amongst neutral subgroups members within at risk population clusters, backed by demonstrable action, and this can be achieved by remaining current. This action must be specifically directed at the sources of societal insecurity.

ii. Prototypical Insecurity Drivers: Economic, Cultural/Social, Personal Safety, Political

As discussed above, the grievances that cause insecurity are diverse and call for individually tailored solutions, but there are

³⁶⁹ Al-Qaeda member Mustafa bin Abd al-Qadir Setmariam Nasar, also known as Abu Musab Al Suri (Al Suri), stated in a paper in 2002: “[O]ur method should therefore be to guide the Muslim who wants to participate and resist, *to operate where he is*, or where he is able to be present in a natural way. We should advise him to pursue his everyday life in a natural way, and *to pursue jihad and Resistance in secrecy and alone, or with a small cell of trustworthy people* who form an independent brigade for Resistance and for the individual jihad.” See Abu Mus’ab as-Suri, *The Call for a Global Islamic Resistance*, ARCHIVE.ORG, 12, <https://ia802607.us.archive.org/30/items/TheCallForAGlobalIslamicResistance-ExcerptEnglishTranslation/TheCallForAGlobalIslamicResistanceExcerpt-EnglishTranslation.pdf> (last visited June 1, 2018) (emphasis added).

³⁷⁰ Kielsingard & Tam, *supra* note 7.

³⁷¹ See SAMUEL, *supra* note 205, at 101–13 (discussing means of countering terrorism and radicalization in Indonesia, Malaysia, and the Philippines).

certain common features through which each at-risk situation can be viewed. Not all situations are subject to all these factors, but virtually all situations arise from one or more of them. In sketching out the macro causes of societal insecurity regard should be given to the classification of four factors: economic insecurity, cultural/social insecurity, personal safety insecurity and political insecurity.³⁷² Not only should these factors be identified, a workable model addresses the perceived unfair treatment by official authority on local, domestic and international levels in order to redress specific grievances in each genus. Certain sources of insecurity may be core to societal insecurity, such as self-determination interests, while others are potentially ancillary, such as unfair economic disadvantage. In some situations only one or more are relevant. For example, in Southern Thailand, though the Malay-Muslim population suffered from systemic poverty,³⁷³ economic conditions had improved as a consequence of rising rubber prices³⁷⁴ (a principle product in that region³⁷⁵), and the focus had been more on personal

³⁷² These factors broadly correspond to the Policy-oriented human value sets of power, wealth, rectitude, respect, skills, knowledge, well-being and affection, or the lack thereof. *See* Wiessner, *supra* note 346, at 51–52 (discussing “eight essential human strivings”).

³⁷³ *See* NATIONAL RECONCILIATION COMMISSION, OVERCOMING VIOLENCE THROUGH THE POWER OF RECONCILIATION 10, 24–26 (NRC 2006). The National Reconciliation Commission was an independent body appointed by the Thaksin government to study sources of violence in the South of Thailand. *See* Kielsingard & Tam, *supra* note 7.

³⁷⁴ MCCARGO, *supra* note 189, at 6.

³⁷⁵ *Id.*

safety issues³⁷⁶ as well as political power sharing.³⁷⁷ Similarly, in some resource-rich countries in the Middle East, economic stability considerations tend to play little role in radicalization,³⁷⁸ while

³⁷⁶ Thailand's war on drugs in the early 2000s put many ordinary citizens under threat for their personal safety from government forces. See 2,274 *Dead in Thai Drugs Crackdown*, CNN (May 7, 2003), <http://edition.cnn.com/2003/WORLD/asiapcf/southeast/05/07/thailand.drugs/>. According to Human Rights Watch, during that time period, "2,598 alleged drug offenders were shot dead in apparent extrajudicial killings; many of these killings appeared to be based on 'blacklists' prepared by police and local government agencies." HUMAN RIGHTS WATCH, *supra* note 130, at 12–13; see also Meryam Dabhoiwala, *A Chronology of Thailand's 'War on Drugs'*, ASIAN LEGAL RESOURCE CENTRE (May 9, 2003), <http://alrc.asia/article2/2003/06/a-chronology-of-thailands-war-on-drugs/> (providing a timeline of Thailand's 'war on drugs'); Tom Fawthrop, *Not Another War on Drugs*, THE GUARDIAN (Apr. 18, 2008), <http://www.theguardian.com/commentisfree/2008/apr/18/notanotherwarondrugs>.

³⁷⁷ See Peter Chalk, *The Malay-Muslim Insurgency in Southern Thailand: Understanding the Conflict's Evolving Dynamic*, 5 RAND COUNTERINSURGENCY STUDY 5 (2008) (discussing operation of various militant separatist movements in Southern Thailand).

³⁷⁸ Delahunty explicitly pointed out that the middle class are more likely to join terrorist activities, citing to a study which concluded that "if anything, those with higher educational attainment and higher living standards are more likely to participate in terrorist activity." See Robert J. Delahunty, *Trade, War and Terror: A Reply to Bhala*, 9 U. ST. THOMAS L.J. 161, 182–89 (2011). Indeed, one study conducted by the Centre for Strategic and International Studies found that of 250 Saudis who fought in the Iraq conflict, many were from prominent families, "watched the destructive images of the war on Arabic satellite TV, and . . . read the jihadist Web sites' urgings to go repel the infidel's occupation." See Fred Kaplan, *It's Not Who We Are It's What We Do*, SLATE (July 20, 2005), <http://www.slate.com/news-and-politics/2018/04/one-year-after-trump-launched-missiles-at-syria-we-still-dont-know-what-hes-trying-to-accomplish-there.html>. See generally NAWAF OBAID & ANTHONY CORDESMAN, SAUDI MILITANTS IN IRAQ: ASSESSMENT AND KINGDOM'S RESPONSE 9 (Sept. 19, 2005), http://www.csis.org/index.php?option=com_csis_pubs&task=view&id=1442.

political/ideological considerations dominate;³⁷⁹ in other theaters, a combination of all criterion encourage radicalization.³⁸⁰

The shortcoming to any causal model is its questionable effectiveness in existential threat regions³⁸¹ where solutions are politically impossible due to dangerous polarization of irreconcilable group interests.³⁸² In such regions, gains made by this model will predictably be less effective but nonetheless are value added and significantly more effective than military/law enforcement models, which have the reverse effect and fuel insecurity and violent prototype identities.

Through the lens of the following categories of societal insecurity, the need for localized scrutiny of at risk groups would focus on archival research, qualitative and quantitative surveys, ethnographies, economic surveys and statistical data collection of key industries and market analysis, crime statistics and studies of targeted political policy strategy and its impact on affected regions. The precise data collected is determined by experts in each relevant field in accordance with the considerations stipulated above and the methodology in their discipline-specific field under a New Haven framework, so a finer detail-explicit description is beyond the scope of this article and will not be elaborated on here.

This data provides a platform for analyzing conditioning factors, or the situational factors that encourage extremism, and give insight

³⁷⁹ Telhami pointed out that even “President Bush has been careful to reject this notion, whereas many around the world see both the motives and the means of Middle Eastern terrorism to be less about Islam than about politics.” Shibley Telhami, *Conflicting Views of Terrorism*, 35 CORNELL INT’L L.J. 582 (2002).

³⁸⁰ See e.g., Shorlemer, *supra* note 142, at 266–67 (discussing importance of assessing underlying causes of terrorism, and looking at how human rights, democracy, and social justice are key to combatting terrorism).

³⁸¹ See *supra* Section I.B.3.

³⁸² See Claude Berrebi, *Evidence about the Link Between Education, Poverty and Terrorism among Palestinians*, 13 PEACE ECONOMICS, PEACE SCIENCE AND PUBLIC POLICY CITE (2007), <http://public-policy.huji.ac.il/.upload/staff/19/2007-Berrebi-PEPS-Terr-Pov-Edu.pdf> (stating that high education levels, standard of living and other political motivations are positively correlated with membership in terrorist groups); see also Arienne M. Dwyer, *The Xinjiang Conflict: Uyghur Identity, Language Policy, and Political Discourse*, EAST-WEST CENTER WASHINGTON (2005), <https://scholarspace.manoa.hawaii.edu/bitstream/10125/3504/1/PS015.pdf> (outlining the situation in Xinjiang).

into trends in radicalization development. It gives direction for an agenda to determine which genus or sets of situational factors (e.g., economic, political, etc.) make-up the principle source of societal insecurity in each given area and an assessment of their vitality and potential for further radicalization. It also implicitly provides probable and pragmatic solutions and the development of an agenda for rectification. Though admittedly, local and international policy action and the marshalling of sufficient political will to enact agendas for change is politically challenging.

a. Economic Insecurity

Economic insecurity has long been a concern of domestic and international organizations in the struggle against extremism. Lack of sufficient economic means leads to desperation which can be directed against affluent groups. This disparity is the basis for the Social Deprivation Theory by Gurr, who discusses the gap between what people believe they are entitled to and what they are able to obtain.³⁸³ Scholar Schorlemer emphasizes “the importance of non-military measures to combat international terrorism, including an increase in development aid and economic cooperation . . .”³⁸⁴ and calls for “new strategies against hunger, poverty and lack of opportunities.”³⁸⁵ The then Secretary-General of the Organization for Economic Cooperation and Development (OECD) further stipulated that the OECD viewed an open multilateral trade and investment system as a strong impulse to development, and thus as an important element in the fight against international terrorism.³⁸⁶ Schorlemer also points to Germany, which increased not only its budget for defense in response to 9/11, but also an increased budget for economic development and cooperation.³⁸⁷ Similar initiatives have been advanced by the office of the Secretary-General of the United Nations Kofi Annan, who stated that, “[n]o one in this world

³⁸³ Gurr, *supra* note 58.

³⁸⁴ Schorlemer, *supra* note 142, at 267.

³⁸⁵ *Id.*

³⁸⁶ Donald J. Johnston, *Preface*, OECD ANNUAL REPORT 5–6 (2002), <https://www.oecd.org/about/2080175.pdf>.

³⁸⁷ Schorlemer, *supra* note 142, at 276 n.7.

can feel comfortable, or safe, while so many are suffering and deprived,” thus reasoning why increased financial aid to reduce extreme poverty being utilized as a motivation for terrorism.³⁸⁸

Directing efforts toward economic solutions relies on the rationale that with greater economic stability, or when communities have reduced the gap between expectations and economic reality, they will not fall prey to extremism. It postures that economically stable communities will contentedly pursue profitable enterprises, avoid destabilizing extremist dialogs and eschew terrorist-level violence (and inevitable counter-measures) that would deprive them of economic security. This is particularly likely if the aid is in the form of sustainable development (rather than mere gift), which provides those communities with expectations that positive economic situational factors will continue to flourish and allow groups to take ownership of a growing local economy.

Economic stability plays an important role in building stable communities and fighting terrorism; however, it is often looked upon, or treated as, a cure-all amongst causal approach theorists.³⁸⁹ The lure of an economic solution, or a twenty-first century Marshall plan,³⁹⁰ as a pragmatic means of simply paying the bill and relieving the international community of further obligation is politically compelling, as it relieves stakeholders of addressing the more arduous and complicated tasks of dispute resolution and addressing the drivers of socio-political insecurity. However, standing alone without addressing other indicia of radicalization, it is insufficient. Not all causes of radicalization are economically based, nor is the

³⁸⁸ BBC News, *Poverty 'Fueling Terrorism'*, BBC NEWS (Mar. 22, 2002), <http://news.bbc.co.uk/2/hi/1886617.stm>; see also Martin Khor, *UN Strategy to Fight Terrorism*, GLOBAL TRENDS (Mar. 14, 2005), <http://www.twn.my/title2/gtrends46bl.htm> (stating that one of the strategies to fight terrorism is to develop state capacity especially in aiding poor countries).

³⁸⁹ See Craig Hall, *The Wake Up Call of Terrorism*, 36 INT'L LAW. 125, 127–129 (2002) (discussing how some scholars put significant emphasis on reduction of poverty, debt relief and even dollar policies as solutions to terrorism).

³⁹⁰ Dick Bell & Michael Renner, *A New Marshall Plan? Advancing Human Security and Controlling Terrorism*, WORLD WATCH INST. (Jan. 7, 2002), <http://www.worldwatch.org/new-marshall-plan-advancing-human-security-and-controlling-terrorism>.

aid received alone usually sufficient to bring about socially transformative change.

Moreover, economic relief is dwarfed by expenditures directed toward security,³⁹¹ rendering it comparatively as tokenism. This is not lost on at risk communities. Additionally, aid is seldom applied in a targeted manner directed at those most at risk for radicalization. Of course, aid is properly directed at communities in need, susceptible to radicalization or not, because of its larger mandate of relieving poverty generally. However, provision of foreign aid has a placebo effect on states who tend to ignore other more complex sources of extremism. Also, provision of aid, even by states for domestic economic development and sustainability, tends to be diverted by corruption of national and local elites. In Thailand, national government efforts toward causal economic incentives during the early 2000's were diverted from common people and retained by the local economic elites,³⁹² who were not seen as adequately representing the Malay-Muslim population and the initiative failed miserably.³⁹³

Efforts to combat extremism via economic relief, including favorable trade incentives, must be targeted to at risk communities suffering economic deprivation and requires a perspective from the bottom-up mirroring terrorist recruitment. Analysis of local economies must be conducted in the relevant areas from the perspective of ordinary persons, not elites, in order to specifically target their needs as they are the source population most likely to be recruited to extremist groups. Provision of agricultural needs such as farm machinery or draft animals, low interest loans or grants for the development of small businesses and the provision of adequate infrastructure to create economies of scale are essential. Market studies must be locally centered from this perspective and take into account shifting trends in the local marketplace, including needs and opportunities. This can then be translated into pragmatic government action and targeted international investment and aid to

³⁹¹ For example, the cost of the Iraq war significantly exceeded the combined costs for ending world hunger, eradicate HIV/AIDS, provide child immunization, and to provide infrastructure for clean water and sanitary sewage systems throughout the developing world. *See* Kielsingard, *supra* note 98, at 294.

³⁹² MCCARGO, *supra* note 189, at 9, 184.

³⁹³ *Id.* at 184.

build sustainable communities and the collective community interests in building the local economy. The exact mechanical features of the market analysis and economic action plans are beyond the scope of this article, but radicalization-prevention requires that they are people-centric (not institution-centric), location specific, adopt a bottom-up strategy, safeguard against corruption and act in tandem with other targeted studies of societal insecurity emanating from non-economic sources. It is also important not to exaggerate economic conditions as the sole driver of extremism as it tends to create inertia in other important societal insecurity drivers.

b. Cultural/Social Insecurity

Perceived attacks on core cultural and social institutions are a key driver of extremism. Such attacks can be directed against a group's language, religious practices, customs, education policies, marriage practices and other social traditions. Deprivation of these cultural icons constitute violations of multiple human rights norms, including the right to a culture,³⁹⁴ religious freedom,³⁹⁵ right to marriage and a personal life,³⁹⁶ etc. Affected group members under attack are made to feel that their social identity is unfairly being eroded, which strikes at the heart of their social identity and creates profound uncertainty and social insecurity. Furthermore, these attacks are often rightly perceived as efforts to assimilate groups within the greater polity. Frequently, this assimilation is of a forced radical character.

Modern examples of state attacks on minority group indicia of social and cultural identity are numerous. In China, Uighur

³⁹⁴ International Covenant on Economic, Social and Cultural Rights art. 15, Dec. 16, 1966, 993 U.N.T.S. 3; International Covenant on Civil and Political Rights art. 27, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171.

³⁹⁵ International Covenant on Civil and Political Rights art. 18, art. 27, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171.

³⁹⁶ International Covenant on Economic, Social and Cultural Rights art. 10, Dec. 16, 1966, 993 U.N.T.S. 3; International Covenant on Civil and Political Rights art. 23, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171.

populations suffer economic deprivation,³⁹⁷ personal insecurity deprivation (from overzealous law enforcement ironically predicated on controlling terrorism³⁹⁸), political insecurity (from under representation in the Uighur autonomous region³⁹⁹), and also, perhaps more core to their personal identity, attacks on the essence of their cultural and social identity. Such attacks include government incentivized Han migration to Xinjiang province to dilute Uighur identity,⁴⁰⁰ forced mandarin education in schools⁴⁰¹ school bans on observing Ramadan⁴⁰² financial incentives for Han to marry Uighurs and register their children as Han.⁴⁰³

The Beijing government is apparently bent on radical assimilation of the Uighur population into the larger Han polity, and incorporates various strategic law enforcement policy to enforce these objectives.⁴⁰⁴ Thus, the Chinese have adopted a radical securitization approach to counterterrorism, which arguably underlies latent state objectives of radical cultural and social assimilation.⁴⁰⁵ Moreover, this can be accurately described as an existential threat region as there is no apparent flexibility in the Chinese objectives. The domestic policy has relatively little impact in China, but increasingly greater impact abroad, as members of the

³⁹⁷ Lim, *supra* note 293; *see also* DILLON, *supra* note 293, at 75.

³⁹⁸ Including such policies as the “strike hard” directed at Uighur populations, *see* HUMAN RIGHTS WATCH, *supra* note 130; retaliatory measures in response to protests described as high-handed and disproportionate, *see* Roberts *supra* at note 135, at 27; leading to the arrest of at least 4,000 Uighurs, *see* Kathrin Hille, *Xinjiang Widens Crackdown on Uighurs*, FINANCIAL TIMES (July 18, 2009), <http://politics.people.com.cn/GB/14562/9678322.html>.

³⁹⁹ Gardner Bovington, *Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent*, 11 EAST-WEST CENTER WASHINGTON POLICY STUDIES 13 (2004), <http://www.esatwestcenter.org/filead-min/stored/pdfs/PS011.pdf>.

⁴⁰⁰ TYLER, WILD WEST CHINA, *supra* note 293, at 186.

⁴⁰¹ *Tongue-tied: Teaching Uighur Children in Mandarin Will Not Bring Stability to Xinjiang*, THE ECONOMIST (June 27, 2015), <http://www.economist.com/news/china/21656216-teaching-uighur-children-mandarin-will-bring-stability-xinjiang-tongue-tied>.

⁴⁰² *Id.*

⁴⁰³ TYLER, WILD WEST CHINA, *supra* note 293, at 159–62.

⁴⁰⁴ Kielsingard & Tam, *supra* note 7.

⁴⁰⁵ *Id.*

Uighur population have been found overseas formulating attacks both in Asia⁴⁰⁶ and the Middle East.⁴⁰⁷

Nor is China singular in snowballing terroristic activity predicated on the deprivation of cultural and social rights. Historically, the Iranian revolution of 1979 took place, in part, as a response to a thoroughly Westernized dictator⁴⁰⁸ who was seen as not reflecting the culture of the Iranian people.⁴⁰⁹ In the Arab spring movement the rebels have overcompensated by principally adopting conservative fundamentalism as a rallying point for insurrection.⁴¹⁰ Moreover, with the introduction of ISIS in the Syria/Iraq Theater, calls for traditional belief systems and a return to radical Islamic fundamentalism is prevalent.⁴¹¹ Deprivation of cultural and social rights polarizes communities, which provides for extremist groups to gain a foothold amongst affected populations.

In Thailand, the military government recently adopted a new constitutional provision for the protection of Theravada Buddhism,⁴¹² by far the largest faith practiced in that country.⁴¹³ The constitutional provision also prohibits practices that conflict with the

⁴⁰⁶ *Id.*

⁴⁰⁷ *Id.*

⁴⁰⁸ SHELDON ANDERSON & OTHERS, INTERNATIONAL STUDIES: AN INTERDISCIPLINARY APPROACH TO GLOBAL ISSUES 360 (2014).

⁴⁰⁹ *See id.* at 322.

⁴¹⁰ It has been observed that states like Libya, Iraq and Egypt experienced wars with strong Islamic fundamentalist groups after Obama stopped the “lesser evil” priority. *See* FABIO FOSSATI, INTERESTS AND STABILITY OR IDEOLOGIES AND ORDER IN CONTEMPORARY WORLD POLITICS 164 (2017).

⁴¹¹ Joseph Daher, *Marxism, the Arab Spring, and Islamic Fundamentalism*, INT. SOCIALIST REV., <https://isreview.org/issue/106/marxism-arab-spring-and-islamic-fundamentalism> (last visited June 1, 2018).

⁴¹² CONSTITUTION OF THE KINGDOM OF THAI, Apr. 6, B.E. 2560 (2017) 67, [Unofficial English Translation], <http://www.krisdika.go.th/wps/wcm/connect/d230f08040ee034ca306af7292cbe309/CONSTITUTION2560.pdf?MOD=AJPERES&CACHEID=d230f08040ee034ca306af7292cbe309>.

⁴¹³ Thailand’s population is estimated to be 85 to 95 percent Theravada Buddhist and 5 to 10 percent Muslim. *See International Religious Freedom Report for 2016: Thailand*, U.S. DEPT. OF STATE, <https://www.state.gov/documents/organization/256357.pdf>.

correct teachings of this faith in any form.⁴¹⁴ This provision loosely mimics the blasphemy laws in Indonesia,⁴¹⁵ which has toppled moderate politicians⁴¹⁶ and fueled greater discrimination against non-Sunni Muslims.⁴¹⁷ Malay-Muslims in southern Thailand overwhelmingly voted against the provision⁴¹⁸ out of fear that its inclusion in the new constitution would provide legal authority for increased and systematic discrimination against them based on their religious faith.⁴¹⁹ Though not at the level of an existential threat, this legislative action is likely the cause for violent increased terrorist activity in Thailand.⁴²⁰

Though some indicia of state practice discriminating against the culture of minority groups is obvious, the extent of its impact is largely understudied and other indicia of this genus of societal

⁴¹⁴ See Section 67, stating that “the State . . . shall have measures and mechanisms to prevent Buddhism from being undermined in any form.” CONSTITUTION OF THE KINGDOM OF THAI, *supra* note 413.

⁴¹⁵ According to 1965 Presidential Decree No. 1/PNPS/1965 on the Prevention of Blasphemy and Abuse of Religions, it carries a maximum prison sentence of five years. See AMNESTY INTERNATIONAL PROSECUTING BELIEFS: INDONESIA’S BLASPHEMY LAWS, 11–12 (2014), https://www.amnestyusa.org/files/_index-_asa_210182014.pdf.

⁴¹⁶ Christian Jakarta Governor Ahok was cited and ultimately convicted of Blasphemy when, during a re-election campaign, he cited a passage of the Koran as support for his arguments that Muslims were not prevented from voting for non-Muslim candidates. See Ben Westcott, *Jakarta Governor Ahok Found Guilty in Landmark Indonesian Blasphemy Trial*, CNN (May 10, 2017), <http://edition.cnn.com/2017/05/09/asia/ahok-trial-verdict/index.html>.

⁴¹⁷ Kielsingard & Tam, *supra* note 7.

⁴¹⁸ Mong Palatino, *Thailand’s New Constitution: A Threat to Religious Freedom*, THE DIPLOMAT (Sept. 2, 2016), <http://thediplomat.com/2016/09/thailands-new-constitution-a-threat-to-religious-freedom/>.

⁴¹⁹ Thai scholar Khemthong Tonsakulrungruang argued that it would lead to “thought crime allegations” and “curb freedom of expression and freedom of religious minorities.” *Id.* See also *Thailand: Activists, Journalist Arrested for Vote-No Campaign*, HUMAN RIGHTS WATCH (July 12, 2016), <https://www.hrw.org/news/2016/07/12/thailand-activists-journalist-arrested-vote-no-campaign>.

⁴²⁰ After the King of Thailand signed the new constitution violence spread throughout southern Thailand. See Panarat Thepgumpanat & Patpicha Tanakasempipat, *Wave of attacks across southern Thailand after new constitution signed*, REUTERS (Apr. 7, 2017), <https://www.reuters.com/article/us-thailand-south-attacks/wave-of-attacks-across-southern-thailand-after-new-constitution-signed-idUSKBN17908H>.

insecurity is not widely known. A causal approach enlists the assistance of cultural anthropology, *inter alia*, and the use of ethnographies to shed further light on these issues. It also fits well into the New Haven framework by assessing the claims and conditioning factors leading to trends in decision-making and providing a scientific basis for identifying potential strategic policy remedies.

c. Personal Safety Insecurity

Another potent source of insecurity is lack of personal safety and physical integrity. The sources of personal safety insecurity arise from state and non-state actors. Insecurity from non-state actors arise from, *inter alia*, non-international armed conflicts (NIAC), riots, disturbances, etc. including from terrorist and non-terrorist groups alike. In Syria, for example, grave personal insecurity abounds and will be beyond rectification until the NIAC is resolved, which constitutes an existential threat. A causal approach during times of armed conflict is of limited utility except under the integrated approach and ultimately after the conflict has ended. Personal safety insecurity can also arise from threats from non-state actor radicalized groups, direct or implicit, to members who retain a non-violent status when there is no NIAC.

During peacetime, personal safety insecurity from state actors and non-state actors such as local elites or organized crime syndicates, emanate from discriminatory law-making, executive strategic policy and lack of rule of law. In many situations insecurity emanates from weak rule of law and is authored by local political or economic elites with a resultant paucity of transitional justice inspired law enforcement for the poor and impunity for elites. In their book, “The Locust Effect: why the end of poverty requires the end of violence,” authors Haugen and Boutros theorize that “the poor live in a state of de facto lawlessness”⁴²¹ and “there is no higher-priority need with deeper and broader implications than the provision of basic justice systems that can protect [the poor] from

⁴²¹ GARY A. HAUGEN & VICTOR BOUTROS, *THE LOCUST EFFECT: WHY THE END OF POVERTY REQUIRES THE END OF VIOLENCE* xiii (2014).

the devastating ruin of common violence.”⁴²² Haugen and Boutros further observe that, “when the colonial powers left the developing world a half century ago, many of the laws changed but the law *enforcement* systems did not – systems that were never designed to protect the common people from violence but to protect the regime from the common people.”⁴²³ Drawing largely upon ethnographies in affected regions, Haugen and Boutros conclude that the lack of the rule of law results in “the productive capabilities lost, the earnings potential stolen, the confidence and well-being devastated by trauma, the resources ripped away from those on the edge of survival and poured instead into the pockets of predators.”⁴²⁴ Yet, international efforts are seemingly immune to these important considerations. Haugen and Boutros found that of US foreign aid spending, only “between 1 and 2 percent of foreign assistance funds are directed towards programming that might have a direct impact on protecting the poor from common criminal violence.”⁴²⁵

State sanctioned personal insecurity also occurs when strategic public policy targets domestic at risk groups through national law enforcement/military mechanisms for uneven enforcement. Examples include the vigilante inspired war on drugs in the Philippines⁴²⁶ concurrent to the war on terrorism ongoing in the Mindanao region.⁴²⁷ Duterte’s war on drugs mirrors the earlier war on drugs in Thailand.⁴²⁸ Unjustified crackdowns on law enforcement, perpetuated unfairly, can also be seen, *inter alia*, in

⁴²² *Id.* at xiv.

⁴²³ *Id.*

⁴²⁴ *Id.* at xiii.

⁴²⁵ *Id.* at 285.

⁴²⁶ See Mikaela Y. Medina, *Extrajudicial Punishments to Combat the Philippine Drug War: Problem or Solution?*, 14 LOY. U. CHI. INT’L L. REV. 155, 158–60 (2016).

⁴²⁷ Dempsey Reyes, *Govt Death Roll in Marawi Hits 105*, THE MANILA TIMES (July 23, 2017), <http://www.manilatimes.net/govt-death-toll-marawi-hits-105/340071/>.

⁴²⁸ Dabhoiwala, *supra* note 376.

Libya under Quadaffi,⁴²⁹ Xinjiang province in China⁴³⁰ and Syria under Assad.⁴³¹ In each of these situations groups are targeted and collective punishment is the rule.

Being directly targeted (or as collateral victims) during NIAC's by government or rebel groups, or victimized by localized power-elites under a criminal justice system which provides impunity for elites and lack of closure for non-elites, or being targeted by state (and private) law enforcement or security apparatus based on group membership gravely impacts individual sense of uncertainty and insecurity providing them with a contextually rational basis for seeking protection from violently extreme sub-groups.

d. Political Insecurity

Buzan articulated that the state is the principle source from which people obtain security.⁴³² Population clusters which view their government as not representing their interests, or are actively targeting them and their institutions/cultural icons or are aligned with foreign powers tend toward increased radicalization. Political insecurity inures to the unfair treatment model as a powerful driver for radical group membership. Thus, political insecurity is a predominant factor to group radicalization.⁴³³

This issue is of great concern to the Non-Aligned Movement (NAM), a group of those developing states that have no binding

⁴²⁹ Amnesty International, *Libya of Tomorrow: What Hope for Human Rights?*, AMNESTY INT'L (June 23, 2010), <https://www.amnesty.org/en/documents/MDE19/007/2010/en/>.

⁴³⁰ See generally Michael Clarke, *Widening the Net: China's Anti-Terror Laws and Human Rights in the Xinjiang Uyghur Autonomous Region*, 14 INT'L J. HUM. RTS. 542 (2010).

⁴³¹ See Syrian Network for Human Rights, *Targeting Christian Places for Worship in Syria* <https://63%havebeentargetedbygovernmentforces.com/>, SYRIAN NETWORK FOR HUM. RTS. (2015), https://reliefweb.int/sites/reliefweb.int/files/resources/Targeting_churches_in_Syria_en.pdf.

⁴³² See generally BUZAN, *supra* note 28.

⁴³³ In the Policy-Oriented Jurisprudence framework, lack of political power-sharing negatively impacts nearly all of the human value sets including power, wealth, rectitude, respect, and well-being. See Wiessner, *supra* note 346, at 51.

alliances with elite industrialized states.⁴³⁴ Though organized during the Cold War⁴³⁵ in common cause against neo-colonialism, proxy Wars and the inevitable consequences of the geopolitical “domino theory” this group represents 120 states.⁴³⁶ In 2015, during the 70th session of the General Assembly before the Sixth Committee the issue of defining terrorism took center stage in its discussion on “measures to eliminate international terrorism.”⁴³⁷ Speaking for NAM, representatives for the Islamic Republic of Iran postulated that a definition would exclude those in “. . . the legitimate struggle of peoples under colonial or alien domination and foreign occupation, for self-determination and national liberation.”⁴³⁸ These sentiments were echoed by the representative of Malaysia, agreeing with Laos and speaking for the ASEAN group of states who called for a clear distinction between terrorism and “. . . the legitimate acts of resistance to foreign aggression and the struggle of peoples under colonial or alien domination . . .”⁴³⁹ While assessing the potential bias of the Iranian representative and the then-president of NAM, Iranian President Gholamali Khoshroo, their remarks can be perceived, at least to extremist groups, as a conditional justification of terrorist acts if perpetrated against foreign aggressors. This is a departure from the G.A. Resolution 3034 which focuses not only on

⁴³⁴ See NAM, *The Non-Aligned Movement: Description and History*, MINISTRY OF FOREIGN AFFAIRS OF THE ISLAMIC REPUBLIC OF IRAN, <http://namiran.org/brief-history-of-the-non-aligned-movement-4/> (last visited June 1, 2018).

⁴³⁵ *Id.*

⁴³⁶ See MEA Gov., *Members and other Participants of NAM Movement*, MEA, <https://www.mea.gov.in/Images/pdf/Members-and-other-participants.pdf> (discussing NAM movement’s categories of participation).

⁴³⁷ *Seventieth Session, Measures to Eliminate International Terrorism (Agenda Item 108)*, THE UNITED NATIONS, http://www.un.org/en/ga/sixth/70/int_terrorism.shtml (last visited June 1, 2018).

⁴³⁸ Press Release, General Assembly, Sixth Committee, Speakers Stress Measures to Combat Terrorism Must Not Diverge from International Law, U.N. Press Release GA/L/3496 (Oct. 12, 2015) <https://www.un.org/press/en/2015/gal3496.doc.htm>.

⁴³⁹ H.E. Ambassador Ramlan Ibrahim, Statement on Agenda Item 108: Measures to Eliminate International Terrorism (Oct. 12, 2015), https://www.un.int/malaysia/sites/www.un.int/files/Malaysia/70th_session/2015-10-12_-_12_oct-6th_com.pdf.

foreign aggression but also on other conditions of life (misery, frustration, grievance and despair). On the other hand, the Malaysian representative also called for a “. . . multifaceted approach in combating terrorism . . . by addressing the root causes and underlying contributory factors that support terrorism.”⁴⁴⁰ Thus, there seems some continuity with the developing world’s view on counterterrorism and the policy considerations incumbent to it.

Though due regard must be given to these consideration as well as the observations of the Pape survey and the stated mandate of the al Qaeda, the flaws of the NAM observations consist of its reliance on historical grievances that lack credible contemporary application in many circumstances. The changing conditions in the post-Trustee and post-Cold War era are not adequately reflected in its assumptions. In many cases the struggle of peoples are not against foreign aggressors but the unwillingness of domestic states to provide self-determination and political power sharing to groups within their own polity, or on the other hand, state acquiescence to radicalized majority groups and their failure to assert leadership to encourage pluralism. The caveat to this is that Western/industrialized powers aligned with some offending local state governments are also sometimes targeted as a common enemy. Nonetheless, the Arab spring, for example, was not a movement specifically directed at foreign aggression *per se*, but at domestic political grievances against state leadership, which provides an environment where radical groups can gain a foothold with domestic populations that share a common cultural or ideological perspective. In many cases in East and Southeast Asia the authors of group political deprivation are the “near enemy”⁴⁴¹ or state government. In some cases the affected groups work in concert with foreign powers such as the NATO involvement in Libya,⁴⁴² or have expressed willingness to refrain from targeting Western countries or expressed

⁴⁴⁰ *Id.*

⁴⁴¹ ACHARYA, *supra* note 23, at xvi.

⁴⁴² Robert Winnett, *Libya: al-Qaeda Among Libya rebels, NATO Chief Fears*, THE TELEGRAPH (Mar. 29, 2011), <https://www.telegraph.co.uk/news/worldnews/africaandindianocean/libya/8414583/Libya-al-Qaeda-among-Libya-rebels-Nato-chief-fears.html>.

desire to win sympathy from Western states such as in Thailand.⁴⁴³ Thus, the NAM organization fails to turn the lens on domestic actions of their own membership.

As stipulated above, political insecurity inures to principles of the Unfair Treatment Model as sectarian population clusters perceive their interests and opinions are not fairly represented by the state power structure. A causal approach calls for identifying the self-determination ambitions of each relevant group and working toward peaceful resolution of those politico-social grievances. However, these considerations are essentially localized and international organizations can play only the minimal role of facilitator and mediator owing to state sovereignty considerations.⁴⁴⁴ Nonetheless, international organizations need to play a greater role in brokering domestic peace agreements and political power sharing and place heightened emphasis on mediating affected states toward those ends from a counterterrorism perspective rather than exporting emphasis on securitization approaches.⁴⁴⁵ The importance of resolving sectarian disputes for counterterrorism can hardly be exaggerated, as it is a chief causation for extremism.

Principle front venues which pose an existential threats are more problematic. The Israeli Palestinian conflict carries great traction within the Middle Eastern and North African theaters. It has not proven amenable to peaceful resolution and has served as a stormy petrel for violent radicalization. Yet its failure to carry traction to Muslim extremist groups geographically removed from the region is fortuitous. However, the core existential threat has to a certain degree evolved into the ISIS mandate of the establishment of radical Islamic states generally⁴⁴⁶ (rather than merely the destruction of Zionism), or even political power sharing of sectarian groups. This

⁴⁴³ Shawn W. Crispin, *Islamic State in Thailand: A Phantom Threat?*, THE DIPLOMAT (Mar. 4, 2016), <http://thediplomat.com/2016/03islamic-state-in-thailand-a-phantom-threat/>.

⁴⁴⁴ UN Charter Article 2 provides that “Nothing . . . shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state.” U.N. Charter art. 2, ¶ 7.

⁴⁴⁵ *Contra* ACHARYA, *supra* note 23, at 32 (stipulating that Singapore has adopted the securitization approach consistent with US initiatives, though some other regional governments have resisted that approach).

⁴⁴⁶ *See generally* Bunzel, *supra* note 181.

mandate implies the violent overthrow of non-conforming states for the ascendance of radical Islamic governance and promises greater violence through increased martial conflict and/or heightened terrorist activity. This powerful message has resonated even in venues less concerned about Zionism⁴⁴⁷ as its inclusiveness is seen to apply to distant regions with significant Muslim population clusters.⁴⁴⁸ This should serve as an impetus to greater efforts, from international and domestic actors, to resolve ongoing disputes of a political character and seek political solutions based on negotiated concessions and consensus building.

CONCLUSION

Terrorism, like ordinary criminality, has always existed in society and efforts to completely eradicate it are overly optimistic and will ultimately fail. Intuitively, counterterrorism policy should aim to reduce terror-related violence to the greatest extent possible. This requires *bona fide* policy efforts to reduce terror recruitment by reducing extremist dialog and its resonance among neutral and bystander population clusters. Historically, particularly amongst western legal scholars and criminologists,⁴⁴⁹ the deterrence theory evolved as an important justification for assuaging individual criminality.⁴⁵⁰ However, the crime of terrorism is a group crime and requires a modified conceptual paradigm addressing the perceived legitimacy of the socio-political legal order consistent with relevant scholarly assumptions under law compliance theory. Distinguishable from ordinary or individual criminality, it is far more susceptible to psychological forces and the human need for certainty incumbent to group identity.⁴⁵¹ When this identity is

⁴⁴⁷ See SAMUEL, *supra* note 205, at 39–43.

⁴⁴⁸ *Id.* at 28.

⁴⁴⁹ Specter, *supra* note 305, at 751–54; *see also* DEPARTMENT OF DEFENSE, DETERRENCE OPERATIONS: JOINT OPERATING CONCEPT VERSION 2.0 (2006), http://www.jcs.mil/Portals/36/Documents/Doctrine/concepts/joc_deterrence.pdf?ver=2017-12-28-162015-337.

⁴⁵⁰ Michele Cotton, *Back with a Vengeance: The Resilience of Retribution as an Articulated Purpose of Criminal Punishment*, 37 AM. CRIM. L. REV. 1313, 1315–18.

⁴⁵¹ Stern, *supra* note 27.

threatened it serves as a principle driver of extremism. Co-existent with the group and/or sub-group identity is the influence of national government, from which, in accordance with Buzan's theory,⁴⁵² security is derived for disparate communal groups at large. When there is disconnect between the national polities (and other states and international organizations), and the sub-group, reactionary extremism will develop and result in terrorist activity.

Failures of national governments to account for group identity in domestic or foreign policy gives rise to situational factors⁴⁵³ (conditioning factors⁴⁵⁴) that lead to evolving extremist entitativity⁴⁵⁵ of groups and the radicalization of group members. These factors are commonly within the power of domestic or international power-brokers to offset, except perhaps in existential threat regions, but are politically difficult to put into place. Dispositional factors⁴⁵⁶ are more difficult to address but are tertiary to counterterrorism because without pre-existing radicalized groups, persons with dispositions conducive to criminality would otherwise default to ordinary criminality, or no criminality, out of fear of sanctions, and not reach the level of violence, via group reinforcement, seen in well-organized, para-military style terrorist violence and the sublimation of individual interests to group interest.⁴⁵⁷ General deterrence and conventional normative social pressure to act lawfully, aimed at individual well-being, is ineffectual against group crimes regardless of how heightened state securitization becomes.

⁴⁵² See generally BUZAN, *supra* note 28.

⁴⁵³ See Roth, *supra* note 74, at 199 (noting how “the ‘situation’ in which one finds oneself . . . [is] a highly reliable predictor of behaviour” and “situational variables most often prove determinative of individual and group behaviors.”).

⁴⁵⁴ See Wiessner, *supra* note 346, at 49. (discussing conditioning factors under the New Haven framework).

⁴⁵⁵ See Campbell, *supra* note 46, at 17–18 (discussing concept of “entitativity” and the “factors which lead discrete elements to be perceived as parts of a whole organization, and which determine the organization they will be perceived as parts of”).

⁴⁵⁶ Roth, *supra* note 74, at 199; Vanderbeeken & Weber, *supra* note 147, at 46.

⁴⁵⁷ CROSSETT & SPITALETTA, *supra* note 150, at 22 (discussing Group Dynamics theory).

Indeed, as securitization measures become more intensified, extremism becomes aggravated and provides rational-choice alternatives sounding in violence even amongst members of the at risk population without dispositions conducive to criminality and who would normally reject extremist motivated violence. Typically, the greater the securitization approach the more violent the response and the easier it becomes to recruit new members to violent sub-groups. Yet the military/law enforcement model is necessary for retributive justice and to deter state support/sponsorship of terrorism, which arguably has achieved some success. Few states will openly support/sponsor terrorist groups since Afghanistan's Taliban government was ousted. Unfortunately, abuses in Afghanistan and the subsequent ill-conceived war in Iraq (and its well-publicized abuses) have led to a reactionary renaissance in jihadist terrorism culminating in unprecedented recruitment,⁴⁵⁸ belief that the war on terrorism is a war on Islam, and the development of the (most potent) threat from the ISIS group. It's as if international and domestic policy-makers were reading from the terrorist's playbook.

Thus, never has there been a greater need to holistically root out the terror problem and moderate the narrative of at risk groups and sub-groups. The causal model provides a bi-furcated approach designed to one, avoid abuses in military/law enforcement actions to stop the hemorrhaging of good will amongst neutral/bystander group members (under the integrated component), and; two, to address the socio-political-economic causation of extremism (under the standalone component). The causal model adopts a perspective that accounts for the guidance of the social identity theory,⁴⁵⁹ the uncertainty⁴⁶⁰ and unfair treatment⁴⁶¹ models and the relative deprivation theory.⁴⁶² It is a model that avails itself of the New Haven or policy oriented framework⁴⁶³ which is flexible enough to

⁴⁵⁸ Strozier, *supra* note 125, at 30–32.

⁴⁵⁹ See generally Tajfel & Turner, *supra* note 36.

⁴⁶⁰ Hogg & Blaylock, *Preface to EXTREMISM AND THE PSYCHOLOGY OF UNCERTAINTY*, *supra* note 31, at xv–xxv (providing an overview of the interplay between uncertainty and extremism).

⁴⁶¹ Bos & Loseman, *supra* note 54, at 71–85.

⁴⁶² GURR, *supra* note 58, at 24.

⁴⁶³ See generally Wiessner, *supra* note 346.

incorporate the guidance of a variety of methodologies to reflect its process as a merger of law, social science and politics.⁴⁶⁴ It also focuses on radicalization-prevention to reduce recruitment. It does not focus on de-radicalization, which is largely a hopeless endeavor as those already radicalized are beyond reach owing to the irresistible influences noted in the social network theory⁴⁶⁵ and group dynamic theory.⁴⁶⁶ With its mandate of reducing recruitment, the causal model directs its attention toward neutral and bystander populations (the largest pool for terror recruitment⁴⁶⁷) to moderate the group identity and to create disapproval of those who degenerate into terrorist level violence, instead of providing them positive reinforcement. The ultimate goal is that members of at risk groups who subscribe to terrorist level violence would be seen as outcasts and group norms would be moderated, pluralistic and grounded in assumptions of pacific dispute resolution.

Under the integrated component, this model would halt the exportation of the current securitization approach by moderating existent procedures that intrude on internationally recognized human rights norms. Particular emphasis goes to removing guilt by association (as seen, *inter alia*, in various editions of so-called “wars on drugs”⁴⁶⁸), foreign overreaching⁴⁶⁹ and abusive practices (such as those witnessed during the Iraq conflict.)⁴⁷⁰ It is also essential to renew efforts at peaceful negotiations in conflict zones and greater scrutiny of *jus in bello* principles⁴⁷¹ including, *inter alia*, the

⁴⁶⁴ *Id.* at 47–54 (discussing principles and procedures of New Haven framework).

⁴⁶⁵ CROSSETT & SPITALETTA, *supra* note 150, at 16, 22.

⁴⁶⁶ *Id.* at 22.

⁴⁶⁷ Moghaddam, *supra* note 96, at 161.

⁴⁶⁸ *See* Lamb, *supra* note 133.

⁴⁶⁹ *See* PAPE, DYING TO WIN, *supra* note 83, at 19–42 (discussing the role of foreign occupation in suicide terrorism).

⁴⁷⁰ *See* ICRC Report, *supra* note 236 (providing examples of violations of International Humanitarian Law in Iraq).

⁴⁷¹ *See, e.g.*, Hague Convention, II, *Laws and Customs of War on Land* (July 19, 1899); Geneva Convention, III, *Relative to the Treatment of Prisoners of War*, 75 U.N.T.S. 135 (Aug. 12, 1949).

principles of distinction,⁴⁷² necessity,⁴⁷³ proportionality⁴⁷⁴ and principles of humanity and perfidy.⁴⁷⁵ These are state obligations under international customary law⁴⁷⁶ and treaty law,⁴⁷⁷ but greater scrutiny of state wrongful acts in this regard is necessary, including accountability for those who violate these basic norms. Moreover, these norms should be rebranded as counterterrorism measures as the UN Security Council has evinced a willingness to impose mandatory provisions in support of counterterrorism measures⁴⁷⁸ and would serve to counter-balance the securitization approach. Thus, not only international human rights law is linked with terrorism, as stipulated in the Vienna Declaration,⁴⁷⁹ but from a causal perspective international humanitarian law is also expressly linked.

Under the standalone component of the causal model, this approach calls for an application that is intellectually-based, localized and evolutionary. It calls for a multi-disciplined, practical approach and calls on states to go beyond tokenistic public relations, education initiatives and uneven support for civil society organizations. To do so, studies must be individually tailored to

⁴⁷² *Protocols Addition to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 1125 U.N.T.S. 3, art. 48, 51(2), 52(2) (Adopted at Geneva on 8 June 1977) [hereinafter *Additional Protocol I*].

⁴⁷³ Gary D. Solis, *The Law of Armed Conflict: International Humanitarian Law in War*, CAMBRIDGE UNIV. PRESS 276, (2010) (The principle of necessity is described as “military necessity . . . [which] consists in the necessity of those measures which are indispensable for securing the ends of war, and which are lawful according to the modern law and usages of war.”).

⁴⁷⁴ *Additional Protocol I*, *supra* note 472 at art. 51.5(b), 57.2(a)(iii), 57.2(b).

⁴⁷⁵ *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, Preamble, 1125 U.N.T.S. 609 (June 8, 1977) [hereinafter *Additional Protocol II*].

⁴⁷⁶ For example, the principle of proportionality was confirmed by the International Court of Justice in *Nicaragua v. United States*. See *Case Concerning the Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America)*, 1986 I.C.J. REP. 14, 94 (1986).

⁴⁷⁷ For instance, the principle of humanity was included in the preamble of *Additional Protocol 2*. See *Additional Protocol II*, *supra* note 475.

⁴⁷⁸ See UNSC res. 1373, *supra* note 278.

⁴⁷⁹ Vienna Declaration and Programme of Action, *supra* note 273.

localized problem areas to provide targeted solutions to specific localized and diffuse insecurity drivers. This approach calls for targeted studies using a panoply of methodologies to identify the source of uncertainty in each specific at risk community relying on the insights of social psychology, sociology, cultural anthropology, *inter alia*, and to tally up the results to fashion intellectually or scientifically grounded counter-measures in law and policy aimed at social insecurity or precipitant causation. This data has never been adequately collected.⁴⁸⁰ Moreover, it requires a process of constant re-evaluation that is current to changing trends and conditioning factors to the extent that it maintains currency in (sometimes) rapidly changing group membership dynamics including degree of popularity, raw numbers, successful narratives and weightings of stratum of extremist within the at risk group. Thus, studies must be evolutionary to anticipate, or observe in a timely manner, changes to the support, means and membership motivations of the targeted groups instead of relying on reactionary, diffuse and ubiquitous deterrence based responses.

Most importantly, a causal approach must objectively identify and rectify the relevant sources of group insecurity/uncertainty by identifying the situational factors which erode group identity. These insecurity drivers can be structured into four broad categories: Economic, Cultural/Social, Personal Safety and Political. These categories provide a holistic structure for a thorough analysis and are indispensable, otherwise important situational factors would go unaddressed and extremism would persist.

It is noted that current economic remedies alone have proven ineffective because of tokenism, subversion of funds to local economic elites and because this is a lesser driver of extremism. Presently, though a significant uncertainty driver, states and scholars rely too narrowly on economics consistent with the relative deprivation theory⁴⁸¹ and place too much emphasis on aid as a remedy for extremism. Because of its relative ease of implementation, it serves as a placebo, which counter-productively

⁴⁸⁰ See SAMUEL, *supra* note 205, at 99, 116 (highlighting the “dearth of information and data on the triggers and drivers” of Daesh radicalization in the Philippines).

⁴⁸¹ See Gurr, *supra* note 58, at 24.

allows policy-makers to neglect other more compelling indicia of precipitant causation. Cultural/social insecurity drivers stem from latent and patent discrimination against social groups, typically minorities, and includes, *inter alia*, government-initiated attacks on minority religious practices, indigenous languages, and educational, marriage and religious institutions. It inures from efforts at various levels of assimilation of peoples' designed to facilitate loss of social group identity. Personal safety insecurity arises from state and non-state actors when governments fail to fulfill positive and negative rights to protect the personal integrity of persons, both in conflict zones and non-conflict zones, when populations, particularly poor populations, fall outside the protection of rule of law. Political insecurity drivers are the most profound catalyst of group extremism. Efforts for self-determination is the chief cause of terrorism. Sectarian disputes in autonomous, semi-autonomous and de-facto autonomous zones with contests over political power sharing tends to impact other insecurity drivers and serves as a rallying point for violent extremism. Genuine efforts to implement political power sharing and negotiated compromises to objectively resolve disputes are lacking both amongst industrialized and developing states.

While preemptive solutions of the causal model for limiting terrorist level extremism may appear daunting and politically challenging, its benefits can potentially reverse the downward spiral of the current counter-productive mono-polar approach, which has principally served to grow resentment, accelerate recruitment and provide righteousness to terrorist actors and support networks in at risk communities. Application of a causal model has the support of many scholars and state leaders and provides the greatest avenue for making a significant difference.