

Pan Am 103: Pros and Cons of the Law Enforcement Approach

Law enforcement is designed to put individuals behind bars, but is not a particularly useful tool for addressing actions by states. The Pan Am 103 case demonstrates the advantages and limitations of the law enforcement approach to achieve national security objectives. The effort to seek extradition of the two intelligence operatives implicated most directly in the bombing gained international support for economic sanctions that a more political approach may have failed to achieve. The sanctions and the resulting isolation of Libya may have contributed to the reduction

of Libya's terrorist activities. On the other hand, prosecuting and punishing two low-level operatives for an act almost certainly directed by Qaddafi is a hollow victory, particularly if the trial results in his implicit exoneration.

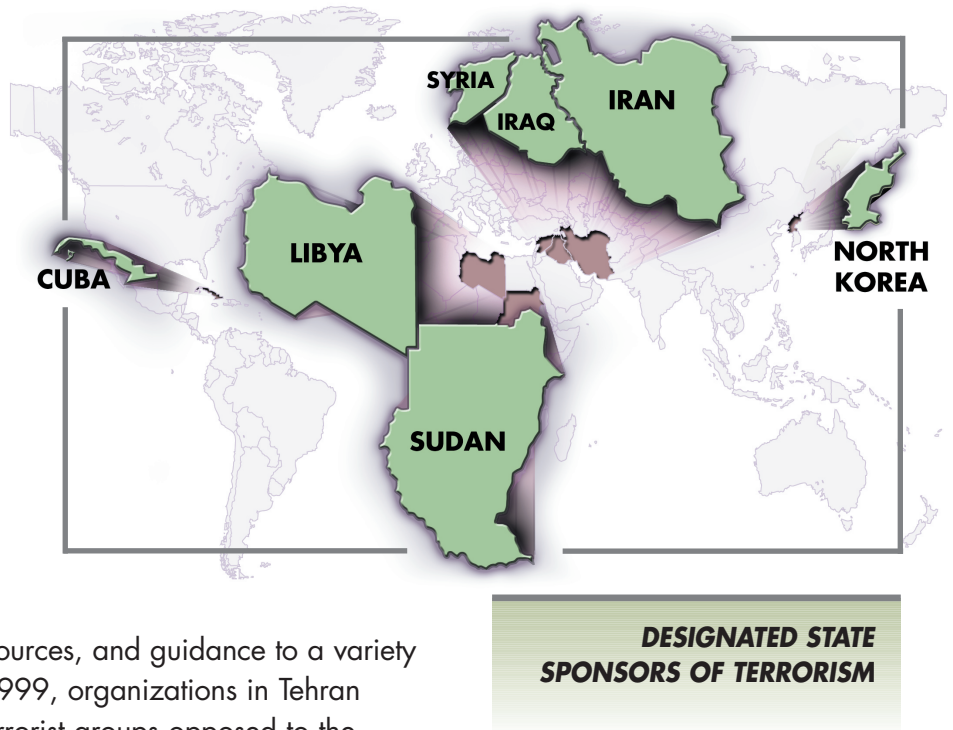


Strengthen Efforts to Discourage All State Support for Terrorism

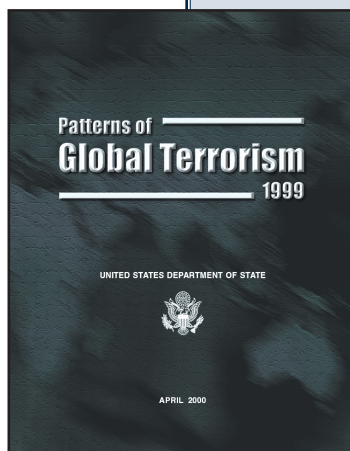
The United States should strengthen its efforts to discourage the broad range of assistance that states provide to international terrorists. A key focus of this initiative must be to reduce terrorists' freedom of movement by encouraging countries to stop admitting and tolerating the presence of terrorists within their borders. Nations should bar terrorist groups from activities such as training, recruiting, raising funds, or hiding behind political asylum.

Iran's support for terrorism conducted against American interests remains a serious national security concern. U.S. efforts to signal support for political reform in Iran could be misinterpreted in Iran or by U.S. allies as signaling a weakening resolve on counterterrorism.

Iran remains the most active state supporter of terrorism. Despite the election of reformist President Khatami in 1997, the Iranian Revolutionary Guard Corps and Ministry of Intelligence and Security have continued to be involved in the planning and execution of terrorist acts. They also provide funding, training, weapons, logistical resources, and guidance to a variety of terrorist groups. In 1999, organizations in Tehran increased support to terrorist groups opposed to the Middle East peace process, including Lebanese Hizballah and Palestinian rejectionist groups such as the Islamic Resistance Movement (HAMAS), the Palestine Islamic Jihad (PIJ), and the Popular Front for the Liberation of Palestine-General Command (PFLP-GC). Iran continues to assassinate political dissidents at home and abroad. The Iranians responsible for terrorism abroad are often also responsible for political oppression and violence against reformers within Iran. So a firm stance against Iranian-sponsored terrorism abroad could assist the reformers.



The Department of State's 1999 "Patterns of Global Terrorism" provides the following account of Iranian support for terrorism:



- Iran's security forces conducted several bombings against Iranian dissidents abroad.
- Iran has increasingly encouraged and supported—with money, training, and weapons—terrorist groups such as Hizballah, HAMAS, the PIJ, and Ahmed Jibril's PFLP-GC.
- Iran continues to provide a safehaven to elements of PKK, a Kurdish terrorist group that has conducted numerous terrorist attacks in Turkey and against Turkish targets in Europe.
- Iran also provides support to terrorist groups in North Africa and South and Central Asia, including financial assistance and training.

There are indications of Iranian involvement in the 1996 Khobar Towers bombing in Saudi Arabia, in which 19 U.S. citizens were killed and more than 500 were injured. In October 1999, President Clinton officially requested cooperation from Iran in the investigation. Thus far, Iran has not responded.

International pressure in the Pan Am 103 case ultimately succeeded in getting some degree of cooperation from Libya. The U.S. Government has not sought similar multilateral action to bring pressure on Iran to cooperate in the Khobar Towers bombing investigation.

Recommendations:

- The President should not make further concessions toward Iran and should keep Iran on the list of state sponsors of terrorism until Tehran demonstrates it has stopped supporting terrorism and cooperates fully in the Khobar Towers investigation.
- The President should actively seek support from U.S. allies to compel Iran to cooperate in the Khobar Towers bombing investigation.

Syria has not ceased its support for terrorists.

The Syrian Government still provides terrorists with safehaven, allows them to operate over a dozen terrorist training camps in the Syrian-controlled Bekaa Valley in Lebanon, and permits the Iranian Government to resupply these camps. Since its designation as a state sponsor of terrorism, Syria has expelled a few terrorist groups from Damascus, such as the Japanese Red Army, but these groups already were of marginal value to Syrian foreign policy. Meanwhile, Damascus continues to support terrorist groups opposed to the peace process. Although Syria recently made a show of "instructing" terrorists based in Damascus not to engage in certain types of attacks, it did not expel the groups or cease supporting them. This suggests Syria's determination to maintain rather than abandon terrorism.

Recommendation:

- The President should make clear to Syria that it will remain on the list of state sponsors of terrorism until it shuts down training camps and other facilities in Syria and the Bekaa Valley and prohibits the resupply of terrorist groups through Syrian-controlled territory.

The U.S. Government has not designated Afghanistan as a state sponsor of terrorism because it does not recognize the Taliban regime as the Government of Afghanistan.

In 1996, the Taliban regime gained control of the capital of Afghanistan and began asserting its control over much of the country.

Since then it has provided a safehaven to terrorist groups and terrorist fugitives wanted by U.S. law enforcement, including Usama bin Ladin—who is under indictment for his role in the bombings of U.S. Embassies in Kenya and Tanzania in 1998. The Taliban also supports the training camps of many of these terrorist groups.



**Egyptian Islamic Jihad
Harakat ul-Mujahidin
al-Gama'at al-Islamiyya
Abu Sayyaf Group
Armed Islamic Group**

**SAFEHAVEN FOR FOREIGN
TERRORIST ORGANIZATIONS**

Recommendation:

- The Secretary of State should designate Afghanistan as a sponsor of terrorism and impose all the sanctions that apply to state sponsors.

In 1996, Congress enacted a law that authorizes the President to designate as "not cooperating fully" states whose behavior is objectionable but not so egregious as to warrant designation as a "state sponsor of terrorism." This law has not been effectively used.

Some countries use the rhetoric of counterterrorist cooperation but are unwilling to shoulder their responsibilities in practice, such as restricting the travel of terrorists through their territory or ratifying United Nations conventions on terrorism. Other states have relations with terrorists that fall short of the extensive criteria for designation as a state sponsor, but their failure to act against terrorists perpetuates terrorist activities. Newer terrorist groups, many of which are transnational in composition and less influenced by state agendas, can take advantage of such states for safehaven.

To address these categories of countries, in 1996 Congress authorized the President to designate countries as "not cooperating fully with U.S. antiterrorism efforts" and to embargo defense sales to such states. To date, only Afghanistan has been so designated, and that designation arose from the legal difficulty of putting Afghanistan on the state sponsor list without appearing to recognize the Taliban as the legitimate government.

Two other countries that present difficulties for U.S. counterterrorism policy are Pakistan and Greece. Both are friendly nations and Greece is a NATO ally.

"We must 'drain the swamp' in which terrorists operate. Terrorists can only exist if they have space in which they can operate.... We must ensure that terrorists have no place to hide, to plan, and to prepare for further attacks."

*Michael Sheehan,
Coordinator for Counterterrorism,
Department of State*

Pakistan has cooperated on counterterrorism at times, but not consistently. In 1995, for example, Pakistan arrested and extradited to the United States Ramzi Ahmed Yousef, who masterminded the World Trade Center bombing in 1993. In December 1999, Pakistan's cooperation was vital in warding off terrorist attacks planned for the millennium. Even so, Pakistan provides safehaven, transit, and moral, political, and diplomatic support to several groups engaged in terrorism including Harakat ul-Mujahidin (HUM), which has been designated by the United States as a Foreign Terrorist Organization (FTO). HUM is responsible for kidnapping and murdering tourists in Indian-controlled Kashmir. Moreover, as part of its support for Usama bin Ladin, HUM has threatened to kill U.S. citizens.

Greece has been disturbingly passive in response to terrorist activities. It is identified by the U.S. Government as "one of the weakest links in Europe's effort against terrorism" (Patterns of Global Terrorism, 1999. U.S. Department of State.) Since 1975 there have been 146 terrorist attacks against Americans or American interests in Greece. Only one case has been solved and there is no indication of any meaningful investigation into the remaining cases. Among the unresolved cases are the attacks by the Revolutionary Organization 17 November which has claimed responsibility for the deaths of 20 people, including four Americans, since 1975. Greek authorities have never arrested a member of 17 November, which is a designated FTO. The Turkish leftist group, the Revolutionary People's Liberation Party/Front (DHKP-C), also an FTO, has murdered four Americans since 1979 and maintains an office in Athens despite United States protests. Last year, senior Greek Government officials gave assistance and refuge to the leader of the Kurdish terrorist group, the Kurdish Workers Party (PKK).

The U.S. Government should vigorously use the "Not Cooperating Fully" category, naming countries—even friends and allies—whose behavior is objectionable but does not justify designation as a state sponsor of terrorism. This designation could be used to warn countries that may be moving toward designation as a state sponsor.

To give this threat teeth, the U.S. Government should adopt more stringent sanctions for states in this category. For example, the Department of State's Visa Waiver Program (VWP) permits citizens of qualifying countries to travel to the United States for tourism or business for 90 days without obtaining a U.S. visa. Today there are 29 countries participating in the VWP. Countries that are "Not Cooperating Fully" with U.S. antiterrorism efforts should be barred from participation in the VWP.

The "Not Cooperating Fully" category could also be used as a "halfway house" for states that have reduced support for terrorism enough to justify removal from the state sponsors list but do not yet deserve to be completely exonerated.

Recommendations:

- The President should make more effective use of authority to designate foreign governments as "Not Cooperating Fully" with U.S. counterterrorism efforts to deter all state support for terrorism. Specifically, the President should direct the Secretary of State to:
 - Consider Greece and Pakistan, among others, as candidates for this designation.
 - Review the current list of state sponsors and recommend that certain states be moved to the "Not Cooperating Fully" designation after they have undertaken specified measures to cease sponsorship of terrorism.
 - Increase publicity of the activities of state sponsors and countries designated as "Not Cooperating Fully" through special reports, making extensive use of the Internet.
- Congress should enact legislation to make countries designated as "Not Cooperating Fully" ineligible for the Visa Waiver Program.