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# Regime Theory and Global Counter-Terrorism: Some Starting Points

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Since its emergence during the late '70s and early '80s, regime theory has dealt mainly with international environmental and economic cooperation.[1] These issue-areas are traditionally more conducive to inter-state institutional cooperation than the fields of "high politics" or security. However, early attempts by scholars to draw on regime theory for the analysis of security related issues included Robert Jervis' 1982 article on security regimes and Roger K. Smith's 1987 article on the non-proliferation regime.[2]

After the September 11 terrorist attacks the status of counter-terrorism as a separate subcategory of the broader national security policies of states was enhanced and the international dimensions of counter-terrorism became more salient.[3] Under this context, and using regime theory as a conceptual background, I will highlight in this article some characteristics of counter-terrorism as a broad issue-area[4] in which "*implicit or explicit principles, norms, rules, and decision-making procedures*"[5] may emerge. These characteristics may serve as useful starting points for the research on international and regional patterns of counter-terrorism cooperation.

Firstly, counter-terrorism is not a monolithic field and it is analytically useful, at least for the purpose of examining multilateral counter-terrorism cooperation, to distinguish between the various sub-components of counter-terrorism instead of treating the latter as a unified and solid issue-area. For example, while a series of measures have been adopted globally for the suppression of terrorist financing[6] the same has not happened with the "hard" operational aspects of counter-terrorism.

The typologies of counter-terrorism policies and strategies that can be found in the literature are as varied as the definitions that are given for terrorism itself. Distinctions are often made between "offensive" and "defensive" aspects of counter-terrorism, between "preventive" and "protective" measures and between "elements" of counter-terrorism policy and counter-terrorist "instruments." [7] What is important from a regime theory perspective is that both globally and regionally the existing institutional arrangements for the fight against terrorism do not cover the whole spectrum of counter-terrorism tools and instruments. In other words, an overarching, all-encompassing counter-terrorism regime does not exist and a piece-meal approach is followed where patterns of cooperation emerge only in specific sectors. Examples of such sectors include the counter-terror financing regime and the anti-money laundering (AML) regime which are closely connected to each other. The AML regime, in particular, consists of formal rules around which there is high convergence of expectations, and therefore the international rules associated with AML could be also classified as a "full-blown" regime (according to Richard Little's typology).[8]

Secondly, both scholars and practitioners acknowledge that internal security (including elements that are relevant to counter-terrorism) has external aspects, and that the highly transnational character of international terrorism poses several challenges to states. Terrorism has emerged as a transboundary security issue of pressing concern, especially after the September 11 terrorist attacks.[9] It has become more evident for instance that the security policies that are adopted in European countries may affect the welfare of U.S. citizens and vice versa.[10] Moreover, well planned policies may be adversely influenced by outside interference (like the actions and policies of other states and actors). Transnational terrorism cannot therefore be fought through purely national measures and the various national counter-terrorism policies are to some extent linked together.

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This situation resembles the problem of transboundary or negative externalities in environmental issues.[11] Transboundary externalities occur when the actions that take place in the jurisdiction of one state have a direct impact on and affect the welfare of other states. These impacts may be tangible or intangible and they create the need for international environmental cooperation and for the establishment of governance systems.[12] The issue of negative externalities is also linked to what Robert Keohane called instrumental interdependence where *“actors may be interested in the welfare of others only insofar as the others can take action that affects them”*. [13] In a similar fashion to environmental issues, the transnational character of international terrorism and the adversarial effects that occur from transboundary externalities may stimulate the creation of sector-specific counter-terrorism regimes.[14]

Thirdly, private actors have a role to play in the creation of global and regional counter-terrorism arrangements.[15] For instance, business-to-government security partnerships have been initiated in connection to the international supply chain security regime, and the views of airline companies have been taken into account in the case of airlines' Passenger Name Records (PNRs) and the use of the latter for law enforcement and counter-terrorism purposes.[16] The importance of private actors has been especially highlighted by the international governance literature which, among others, has sought to shift the focus from the study of government to the study of governance.[17] Regime theory is linked with the governance literature in the sense that regimes can be conceptualised as governance systems which deal with either a *“limited set of issues or a single issue area.”*[18]

Fourthly, efforts towards the creation of international rules and regulations often touch on other related issue areas and arrangements creating friction both among states and between states and the private sector. The U.S. requirements with regard to PNR data for example have collided with European Union's data protection regime and the emergent rules for the protection of the international supply chain touch on issues of free trade and trade facilitation.[19]

A final point concerns the definitional problems of terrorism. Definitions of terrorism abound both in the literature and among states and international actors and a question relevant to regime theory is to what extent this lack of consensus impedes the emergence of global counter-terrorism rules and institutions. The answer to this question can be different depending on the theoretical perspective that is adopted. For the knowledge-based regime theories, shared understandings of the problem at hand are crucial and they form the basis on which international regimes are established.[20] The other two theoretical schools (the realist and the liberal) focus, however, on other factors, namely power and the functions that regimes fulfill.

In conclusion, counter-terrorism as an issue area has several characteristics that need to be taken into consideration when regime theory is applied to this field. As it was mentioned before, some of these points elucidate the non-monolithic nature of counter-terrorism, the possible role of private actors, the clashes with existing international arrangements, and the question about the importance of negative externalities and shared understandings for the emergence of global counter-terrorism regimes.

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[1] The first usage of the term “regime” appeared in a 1975 article by John Gerard Ruggie according to which regimes are sets *“of mutual expectations, rules and regulations, plans, organizational energies and financial commitments, which have been accepted by a group of states.”* Ruggie, John Gerard. “International Responses to Technology: Concepts and Trends.” *International Organization* 29, no. 3 (Summer 1975): p. 570.

[2] Jervis, Robert. “Security regimes.” *International Organization* 36, no. 2 (Spring 1982): 357-378. Smith, Roger K. “Explaining the non-proliferation regime: anomalies for contemporary international relations theory.” *International*

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Organization 41, no. 2 (Spring 1987): 253-281.

[3] This is not to deny that there were instances of international or regional counter-terrorism cooperation before the September 11 attacks. For multilateral counter-terrorism endeavours under United Nations before 2001 see chapter 2 in Romaniuk, Peter. *Multilateral Counter-Terrorism: The global politics of cooperation and contestation*. Abingdon: Routledge, 2010. One of the first writers who dealt with the issue of international counter-terrorism cooperation was Martha Crenshaw. According to her, four factors are important: *"The rules of cooperative behavior must be defined, the mutual benefits derived of cooperation must be clear, the distinction between cooperation and non-cooperation must be apparent, the penalties for not cooperating must be recognized."* Crenshaw, Martha. *Terrorism and International Cooperation*. Vol. 11, Institute for East-West Security Studies: Occasional Paper Series. Boulder: Westview Press, 1989, p. 38.

[4] According to Ernst Haas the concept of issue-area could be defined as a *"recognized cluster of concerns involving interdependence not only among the parties but among the issues themselves."* Haas, Ernst B. "Why Collaborate?: Issue-Linkage and International Regimes." *World Politics* 32, no. 3 (April 1980): p. 365.

[5] Krasner, Stephen D. "Structural causes and regime consequences: regimes as intervening variables." *International Organization* 36, no. 2 (Spring 1982): p. 185.

[6] Richard, Anne C. *Fighting Terrorist Financing: Transatlantic Cooperation and International Institutions*. Washington: The John Hopkins University, 2005.

[7] Pillar, Paul R. *Terrorism and U.S. Foreign Policy*. Washington: Brookings Institution Press, 2001, p. 73.

[8] Little, Richard. "International Regimes." In *The Globalization of World Politics-An Introduction to International Relations*, edited by Baylis, John and Steve Smith. Oxford: Oxford University Press, 2008, p. 301.

[9] Eriksson, Johan and Mark Rhinard. "The Internal—External Security Nexus: Notes on an Emerging Research Agenda." *Cooperation and Conflict* 44, no. 3 (September 2009): p. 247.

[10] Many of the September 11 hijackings perpetrators had spent a considerable amount of time in Germany (the so-called Hamburg cell).

[11] Young, Oran R. *International Governance: Protecting the Environment in a Stateless Society*. New York: Cornell University Press, 1994, p. 23.

[12] Ibid.

[13] Keohane, Robert O. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton: Princeton University Press, 1984, p. 122.

[14] A realist qualification that can be made to this mainly functional argument is that not all states are affected by terrorism in the same manner and, therefore, not all states have the same interest in the creation of regimes. According to this line of argument, the creation of institutions is thus the result of a process of power contestation and positional conflict among states.

[15] Gyarmati, István. "Security and the responsibilities of the public and private sectors." In *Business and Security: Public-Private Sector Relationships in a New Security Environment (SIPRI monographs)*, edited by Bailes, Alyson J. K. and Isabel Frommelt. Oxford: Oxford University Press, 2004.

[16] For customs security see Mikuriya, Kunio. "Supply Chain Security: The Customs Community's Response." *World Customs Journal* 1, no. 2 (September 2007): 51-60. For PNR see Secretary General of ICAO, "Guidelines on Passenger Name Record (PNR) Data" (April 2006), Circular 309 AT/131.

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[17] See for example, Krahmann, Elke. "Conceptualizing Security Governance." *Cooperation and Conflict* 38, no. 1 (March 2003): 5-26. Krahmann, Elke. "American Hegemony or Global Governance? Competing Visions of International Security." *International Studies Review* 7, no. 4 (December 2005): 531-46. Dupont, Benoît. "Security in the age of networks." *Policing and Society: An International Journal of Research* 14, no. 1 (2004): 76-91.

[18] Young, Oran R. *International Governance: Protecting the Environment in a Stateless Society*. New York: Cornell University Press, 1994, p. 26. Oran Young also describes regimes as constituting 'governance without government at the international level.' Young, Oran R. "Regime Theory Thirty Years On: Taking Stock, Moving Forward" [online], available <http://www.e-ir.info/2012/09/18/regime-theory-thirty-years-on-taking-stock-moving-forward/>, 18 September 2012.

[19] Archik, Kristin. "U.S.-EU Cooperation Against Terrorism." (21 May 2012), Congressional Research Service (CRS) report RS22030, p. 9. Frittelli, John. "Port and Maritime Security: Background and Issues for Congress." (27 May 2005), Congressional Research Service (CRS) report RL31733, p. 18.

[20] Hasenclever, Andreas, Peter Mayer, and Volker Rittberger. *Theories of International Regimes*. Cambridge: Cambridge University Press, 1997, p. 141.

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