



DIIS · DANISH INSTITUTE FOR INTERNATIONAL STUDIES

# NEW THREATS AND THE USE OF FORCE

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CIA	Central Intelligence Agency. US central (foreign) intelligence service
CTC	Counter-Terrorism Committee
DIIS	Danish Institute for International Studies
DUPI	Danish Institute of International Affairs
ELN	Ejercito de Liberación Nacional de Colombia. National Liberation Army of Colombia
ESS	European Security Strategy
ETA	Euzkadi Ta Askatasuna. Basque Fatherland and Freedom
FARC	Fuerzas Armadas Revolucionarios de Colombia. Revolutionary Armed Forces of Colombia
Hamas	Harakat al-Muqawamah al-Islamiyya. The Islamic Resistance Movement (Palestine)
HEU	Highly enriched uranium
IAEA	The International Atomic Energy Agency
ICISS	The International Commission on Intervention and State Sovereignty
ICJ	International Court of Justice
LEU	Low enriched uranium
NATO	The North Atlantic Treaty Organisation
NPT	Treaty on the Non-Proliferation of Nuclear Weapons (1968)
NSS	US National Security Strategy (2002)
UK	The United Kingdom of Great Britain and Northern Ireland; British
UN	United Nations
US	USA; American
WMD	Weapons of mass destruction



This report was commissioned by the Danish Government on 3 December 2003 from the Danish Institute for International Studies (DIIS). The Government's mandate to DIIS was contained in a letter from the Minister of Foreign Affairs, Per Stig Møller, to the Chairman of the Board of DIIS, Professor Georg Sørensen. The mandate reads as follows:

*On behalf of the Government, and as a follow-up to the Danish Parliament's resolution of 20 November 2003 in connection with the debate on proposal F 7, I request DIIS to take charge of producing an extension to the Institute's report on humanitarian intervention from 1999.*

*The 1999 report analysed the political and legal aspects of the possibilities for intervention in situations where states that are disregarding provisions of international law cause conflicts which, because of their far-reaching humanitarian consequences, affect the international community as a whole. The extension should focus in particular on the political and legal aspects of the possibilities for military intervention in situations where the new threats in the shape of, among other things, global terrorism or the proliferation of weapons of mass destruction threaten international peace and stability. Particularly the question of developing criteria for collective military intervention as a last resort without the consent of the country in question should be examined in more detail.*

Since the present report is meant to serve as an extension of the 1999 report on humanitarian intervention, the general reflections articulated in the 1999 report on the relationship between order and justice, legality and legitimacy, the interface between politics and law, and the relationship between international law and state practice are also used as a basis for this report.

The mandate has been interpreted to mean that the report should focus on military intervention only and not discuss non-military instruments such as diplomatic and economic sanctions. As for the legal aspects of the potential for military intervention, the report focuses on the right to resort to force (*jus ad bellum*), but does not address the rules in international humanitarian law relating to the conduct of war (*jus in bello*). In its discussion of the right to resort to force, the report establishes the scope of the right to self-defence, as well as the possibility of using force for preventive purposes.

In accordance with the mandate, the report focuses on the new threats to international peace and security. Consequently it does not address old military threats such as inter-state war or non-military threats such as poverty, infectious diseases, environmental degradation, climate change, natural disasters and transnational organised crime, even though these clusters of threats are increasingly interrelated.<sup>1</sup> The report will, however, touch upon developments relating to the potential for using force to protect human rights in the context of internal conflicts since the publication of the 1999-report as these developments have a bearing on the potential for using force against the new threats.

The examination requested of the prospects for developing criteria will cover the use of force both with and without Security Council authorization, as the development of criteria will have an influence on both scenarios.

The report was prepared in DIIS's Department of Conflict and Security Studies by Peter Viggo Jakobsen, Head of Department, and Jens Elo Rytter, Associate Professor, Faculty of Law, University of Copenhagen. Simon Chesterman, Adjunct Professor of Law, Executive Director of the Institute for International Law and Justice, New York University School of Law, Tonny Brems Knudsen, Associate Professor, Department of Political Science, University of Aarhus and Martin Mennecke, Ph.D. candidate, DIIS, have commented on drafts throughout the writing process.

The report has been discussed with individual members of the DIIS Board and the research group on a number of occasions and at two meetings of the entire Board. In accordance with the law establishing DIIS, the report is submitted on the responsibility of the Board.

The members of the Board, who are appointed in their personal capacity, are the following: Georg Sørensen, Professor, Department of

Political Science, University of Aarhus (Chairman); Holger Bernt Hansen, Professor, Chairman of the Board of Danida (Vice-Chairman); Michael Borg-Hansen, Senior Advisor, Prime Minister's Office; Kristian Fischer, Head of Department, Ministry of Defence; Poul Holm, Professor, Institute of History and Civilization, University of Southern Denmark; Henrik Secher Marcussen, Professor, Department of Geography and International Development Studies, Roskilde University; Ole Nørgaard, Professor, Department of Political Science, University of Aarhus; Helle Munk Ravnborg, Senior Researcher, DIIS; Marianne Rostgaard, Associate Professor, Department of History, International and Social Studies, Aalborg University; Carsten Staur, Ambassador, Ministry of Foreign Affairs and Marlene Wind, Associate Professor, Department of Political Science, University of Copenhagen; and Frede P. Jensen, Senior Researcher, DIIS (substitute).

The report was approved for publication by the Board in April 2005.